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# WORKERS' COMPENSATION BENEFITS SOUTH DAKOTA 2024

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BODY PART AFFECTED	WEEKS PAYABLE
Disability, Body as a Whole	312
Thumb	50
First (Index) Finger*	35
Second Finger	30
Third Finger	20
Fourth (Little) Finger	15
Loss of Great Toe**	30
Half of First Phalange of the Great Toe	15
Loss of Other Toes***	10***
Half of First Phalange of Other Toes	5
Hand	150
Arm	200
Loss of a Foot	125
Loss of a Leg	160
Loss of Sight	150
Loss of Hearing (One Ear)	50
Loss of Hearing (Both Ears)	150
Disfigurement	312

\*The loss of the first phalange of the thumb or any finger is equal to the loss of one-half of the thumb or finger. The loss of more than one phalange is considered the loss of the entire finger or thumb.

\*\*The loss of more than one phalange is considered the loss of the entire toe.

\*\*\*An additional 10 weeks of compensation is owed for the loss of more than one toe other than the great toe.

## SCHEDULED INJURED PPD EXAMPLE:

Date of Accident	1/01/20
Upper Extremity	200 Weeks
Percent of Disability	10%
Average Weekly Wage (for PPD)	\$934.00
Compensation Rate	\$625.78 (\$934.00 x 0.67)
PPD Weeks Owed (200 Weeks x 0.10)	20 Weeks
Total PPD Owed	\$12,515.60

## BODY AS A WHOLE PPD EXAMPLE:

Body as a Whole	312 weeks
Percentage of Disability	10%
Average Weekly Wage	\$934.00
Compensation Rate (PPD)	\$625.78 (\$934.00 x 0.67)
PPD Weeks Owed (312 Weeks x 0.10)	31.2 Weeks
Total PPD Owed	\$19,524.34

DATES	RATE
7/01/23 to 6/30/24	\$1,029.00
7/01/22 to 6/30/23	\$975.00
7/01/21 to 6/30/22	\$934.00
7/01/20 to 6/30/21	\$857.00
7/01/19 to 6/30/20	\$829.00
7/01/18 to 6/30/19	\$805.00
7/01/17 to 6/30/18	\$781.00
7/01/16 to 6/30/17	\$762.00
7/01/15 to 6/30/16	\$733.00
7/01/14 to 6/30/15	\$705.00
7/01/13 to 6/30/14	\$691.00
7/01/12 to 6/30/13	\$668.00

## WEEKS EXPRESSED AS A DECIMAL

1/7	0.14
2/7	0.29
3/7	0.43
4/7	0.57
5/7	0.71
6/7	0.86

## MILEAGE RATE

DATES	RATE
9/12/22 to Present	\$0.51
7/01/15 to 9/11/22	\$0.42
7/01/07 to 6/30/15	\$0.37
7/01/04 to 6/30/07	\$0.32
7/01/99 to 6/30/04	\$0.29
6/24/91 to 6/30/99	\$0.24
6/22/89 to 6/23/91	\$0.22
7/01/85 to 6/21/89	\$0.20
7/01/80 to 6/30/85	\$0.21
1/01/80 to 6/30/80	\$0.19
5/15/79 to 12/31/79	\$0.18
4/01/78 to 5/14/79	\$0.16

**Scheduled Injuries** - calculated by the number of weeks by each specific scheduled member multiplied by the impairment rating, paid at 2/3 the Average Weekly Wage.

**Body as a Whole Injuries** - calculated by the proportion of 312 weeks which is represented by the percentage that such permanent partial disability bears to the body as a whole.



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## **COMPENSABILITY**

### **ACCIDENT OR INJURY**

An injury is defined as an injury arising out of and in the course of employment and does not include a disease in any form except as it results from the injury.

An injury is compensable only if it is established by medical evidence, that the employment or employment related activities are a major contributing cause of the condition complained of; or the condition, combined with a preexisting disease or condition causing or prolonging disability, impairment or need for treatment, is and remains a major contributing cause of the disability, impairment, or need for treatment.

Mental injuries are not compensable injuries unless there is also a compensable physical injury that is and remains a major contributing cause of the mental injury, as shown by clear and convincing evidence.

### **CALCULATING BENEFITS**

The basis for most benefits in the South Dakota Workers' Compensation system is the compensation rate. The compensation rate is function of the employee's Average Weekly Wage ("AWW"). The AWW is calculated based on fifty-two (52) weeks of wages prior to the date of injury. All of the employee's wages earned during the fifty-two (52) week period are totaled and divided by fifty-two (52) to determine the employee's AWW.

As a general rule, the compensation rate is two-thirds (2/3) of the employee's AWW as of the date of injury up to the statutory maximum amount, which is adjusted each year. Compensation is also subject to a minimum amount, adjusted each year, unless the employee's AWW is less than the minimum. In that case, the employee's AWW, less standard deductions, is paid as compensation.

## **TYPES OF BENEFITS**

### **TEMPORARY TOTAL DISABILITY**

Temporary Total Disability ("TTD") benefits are those paid to an employee who cannot work because of a work-related injury or disease. Benefits are only paid if the employee is incapacitated for at least seven (7) consecutive days. If the employee is incapacitated for seven (7) consecutive days or more, compensation is computed from the date of injury. Payment of these benefits continues until a medical practitioner releases the employee to return to work or determines that the employee's condition has reached Maximum Medical Improvement ("MMI").

### **IMPORTANT CONSIDERATIONS**

- Benefits are paid in the same time frame as the employee receives their paycheck from their employer. If that is not feasible, then benefits are paid weekly.

### **PERMANENT TOTAL DISABILITY**

Under the South Dakota Workers' Compensation Law, total disability occurs when an employee is totally and permanently disabled in terms of occupational capacity, or can no longer perform services of any kind, extent and quality for which a reasonably stable labor market exists.

### **IMPORTANT CONSIDERATIONS**

- Benefits are paid weekly during the entire period of disability, subject to a cost of living adjustment.

- Benefits may be subject to review by the Department.
- Lump sum settlements are permitted. If the parties reach an agreement in regards to compensation, a memorandum of agreement must be filed with the Department and is approved after twenty (20) days, unless the Department notifies the parties of its disapproval by letter.
- Parties may petition the Department to have any unpaid compensation paid in a lump sum, equal to the present value of the total sum of probable future payments.

### **PERMANENT PARTIAL DISABILITY**

Permanent Partial Disability ("PPD") is a disability that results from impairment of certain members of the body due to an injury or disease. Benefits are computed by applying a determination of the employee's percentage of impairment to the number of weeks designated as full disability of that body part. The number of weeks is then multiplied by the employee's compensation rate.

### **IMPORTANT CONSIDERATIONS**

- Benefits are paid weekly or bi-weekly unless a lump sum payment is allowed by the Division.
- Lump sum settlements are permitted. If the parties reach an agreement for compensation, a memorandum of agreement must be filed with the Department, and is deemed approved after twenty (20) days unless the Department notifies the parties of its disapproval by letter.
- Parties may petition the Department to have any unpaid compensation paid in a lump sum, equal to the present value of the total sum of probable future payments.

## **DEATH BENEFITS**

### **ELIGIBILITY FOR DEATH BENEFITS**

After the death of an employee who suffered a work-related injury, the employee's widow(er) and/or dependent children may be entitled to benefits.

### **THE EXTENT OF DEATH BENEFITS**

In typical situations, the surviving spouse is entitled to benefits for life or until remarriage, at which time a lump sum equal to two years of compensation will be paid to the spouse.

Surviving children are eligible to receive equal shares of compensation if the spouse dies or remarries. The child must be under eighteen (18), or twenty-two (22) if the child is a full-time student, or incapable of self-support. If a child is not in the spouse's custody at the time of the employee's death (and the spouse is entitled to benefits), 6 of the benefits go to the spouse, and 6 to the dependent child. Each dependent child is also entitled to an additional \$50.00 per month from the date of death until the child is eighteen (18). Dependent children who attend South Dakota post-secondary schools may also receive up to \$2,000.00 per year towards their education for five (5) years.

The employer is responsible to pay up to \$10,000.00 in reasonable burial expenses, and travel expenses to transport the body if death occurs outside of the community where the employee will be buried.

### **IMPORTANT CONSIDERATIONS**

- Death benefits will be paid in installments equal to two-thirds (2/3) of the average earnings at the same intervals at which the employee was paid. If that is not feasible, benefits will be paid weekly.