

Workers Compensation Claim State Environmental Guide - Missouri

MISSOURI – <http://www.labor.mo.gov/dwc/>

Indemnity issues

<p>Temporary Total Benefits</p>	<p>Paid at 2/3 of the injured workers average weekly wage, which is generally based on the gross wages for 13 weeks before the date of injury. The current maximum rate (through 6/30/19) is \$947.64. The current minimum is \$40 per week. Temporary Total cap – Compensation is capped at 400 weeks.</p> <p>The first three days of disability are the waiting period which becomes payable only after 14 days or more of lost time. The waiting period is based on the days the employer is open for purposes of operating a business, not calendar or scheduled work days.</p> <p>Maximum Medical Improvement shall mean the point at which the injured employee’s medical condition has stabilized and can no longer reasonably improve with additional medical care, as determined within a reasonable degree of medical certainty. (TTD generally stops once MMI is reached)</p> <p>If the employee is terminated from post-injury employment based upon the employee’s post-injury misconduct, neither temporary total disability nor temporary partial disability benefits under this section or section 287.180 are payable. As used in this section, the phrase “post-injury misconduct” shall not include absence from the workplace due to an injury unless the employee is capable of working with restrictions, as certified by a physician</p> <p>If an employee voluntarily separates from employment with an employer at a time when the employer had work available for the employee that was in compliance with any medical restriction imposed upon the employee within a reasonable degree of medical certainty as a result of the injury that is the subject of a claim for benefits under this chapter, neither temporary total disability nor temporary partial disability benefits available under this section or section 287.180 shall be payable.</p>
<p>Temporary Partial Benefits</p>	<p>Paid at 2/3 of the difference between the average weekly wage and what the injured worker is paid while working light duty. The three day waiting period applies to this also.</p>
<p>Permanent Partial Benefits</p>	<p>Scheduled in Missouri (percentage of disability multiplied by body part value multiplied by permanent partial disability rate). The current maximum rate (through 6-30-19) is \$496.38.</p> <p>Permanent Partial based on AMA Guidelines (or similar objective Guidelines) – No.</p>
<p>Permanent Total Benefits</p>	<p>Paid at the same rate of temporary total disability for the life of the injured worker.</p>

Indemnity issues

Fatality Benefits	Fatality benefits are paid at the temporary total disability rate payable to surviving legal spouse or wholly dependent child under age of 18, or if full time student through age 22 or longer if that child is physically or mentally incapacitated from wage earning. If a dependent child enters the armed forces at age 18 they would then be entitled to receive benefits for a period of four years as long as they are a full time student at an accredited institution and to commence before the age of 23 and immediately following discharge from the armed forces. Funeral benefits limited to \$5,000.
Vocational Rehabilitation	Voluntary.
Settlement Allowed	Full and final settlement is allowed.

Indemnity issues

<p>Penalties</p>	<p>DRUG AND ALCOHOL: Where the employee fails to obey any rule or policy adopted by the employer relating to a drug-free workplace or the use of alcohol or non-prescribed controlled drugs in the workplace, the compensation and death benefit provided for herein shall be reduced fifty percent if the injury was sustained in conjunction with the use of alcohol or non-prescribed controlled drugs. If, however, the use of alcohol or non-prescribed controlled drugs in violation of the employer's rule or policy is the proximate cause of the injury, then the benefits or compensation otherwise payable under this chapter for death or disability shall be forfeited.</p> <p>The voluntary use of alcohol to the percentage of blood alcohol sufficient under Missouri law to constitute legal intoxication raises a rebuttable presumption that the voluntary use of alcohol under such circumstances was the proximate cause of the injury. An employee's refusal to take a test for alcohol or a non-prescribed controlled substance, as defined by section 195.010, RSMo, at the request of the employer shall result in the forfeiture of benefits under this chapter, if the employer had sufficient cause to suspect use of alcohol or a non-prescribed controlled substance by the claimant, or if the employer's policy clearly authorizes post-injury testing.</p> <p>Any positive drug test for a non-prescribed controlled drug or its metabolites raises a rebuttable presumption, which may be rebutted by a preponderance of the evidence, that the tested non-prescribed controlled drug was in the employee's system at the time of the accident or injury and that the injury was sustained "in conjunction with" the use of the drug if: 1) Testing was done within 24 hours of the accident or injury 2) Notice was given to the employee within 14 days of receipt of the test results 3) Employee was given the opportunity to perform a second test upon the original sample and 4) the testing was confirmed by mass spectrometry using generally accepted medical or forensic testing procedures.</p> <p>SAFETY: Where the injury is caused by the failure of the employer to comply with any statute in this state or any lawful order of the division or the commission, the compensation and death benefit provided for under this chapter shall be increased fifteen percent.</p> <p>Where the injury is caused by the failure of the employee to use safety devices where provided by the employer, or from the employee's failure to obey any reasonable rule adopted by the employer for the safety of employees, the compensation and death benefit provided for herein shall be reduced at least twenty-five but not more than fifty percent; provided, that it is shown that the employee had actual knowledge of the rule so adopted by the employer; and provided, further, that the employer had, prior to the injury, made a reasonable effort to cause his or her employees to use the safety device or devices and to obey or follow the rule so adopted for the safety of the employees.</p>
<p>Cap on benefits, exceptions</p>	

Medical issues

<p>Initial Choice of Provider</p>	<p>Employer</p>
<p>Change of Provider</p>	<p>Employer</p>
<p>Medical Fee Schedule</p>	<p>No</p>
<p>Managed Care</p>	<p>No</p>
<p>Utilization Review</p>	<p>No</p>

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Medical issues

Treatment Guidelines	No
Generic Drug Substitution	The state allows generic substitution; however, it is not mandatory.
Medical Mileage Reimbursement Rate	Mileage reimbursement at \$.54.2 cents per mile for all treatment outside the metropolitan area, injuries occurring between 7-1-18 to 6-30-19.
Network Information	First Health (primary) and CorVel (secondary).
Ability to Terminate Medical Treatment	Determined by physician only
Settlement Allowed	Settlement is allowed. Medical can be settled Full & Final - Yes.
Cap on benefits, exceptions	None

Other Issues

WC Hearing Docket Speed	Conferences, Pre-Hearings, Mediations and Trials set upon request, usually within 3 months. Docket speed varies among various venues in Missouri. Hardship Hearings must take place within 30 days of request.
Staff Counsel	Law Office of Stephen Larson (314-579-8925) 940 West Port Plaza, Suite 208 St. Louis, MO 63146
Hearings require attorney or claim handler participation	Attorney
Occupational Diseases	Yes.
Second Injury Fund availability	Yes. State Paid. Benefits payable to injured worker only. Provides potential safe haven for employers/insurers as SIF is often alternative "target" for litigation exposure. SIF no longer pays perm partial disability, only perm total disability and only if certain conditions are met.
Other Offset Opportunities	Credit for prior settlement to specific body part. Subrogation applies and cannot be contractually waived.
EDI	Claims EDI Release 1: FROI only (1/1/2009)
In-State Adjusting Required	No
License or Certification Required	