



Workers Compensation Claim State Environmental Guide - Maine

MAINE – <http://www.maine.gov/wcb/>

Indemnity issues

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| Temporary Total Benefits | <p>No Minimum compensation rate. The maximum compensation rate effective July 1, 2017 is \$804.40. The maximum compensation rate is adjusted annually on July 1. The law regarding maximum benefits that was in effect on the date of injury always applies. For injuries between 1-1-93 and 12-31-12, the maximum is 90% of the SAWW. For injuries on or after 1-1-13, the maximum is 100% of the SAWW, whichever is higher.</p> <p>Injuries from 1-1-93 through 12-31-12: the weekly benefit is 80% of after tax AWW. The board publishes a “weekly benefit table” every year, the wage tables from 2003 – 2012 on are available on the Board’s web site. (The board will no longer publish AWW tables after 12/1/11.)</p> <p>Injuries on or after 1-1-2013; the weekly benefits is 2/3rds of the injured employee's gross average weekly wage, but not more than the maximum benefit level. There is No Durational Cap for Total Compensation provided the employee remains qualified under section 212 of the statute. Compensation benefits are not payable for the first 7 days of incapacity, unless the capacity continues for more than 14 days, in which case the entire period of incapacity is due. There is no waiting period for firefighters</p> |
| Temporary Partial Benefits | <p>The date of injury controls the calculation of the temporary partial benefits. For injuries 1-1-93 through 12-31-12. Calculation of partial benefits is performed by using the “weekly benefit table” and taking the table amount for the weekly earnings and subtracting it from the table amount for the AWW, using the employee’s tax filing status. The duration of benefits is determined by the permanent impairment percentage of the “whole body.” If the permanent impairment does not exceed the threshold level for the date of injury, the employee is no longer entitled to partial compensation after receiving 520 weeks of benefits.</p> <p>For injuries on or after 1-1-2013, the weekly benefits calculation is 2/3rds of the injured employee's gross average weekly wage, but not more than the maximum benefit level. For injured employees with partial incapacity for injuries on or after January 1, 2006 thru December 31, 2012, the permanent impairment threshold is “greater than 12% whole body”.</p> |



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| | <p>For injuries on or after January 1, 2013, 520 weeks of benefits is the durational limit on benefit eligibility for permanently partially incapacitated injured employees; an extension of benefits can be requested. In order to qualify for an extension, all of the following requirements must be met:</p> <ul style="list-style-type: none"> • The injured employee must have a whole person permanent impairment rating resulting from an injury in excess of 18%. The injured employee must have earnings during 12 of the last 24 months prior to the expiration of the cap. The injured employee's earnings over the most recent 26 week period must be 65% or less of the pre-injury average weekly wage; • The injured employee's actual earnings must be commensurate with the injured employee's earning capacity which includes consideration of the injured employee's physical and psychological work capacity as determined by an independent medical examiner. <p>In addition, while the injured employee is receiving extended partial incapacity benefits, the injured employee must complete and provide quarterly employment status reports and tax returns. If an injured employee's weekly earnings over the most recent 26-week period are equal to or greater than the injured employee's pre-injury weekly earnings, the extension of benefits is terminated permanently. Finally, if an injured employee does not qualify for an extension at the end of 520 weeks, the injured employee's partial benefits expire permanently.</p> <p>There is no minimum rate for temporary partial benefits.</p> |
| <p>Permanent Partial Benefits</p> | <p>Entitlement to benefits for permanent impairment depends on the date of injury. For injuries between 1-1-93 through 12-31-12, an employee may not be awarded a monetary benefit for permanent impairment but they may qualify for specific loss benefits. For injuries on or after 1/1/13, permanent impairment is only relevant to determine whether an employee is entitled to the "long-term partial incapacity" exception.</p> |
| <p>Permanent Total Benefits</p> | <p>Permanent total incapacity is presumed for 800 weeks in cases of incurable imbecility or actual loss of any combination of two eyes, hands feet, arms or legs. Permanent and complete paralysis of both legs or both arms or one leg and one arm will also be protected under this section. After the 800 weeks, the employee is entitled to total compensation only if there is actual total incapacity.</p> |
| <p>Fatality Benefits</p> | <p>If death occurs as a result of the compensable workers' compensation claim, the employee's widow, widower, or other eligible dependents are entitled to on-going total compensation. The duration of these benefits depends on the date of injury. Injuries before 1-1-93 the benefits are payable to the surviving spouse for the duration of his/ her life time until he/she becomes dependent on another person. These benefits may be adjusted annually on July 1 .Injuries on or after 1-1-93 the benefits are capped at 500 weeks from the date of death or until the child's 18th birthday whichever is longer. The dependents are also entitled to the reasonable expenses of burial, not to exceed \$4,000 and an additional payment of \$3,000 as incidental compensation.</p> |
| <p>Vocational Rehabilitation</p> | <p>Not mandatory. The employee may request vocational rehabilitation and the employer <u>may</u> provide. The Maine WC Board can order the services and the employee must participate or there may be a loss or reduction in benefits. There is a presumption that work is unavailable for an employee participating in a rehabilitation plan ordered by the Workers' Compensation Board for as long as the employee continues to participate in vocational rehabilitation. Effective November 1, 2017, benefits may not be reduced unless there are actual earnings or the employee has received the durational limits (520 weeks) of benefits.</p> |

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| Settlement Allowed | Settlement of both the indemnity and medical benefits allowed. Permanent Impairment opinion from a “qualified health care provider” required. Hearing Officers must make finding regarding expected future medical costs related to the injury. |
| Cap on benefits, exceptions | Temporary total benefits are not capped. Partial benefits may be capped (see above). |

Medical issues

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| Initial Choice of Provider | The employer has the right to choose a health care provider for the first 10 days after the “inception of health care.” If directed, the employee must treat with the employer’s choice of physician. In cases of emergency, the injured worker should report to the emergency room. |
| Change of Provider | After 10 days from the start of treatment with the employer’s chosen provider, an injured worker may see a physician of their choice upon notice to the employer. An employee who receives treatment from his chosen health care provider may not change to another provider more than once without approval from the employer or the Board. An employee is entitled to treatment provided by a specialist with a referral from his treating physician. Treatment by a subsequent specialist in the same field is not covered without prior approval from the employer or the Board. |
| Medical Fee Schedule | Maine has a medical fee schedule which applies to all bills for medical services provided on or after the effective date of the rule change, regardless of date of injury. There are no maximum reimbursements for inpatient, outpatient and ambulatory surgical center facility fees. |
| Managed Care | No. Please refer to the WC Managed Care Quick Reference Chart by State Guide . |
| Utilization Review | Entities Affected: Any entity conducting workers' compensation utilization review must be certified by the Worker's Compensation Board. Citation: Regs 90-351, Chapter 7 Description: To be certified by the Board, an entity must submit evidence of URAC accreditation, or application for URAC accreditation. In the latter case, the entity has six months to achieve URAC accreditation. Administrative Hold: Provider has 10 days from request to submit necessary info – Admin Hold does not apply. |
| Treatment Guidelines | Utilization Review Agents providing or performing UR services shall utilize Treatment Guidelines approved by the Maine Workers’ Compensation Board. These specific treatment guidelines relate to low back pain, carpal tunnel syndrome, pain treatment. |
| Generic Drug Substitution | The state mandates generic substitution. |
| Medical Mileage Reimbursement Rate | Mileage for attendance at medical appointments, treatment and IMEs is paid at the rate of 44 cents per mile for dates of service on or after 12/11/11. Mileage for dates of service prior to 12/11/11 is reimbursed at the IRS rate in place on the date of treatment. Meals are reimbursed for appointments more than 50 miles one way from the employee’s residence. Those maximum rates are \$6.00 for breakfast and lunch and \$16.00 for dinner. For travel more than 100 miles one way, hotels are reimbursed at a maximum of \$120.00. |
| Network Information | Corvel |
| Ability to Terminate Medical Treatment | No limit on medical treatment if reasonable, necessary and related. |
| Settlement Allowed | Yes (see above under “Indemnity Issues.”) |
| Cap on benefits, exceptions | No limit on the cost of medical treatment. |

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Other Issues

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| Staff Counsel | Unable to assign staff counsel due to geographical location. Panel counsel only. |
| Hearings require attorney or claim handler participation | The claim handler can handle the mediations but hearings require counsel. Mediation may be conducted by phone by agreement of all parties. Requests for phone mediations must be made at least 7 days prior to mediation. |
| Occupational Diseases | A disease that results from causes or conditions characteristic of a particular trade or occupation may be found compensable, and subject to the more restrictive Occupational Disease Law (39-A M.R.S.A section 601-15). |
| Second Injury Fund availability | None |
| Other Offset Opportunities | <p>Apportionment opportunities. It is required the carrier for the most recent compensable injuries must initially make all benefits payments to which the employee is entitled, subject to potential reimbursement from carriers responsible for earlier injuries.</p> <p>Depending on the date of injury and PI rating, the Supplemental Benefits Fund may be an option for partial indemnity payments (in excess of 260 weeks) made for dates of injury from 1/1/93-12/31/99</p> <p>Social Security: Applies only to injuries on or after 6/30/85; weekly compensation is reduced by on half (1/2) of the weekly after-tax amount of Social Security retirement benefits received by the employee. Benefits are <u>not</u> affected by Social Security “disability” benefits. Once the Social Security setoff is calculated, the amount of the offset remains fixed regardless of future Social Security COLA. This offset does <u>not</u> apply if the employee was already receiving Social Security retirement benefits at the time of injury, nor does it apply to spouse’s or survivor benefits.</p> <p>Employer sponsored self- insurance plan, wage continuation plan, std/ltd plan or pension plan-For those same dates of injury, offset is available for the employer paid portion-calculation is made by using the “weekly benefit table” and looking up the gross amount of the benefit under the employee’s tax filing status, taking the result and MULTIPLYING IT BY 1.25 to get the weekly offset amount.</p> <p>Unemployment Benefits: For all dates of injury, compensation is reduced dollar for dollar by the amount of unemployment benefit received. This offset applies to claim for total and partial disability and is offset form the weekly benefit the employee is scheduled to receive.</p> |
| EDI | FROI & NOC must be filed electronically. Claims EDI Release 3: FROI (1/1/2005) & limited SROI (7/1/2006) |
| In-State Adjusting Required | No |
| License or Certification Required | If the adjuster is an employee of an insurance company a license is required only if handling self-insured accounts. |
| WC Hearing Docket Speed | <p>Mediations are set within 60 days but it can take 6 months to get a hearing date. The actual Dispute Resolution Procedure can include a formal hearing and it may take up to a year or more for a decision. If appealed it could take longer.</p> <p>Effective 8/30/12; a new Appellate Division was created, it is made up of panels of no fewer than 3 full-time hearing officers and gives the board authority to adopt routine technical rules of procedure. Appeals must be filed within 20 days after a Hearing Officer’s Decision becomes final and is not available on questions of fact.</p> |