

Workers Compensation Claim State Environmental Guide - Maryland

MARYLAND – <http://www.wcc.state.md.us/>

<p>MAJOR DEVELOPMENTS</p>	<ol style="list-style-type: none"> 1. New legislation is still expected permitting Commission to e-mail Orders to counsel of record with no copies sent by regular mail to parties. This was not acted on last year or the year before. 2. The Workers Compensation Commission is focusing on opioid prescription abuse/over-use. Commission is paying attention to morphine equivalents over 90. The Commission is encouraging second opinions regarding pain management. The Commission is now willing to order a Claimant to no longer treat with certain pain management specialist. 3. Parties continue to be required to exchange medical documentation no less than three business days before a hearing. COMAR 14.09.03.09 4. Formal notice of termination of medical benefits is required to be sent to the Claimant, Claimant’s Counsel and the medical provider. COMAR 14.09.06.04. The Commission has now issued a form for filing. 5. The Commission has modified its appeal rules. Judicial appeals must state whether an appeal is de novo or a records review. Transcripts are only required in record reviews.
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<p>REFORM NEEDED</p>	<ol style="list-style-type: none"> 1. No longer allowing TTD when claimant is incarcerated, has taken themselves out of the workplace (retired) or is unable to have appropriate medical treatment for the compensable condition due to an unrelated medical condition (e.g., pregnancy, overweight, etc). 2. Going above and beyond the CMS thresholds, the WCC is requiring that Medicare’s interests be adequately considered in every settlement. CMS approval must be sought prior to WCC approval in threshold cases and in non-threshold cases, a statement must be made in the agreement that Medicare’s interests have been considered, identify the amount of the proposed settlement apportioned to future medical expenses, or state the amount allocated to an MSA.
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<p>INDEMNITY ISSUES</p>	
<p>Temporary Total Benefits</p>	<p>\$50.00 Min., \$1,052.00 Max., 3 day waiting period retro on the 15th day of disability, unlimited benefits. Compensation Rate is Two thirds of AWW. AWW is based on a 14 week wage statement. Always round up the AWW. Payment for TTD is not due until the Employee’s Claim Form is filed with WCC. Temporary Total cap – No Cap.</p>

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INDEMNITY ISSUES	
Temporary Partial Benefits	No minimum. Max \$526.00/wk – Rate used is ½ the difference between the pre-injury wages/AWW and the current gross earnings. Insured must provide light duty or benefits must continue.
Permanent Partial Benefits	No minimum. Limited benefits. All body parts are scheduled by weeks. AMA application by physician. 1-74 wks @ 1/3 of AWW not to exceed \$176.00. 75-249 wks @ 2/3 of AWW or \$351/week, whichever is less 250 + wks: 2/3 of AWW or 75% of AWW not to exceed \$789/wk. 250+ is serious disability. For those claims you must increase the # of weeks by 1/3. Permanent Partial based on AMA Guidelines as well as MD five factors of pain, weakness, atrophy, loss of endurance and function as well as range of motion (COMAR 14.09.04.02(B)(4). For “other cases” (body as a whole, neck, back and shoulder) the Commission may also consider industrial loss of use, which is loss of earning capacity.
Permanent Total Benefits	\$50.00 Minimum, \$1052.00 Maximum. Unlimited benefits.
Fatality Benefits	Maximum burial expense of \$7,000. Total dependency of widow – unlimited period of benefits unless they remarry. For deaths occurring on or after October 1, 2011, the following formula applies: <ul style="list-style-type: none"> • Two-thirds of the deceased employee’s Average Weekly Wage at the time of the occurrence not to exceed the State Average Weekly Wage. • The deceased employee’s income shall be divided by the family income to determine the percent of family income earned by the deceased. The percent of family income earned by the deceased is multiplied by the death benefit (as calculated in paragraph 1) to determine the amount payable, collectively, to all dependents. • Benefits are to be paid for up to 144 months or terminate on the date of the decedent’s 70th birthday. • If the surviving spouse remarries, the payments continue for two years after the remarriage. • If the surviving spouse was disabled at the time of the decedent’s death, payments continue as long as the survivor remains disabled and are not bound to the 144 month or 70th birthday limitations noted above. • This formula does not apply to a covered employee of a municipal corporation or a county who is subject to § 9-503 of the Labor & Employment Article unless the municipal corporation or county has made an election under §9-683.6. • Dependent children entitled to the same rate until age 18 or 21 if in school.
Vocational Rehabilitation	Yes if injured worker has permanent restrictions. Agreed time frame to be paid at the compensation rate. Include job search and retraining if necessary. There is a 2 year limit for job training only.
Settlement Allowed	Yes, you can Full and Final a claim to include medical. Any settlement if medical must include an allocation for medical benefits or a Medicare set-aside.
Cap on benefits, exceptions	None

MEDICAL ISSUES	
Initial Choice of Provider	Employee choice
Change of Provider	Employee choice
Medical Fee Schedule	Yes Medical Fee Schedule percent over Medicare – n/a Maryland uses specific

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MEDICAL ISSUES	
	formulas that incorporate CMS reimbursement based on types of service provided. Specific formulas can be found at: http://www.wcc.state.md.us/PDF/MFG/MSCF_rate.pdf
Managed Care	No For more information, please refer to the WC Managed Care Quick Reference Chart by State Guide
Is generic drug substitution is allowed?	Yes, Not by law, but by general practice
Utilization Review	No
Treatment Guidelines	No
Generic Drug Substitution	The state mandates generic substitution.
Medical Mileage Reimbursement Rate	0.535/mile
Network Information	Unable to direct, but attempt to channel. First Health (primary) and Corvel (secondary).
Ability to Terminate Medical Treatment	Use IME to manage treatment. Yes, you are able to terminate medical benefits due to supporting information.
Settlement Allowed	Yes Medical can be settled Full & Final – Yes, but more difficult now due to Emergency Regs of Jan 2010. Any settlement regardless of the amount must include an allocation for medical benefits or a Medicare set-aside even if under the MSA threshold
Cap on benefits, exceptions	No

OTHER ISSUES	
WC Hearing Docket Speed	Approximately 35-40 days from receipt of Issues. Litigation Exposure: Hearing docket speed – Approximately 35-40 days from receipt of issues a hearing will be scheduled.
Outcome of Hearings	Pro Employee
Staff Counsel	Law Office of Joseph Jagielski 7 St. Paul St. Suite 1250 Baltimore, Maryland 21202 (443-353-2301)
Hearings require attorney or claim handler participation	Attorney
Occupational Diseases	Yes, same as Occupational Injury.
Second Injury Fund availability/ Subsequent Injury Fund in Maryland	Yes. At least 125 weeks of PPD of the body must be pre-existing and must have at least 125 weeks of PPD of the body must be related to the accidental injury.
Other Offset Opportunities	Apportionment for prior or subsequent conditions/injuries
EDI	N/A
In-State Adjusting Required	Yes
License or Certification Required	No