

# Workers Compensation Claim State Environmental Guide - Ohio

OHIO – <https://www.bwc.ohio.gov/>

## Indemnity issues

<p>Temporary Total Benefits</p>	<p>Min &amp; max set by Ohio Bureau of Workers' Compensation by injury year &amp; recalculated annually. <b>2017 max/min \$902.00/\$300.67</b>. Waiting period 7 days. Waiting period becomes payable once injured worker experiences 14 consecutive calendar days of disability. No limit; upon receipt of written certification from the physician of record that the injured worker is subject to temporary restrictions as a result of the compensable injury which preclude injured worker from performing his pre-injury job, benefits must be extended until: 1) physician of record certifies that injured worker is physically capable of performing his pre-injury job, 2) physician of record certifies that injured worker is physically capable of performing modified duty that employer has offered in writing, or 3) employer's motion to terminate benefits is granted by Industrial Commission after formal hearing or the injured worker's physician provides a maximum medical improvement date. For injuries before 10-11-06, benefits not payable while injured worker is convicted &amp; confined to state or federal prison. <b>For injuries on/after 8-25-06, benefits also not payable to injured worker convicted &amp; confined to county jail.</b></p>
<p>Temporary Partial Benefits</p>	<p>Temporary partial not available for injuries on/after 8-22-86 due to statutory change. For injuries between 8-22-86 &amp; 10-11-06, wage loss payable if injured worker attains MMI with permanent restrictions which preclude return to pre-injury employer "and" engages in good-faith attempt to secure work within permanent restrictions. Formula = Average Weekly Wage (gross earnings for 52 weeks prior to week of injury/52), less earnings if any, multiplied by 66-2/3%. No min; max = T.T. max for year of injury. No waiting period. Injured worker is required to file proof of medical exam and report of medical restrictions with initial application and once every 90 days thereafter if restrictions are temporary and every 180 days if restrictions are permanent. Injured worker is required to apply with pre-injury employer at onset of initial claimed period of wage loss and following any interruption of three months or more in wage loss benefits. Injured worker must register with Ohio Department of Job &amp; Family Services if no suitable employment available with pre-injury employer. Statutory max 200 weeks for injuries prior to 8-25-06.</p>

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Temporary Partial Benefits (cont.)	<b>For injuries on/after 8/25/06, injured worker may not collect more than 52 weeks of non-working wage loss and working wage loss can be paid for 200 weeks. Only 26 weeks of non-working wage loss is counted against the 200 weeks which can be paid for working wage loss, meaning that the total maximum of wage loss compensation, which can be paid for injuries on or after 8/25/06 is 226 weeks. 2-13-2014 requires injured workers' submission of on-line posting, verification of application submission and results of contact. Wage loss may be payable if medical treatment only available during working hours. SI employer mandated to adjudicate initial and subsequent requests for wage loss compensation within 30 days of requests. All adjudicated issues must be filed with BWC or ICO.</b>
Permanent Partial Benefits	Specific awards for amputation ("scheduled loss") set by statute, e.g., 5 weeks @ T.T. max for injury year for loss distal phalanx little finger. Non-"scheduled" awards for whole body impairment allegedly based on AMA guidelines, but Industrial Commission makes ultimate decision. No min. Max rate for non-"scheduled" PPD = 2 weeks per % point at 2/3 of IW's AWW not to exceed the minimum SWAWW for the year in which injury or occupational disease occurred. Waiting period for injuries prior to 6-30-06 40 weeks from last payment of T.T. or wage loss, or, if no T.T./W.L. has been paid, 40 weeks from date of injury. <b>For injuries on/after 6-30-06, waiting period has been reduced to 26 weeks.</b> Injured worker limited by statute to 100% whole person impairment on all claims.
Permanent Total Benefits	Min & max = T.T. rates annually set by BWC. No waiting period. Lifetime entitlement. For injuries prior to 8/25/06, loss of both eyes, both hands, both arms, "or any two thereof" statutorily entitles injured worker to PTD. <b>For injuries on/after 8-25-06, loss of one limb does not constitute loss of "arm &amp; hand" for purposes of statutory PTD.</b>
Fatality Benefits	Min & max = T.T. rates annually set by BWC. No waiting period. Lifetime entitlement to spouse unless he/she remarries, in which case spouse receives final lump sum payment equal to two years of benefits. Other dependents receive benefits to age 18 unless enrolled full-time in accredited educational institution, in which case benefits may continue to age 25; or physically incapacitated from engaging in substantial gainful employment, in which case benefits continue during incapacity. If decedent leaves two or more dependents, statutory benefit is apportioned between/among beneficiaries by Industrial Commission. Benefits also include decedent's final medical expenses and for claims with date of death prior to 4-9-03 \$3,200 max for funeral or for claims with date of death after 4-9-03 \$5,500 for funeral expenses.
Vocational Rehabilitation	Not required of self-insured employer unless requested by injured worker. For injuries prior to <b>8-25-06, however, injured workers could collect up to 200 weeks of living maintenance wage loss benefits if they obtained a job while participating in a vocational rehabilitation program. Additionally, injured workers could also be eligible for 200 weeks of non-working wage loss benefits. On or after 8-25-06, total wage loss benefits is capped at 226 weeks.</b> Since OH has a two-year statute of limitations for filing for accrued indemnity benefits, voc rehab always recommended immediately upon MMI due to difficulty of contesting alleged "good faith" job search performed so long ago.
Settlement Allowed	Yes; must be approved by BWC
Cap on benefits, exceptions	See above

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**Medical issues**

Initial Choice of Provider	See med guidelines. Injured worker has free choice unless employer has BWC-approved Qualified Health Plan. If employer has QHP, injured worker must make initial choice w/in network but may opt out of network after 1 <sup>st</sup> office visit. Providers must be selected from pool “certified” by BWC, i.e., provider must accept Industrial patients and not have had license suspended.
Change of Provider	Injured worker has free choice. MDs, DOs, & DCs are all considered “physicians.” Once IW goes to physician for treatment three times, that provider becomes physician of record and the IW must request a change by filing Form 23, Notice to Change Physician of Record.
Medical Fee Schedule	UCR set by BWC.
Managed Care	Not required of self-insured employer unless it has QHP.
Utilization Review	Not required of self-insured employer unless it has QHP, in which case all UR for compensable diagnoses must be performed by licensed medical professional.
Treatment Guidelines	Does the state mandate the use of evidence based guidelines? No
Generic Drug Substitution	The state mandates generic substitution.
Medical Mileage Reimbursement Rate	Payable only if injured worker must seek specialized medical care outside town or city where he resides (must travel 45 miles round trip) or if employer requests IW appear for a medical examination. Rate from 10/1/2009 to 7/31/2013: \$.45/mile. Rate from 8/1/2013 to present: \$.52/mile.
Network Information	Self-insured employer not permitted to direct care unless it has an accredited QHP. Network providers may be “offered.” First Health network is used.
Ability to Terminate Medical Treatment	Only by Industrial Commission order after formal hearing.
Settlement Allowed	Yes; must be approved by BWC
Cap on benefits, exceptions	No. For injuries prior to 8/25/06, claims in which no indemnity has been paid remain viable by statute for six years after payment of most recent medical; and claims in which indemnity has been paid remain viable by statute for 10 years after payment of most recent indemnity “or” medical. <b>For injuries on or after 8/25/06, claims in which neither indemnity or medical is paid within 5 years of the date of injury will no longer be viable by statute at the expiration of that 5-year period.</b>

**Other Issues**

WC Hearing Docket Speed	Uncertified claims are required by law to be set for hearing within 45 days of notification that claim is contested, although in reality claims may languish for months without being set for allowance hearing.
Staff Counsel	No. Ohio handles only CSS business with most SAC instructions giving employer right to select counsel.
Hearings require attorney or claim handler participation	Ohio Supreme Court decision concerning unauthorized practice of law by third-party administrators severely restricts role of non-attorney participants in Industrial Commission hearings. In Ohio, CSS has always used attorneys to represent employers at hearing. Claim handler participation in hearings extremely rare although adjusters may be required to attend court pre-trials in order to extend settlement authority.

**Other Issues**

Occupational Diseases	Enumerated by statute: anthrax, glanders, lead poisoning, mercury poisoning, etc.
Second Injury Fund availability	Self-insured employers have right to contribute to "handicap fund" but all opted out as soon as participation became voluntary
Other Offset Opportunities	Subrogation available on all claims with date of injury on or after 4/9/03
EDI	No
In-State Adjusting Required	Not by statute, although in practice BWC self-insured section frowns on use of out-of-state TPAs.
License or Certification Required	If employer has QHP, utilization review for compensable diagnosis must be performed by licensed medical professional.