



TENNESSEE WORKERS' COMPENSATION MEDICAL INFORMATION

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WORKING WITH PHYSICIANS

Panel of Physicians

All panels of physicians must include three or more independent physicians, specialists, or practice groups willing to treat the subject injury. If no appropriate provider is in the employee's community, providers within 125 miles may be listed. No requirement to list chiropractors. Panel must be offered within 3 business days of the notice of injury.

Referrals

Any panel physician who treats the employee is presumed to be the authorized treating physician (ATP). Specific referrals made by the ATP are automatically accepted unless a panel of specialists is provided within 3 business days of the referral. A nurse practitioner working under the supervision of a panel physician is an authorized provider, not a referral.

Maximum Medical Improvement (MMI)

Employee is deemed to be at MMI when the authorized treating physician says no further improvement or healing can be expected OR when active medical treatment ends and employee's only treatment is for pain management. TTD benefits end at MMI. PPI benefits begin at MMI, following court approval, whether or not employee returns to work. Claims may be settled any time after the injured employee reaches MMI.

COMMUNICATION & OBTAINING MEDICAL RECORDS

- Any physician providing treatment for a work-related injury must provide applicable treatment records upon request of a party to the WC claim. No release or authorization is required. Records should be available within 30 days of medical treatment.
- A party to the claim may communicate with treating physician(s), either orally or in writing, without a signed C-31 or HIPAA release, so long as the information pertains to the work-related injury.
- Requests for medical records pertaining to prior medical history require a HIPAA compliant release from employee. If necessary, a Petition for Benefit Determination (PBD) may be filed seeking an order for release of records pertaining to a suspected pre-existing condition.

NEW MEDICAL STANDARD FOR CAUSATION

An injury or occupational illness is compensable only if the injury is caused by specific incident(s) arising *primarily* out of and in the course and scope of employment.

- An injury arises primarily out of and in the course and scope of employment if the authorized treating physician (selected from the panel) believes, to a reasonable degree of medical certainty, that employment contributed more than fifty percent (50%) in causing the injury.
- A reasonable degree of medical certainty means that, in the opinion of the physician, it is more likely than not considering all causes, as opposed to speculation or possibility.
- The opinion of the authorized treating physician will be presumed correct on the issue of causation. However, that presumption can be rebutted by a preponderance of evidence to the contrary, usually obtained through an IME.

Utilization Review (UR)

- Utilization Review is an evaluation by an outside source of the necessity, appropriateness, efficiency and quality of medical treatment for an injured worker. Every workers' compensation insurer in Tennessee must provide UR services.
- After an ATP orders a particular treatment/surgery, the adjuster has **four (4) business days** to either approve the treatment or send the recommendation to the UR review agent.
- UR agent has **seven (7) business days** to make a decision.
- If UR denies the treatment, the UR agent must provide a report to the employee, his attorney and the physician stating reasons for denial and must provide information regarding procedures for appeal. Employee must file an appeal within **30 days** of receipt of denial.
- Utilization review does not address issues of causation or compensability.

Permanent Partial Impairment (PPI)

- All permanent partial impairment ratings are based on the body as a whole and are eligible for up to 450 weeks of benefits. Court approval is required prior to payment of permanent partial disability benefits.

TENNESSEE WORKERS' COMPENSATION CALCULATING PERMANENT PARTIAL DISABILITY BENEFITS



- ❖ Employee at MMI and with a permanent partial impairment (PPI) rating is entitled to PPD benefits equal to PPI x 450 weeks x Compensation Rate for the Initial PPD award. **For injuries occurring on or after 6/22/2020, the initial compensation period is a minimum of six (6) months (180 days).*
- ❖ All compensable injuries are eligible for up to 450 weeks of benefits.
- ❖ At the end of the Initial Benefit Period, Employee is eligible for Additional PPD Benefit equal to 1.35 x Original Award **if** Employee has not returned to work or is working but earning less than the pre-injury wage. Additional PPD Benefit amount may also be increased based on age, education and county unemployment rates. (See below)
- ❖ If settlement occurs before end of Initial Benefit Period and/or Additional Benefits are not included in settlement, Employee must file a new Petition for Benefit Determination (PBD) within one (1) year of the end of the Initial Benefit Period. Employer/Carrier are not required to notify Employee of eligibility for Additional PPD Benefits.
- ❖ If paying Additional PPD Benefits, credit is given for payment of the Initial Benefit Award amount.

CALCULATING ORIGINAL PPD AWARD

- 1) Compensation Rate: $AWW \times 66 \frac{2}{3}\%$ (subject to max PPI rate) = \$ _____
- 2) Benefit Period: $PPI (\%) \times 450 \text{ weeks} =$ _____ weeks*
- 3) PPD Original Award: Benefit Period (weeks) x Comp Rate (\$) = \$ _____

Examples:

Scenario #1

55-year-old male with a high school degree, some college, herniated a lumbar disc carrying a heavy item. Surgery was performed and the ATP assigned a PPI rating of 12% to the body as a whole. Employee did not return to work. His average weekly wage was \$600.00 per week.

- 1) $\$600 \times 66 \frac{2}{3}\% = \400.00 compensation rate
- 2) $12\% \times 450 \text{ weeks} = 54 \text{ weeks}$ benefit period
- 3) $\$400 \times 54 \text{ weeks} = \$21,600.00$ PPD original award

Scenario #2

39-year-old female office cleaner with no HS diploma slipped on a wet floor in the office and twisted her knee, causing a torn meniscus. Her doctor treated conservatively, placed her at MMI and assigned an 8% PPI rating to the body as a whole. She has continued to work for the employer but is only working part-time and is earning less than she did before the injury. Her average weekly wage was \$487.50.

- 1) $\$487.50 \times 66 \frac{2}{3}\% = \325.00 compensation rate
- 2) $8\% \times 450 \text{ weeks} = 36 \text{ weeks}$ benefit period
- 3) $\$325 \times 36 \text{ weeks} = \$11,700.00$ PPD original award

NOTE: Employees in both scenarios are eligible for Additional PPD Benefits →

ADDITIONAL PPD BENEFITS

Employee may be eligible for Additional Benefits at the end of the initial PPD Benefit Period *if Employee did not return to work or is earning less than pre-injury wages*. The factors are cumulative.

- ❖ Due to lack of job or lower earnings, PPD award is multiplied by **1.35**.
- ❖ If employee lacks a GED or HS diploma, PPD award is multiplied by **1.45**.
- ❖ If employee is over forty (40) years of age, original award is multiplied by **1.2**.
- ❖ If unemployment rate in employer's county was at least two (2) percentage points higher than average unemployment rate in TN for the year prior to the end of the Benefit Period, original award is multiplied by **1.3**.

CALCULATING ADDITIONAL BENEFITS

- 1) Date of MMI _____; PPI Rating _____%
- 2) Benefit Period: $PPI \text{ Rating } (\%) \times 450 \text{ weeks} =$ _____ weeks*
- 3) Expiration of Benefit Period: MMI date + Benefit Period wks = Expiration date
- 4) Employee employment/wage status at Benefit Period Expiration date:
 - Working for any employer – No additional benefits
 - Working, but earning less than pre-injury wage – Additional benefits
 - Not working – Additional benefits
- 5) Determine factors:
 - Original Award x 1.35 = A
 - If over 40: A x 1.2 = B
 - If no HS diploma or GED: B x 1.45 = C
 - If unemployment factor applies: C x 1.3 = D
 - Credit original PPD award pymt: D – PPD paid = E (Additional Benefit \$)

**Minimum initial compensation period is 6 months (180 days) for injuries on/after 6/22/2020.*