

www.markowwalker.com

Jackson Office

599 Highland Colony Pkwy., Suite 100
Ridgeland, MS 39157
Post Office Box 13669
Jackson, MS 39236-3669
(601) 853-1911 Telephone
(601) 853-8284 Facsimile

Oxford Office

265 N. Lamar, Suite I
Oxford, MS 38655
P.O. Drawer 50, Oxford, MS 38655
(662) 234-9899 Telephone
(662) 234-9762 Facsimile

Ocean Springs Office

2113 Government St., Building M
Ocean Springs, MS 39564
(228) 872-1923 Telephone
(228) 872-1973 Facsimile

MISSISSIPPI WORKERS' COMPENSATION QUICK REFERENCE GUIDE 2017

Waiting Period: No compensation except medical benefits shall be allowed for the first five (5) days of the disability. In case the injury results in disability of fourteen (14) days or more (including non-consecutive days), the compensation shall be allowed from the date of disability.

Daily Rate of Compensation: Based on a five day work week. Gen. Rule 10.

Statute of Limitations:

- A. **Two-year statute:** Regardless of whether notice was received, if no payment of compensation (other than medical treatment or burial expense) is made and no application for benefits filed with the commission within two years from the date of the injury or death, the right to compensation therefor shall be barred.
- B. **One-year statute:** Upon its own initiative or upon the application of any party in interest on the ground of a *change in conditions or because of a mistake in a determination of fact*, the commission may, at any time prior to one (1) year after date of the last payment of compensation, whether or not a compensation order has been issued, or at any time prior to one (1) year after the rejection of a claim, review a compensation case, issue a new compensation order which may terminate, continue, reinstate, increase, or decrease such compensation, or award compensation.

Compensation Rate: In Mississippi, the compensation rate is sixty-six and two-thirds percent (66-2/3%) of the average weekly wage of the employee, subject to the maximum limitations as to weekly benefits (see below).

Maximum Rates:

Eff. Date	Weekly Max.	P&T	Max.
1/1/07	\$387.68	P&T	\$174,456
1/1/08	\$398.93	P&T	\$179,518.50
1/1/09	\$414.29	P&T	\$186,430.50
1/1/10	\$422.31	P&T	\$190,039.50
1/1/11	\$427.20	P&T	\$192,240
1/1/12	\$436.68	P&T	\$196,506
1/1/13	\$449.12	P&T	\$202,104
1/1/14	\$454.42	P&T	\$204,489
1/1/15	\$463.59	P&T	\$208,615.50
1/1/16	\$468.63	P&T	\$210,883.50
1/1/17	\$477.82	P&T	\$215,019

Scheduled Members and Interpretations:

Arm	200	First finger	35	Great toe	30
Leg	175	Second finger	30	Toe other than great toe	10
Hand	150	Third finger	20	Breast, female, one	50
Foot	125	Fourth finger	15	Breast, female, both	150
Eye	100	Testicle, one	50	Loss of Hearing: one ear	40
Thumb	60	Testicle, both	150	Loss of Hearing: both	150

- **80% or more loss of vision: total loss of eye**
- **Amputated Arm or Leg above wrist or ankle: 200 or 175**
- **> 1 Phalange of a digit lost: loss of entire finger/toe**
- **< or = to 1 Phalange of a digit lost: ½ value of finger/toe**
- **Loss of multiple digits cannot exceed total loss of hand/foot**

Facial/Head Disfigurements: \$5,000 for injuries on and after July 1, 2012; \$2,000 for prior claims. There is a 1 year waiting period.

In any case in which there shall be a **loss of, or loss of use of, more than one member or parts of more than one member set forth above**, not amounting to permanent total disability, the award of compensation shall be for the loss of each such member or parts thereof, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, then compensation cannot exceed total loss of the hand or foot.

Temporary Total Disability (TTD): TTD benefits are 66-2/3% of the average weekly wage of the injured employee, subject to the maximum limitations, and shall be paid to the employee during the disability period, not to exceed 450 weeks or an amount greater than the multiple of 450 weeks times 66-2/3% of the average weekly wage for the state.

Temporary Partial Disability (TPD): TPD benefits are 66-2/3% of the difference between the injured employee's average weekly wage before the injury and his wage-earning capacity after the injury in the same or other employment, subject to the maximum limitations as to weekly benefits payable during the continuance of such disability but in no case exceeding 450 weeks or an amount greater than the multiple of 450 weeks times 66-2/3% of the average weekly wage for the state.

Permanent Partial Disability (PPD - Scheduled Members): PPD benefits are 66-2/3% of the average weekly wage of the injured employee, subject to the maximum limitations as to weekly benefits.

Permanent Total Disability (PTD): PTD benefits are 66-2/3% of the average weekly wage of the injured employee, subject to the maximum limitations as to weekly benefits shall be paid to the employee not to exceed 450 weeks or an amount greater than the multiple of 450 weeks times 66-2/3% of the average weekly wage for the state.

Body As A Whole (cases other than Scheduled Members): Other cases of disability shall be 66 2/3% of the difference between the claimant's pre-injury AWW, subject to the maximum limitations as to weekly benefits, and his wage earning capacity thereafter in the same employment or otherwise. Such payments not to exceed 450 weeks.

Death Benefits: (Note: refer to Miss. Code Ann. § 71-3-25 for complete coverage ie: parents/grandparents, partial dependency , etc) For a death arising out of or in the course of employment:

(1) An immediate sum of \$1,000 shall be paid to the surviving spouse, in addition to other compensation benefits for deaths occurring on and after July 1, 2012 (\$250 for deaths occurring prior to July 1, 2012).

(2) If there is a surviving spouse and no child of the deceased, the surviving spouse shall receive a sum equivalent to 35% of the deceased's average weekly wage during widowhood or dependent widowhood.

(3) For each dependent child an additional amount of 10% of such wages, provided that the total amount payable shall in no case exceed 66 2/3% of such wages subject to the maximum limitations.

(4) If there be a surviving child or children, but no surviving spouse, then for the support of each such child 25% of the average weekly wage shall be paid provided that amount does not exceed 66 2/3% of such wages.

(5) If there be no surviving spouse or child, or if the amount payable to a surviving spouse and children is less than 66 2/3% of the average weekly wage, then for support of grandchildren or brothers and sisters, if dependent upon the deceased at the time of injury, shall be paid 15% to each, the aggregate not exceeding 66 2/3% of the average weekly wages.

Funeral Benefits: Reasonable funeral expenses not exceeding \$5,000 for all deaths occurring on and after July 1, 2012 (\$2,000 for deaths occurring prior to July 1, 2012), exclusive of other burial insurance or benefits, shall be payable.

Second Injury Fund: Payment in all cases of death are \$300 if there are survivors, \$500 if there are not any.

Medical Records: No claim for medical treatment shall be valid and enforceable against the employer or carrier unless within 20 days following the first treatment the physician or provider giving such treatment shall furnish to the employer a preliminary report of such injury and treatment. Subsequent reports of injury and treatment must be submitted at least every 30 days thereafter until a final report is made.

Medical Treatment: The employer shall furnish medical treatment for such period as the nature of the injury or the process of recovery may require. The injured employee shall have the right to accept the services furnished by the employer or the right to choose one physician of his choice and such other specialists to whom he is referred by his chosen physician. Referrals by the chosen physician shall be limited to one physician within a speciality or subspeciality area. Except in an emergency situation where immediate attention is necessary, any additional selection of physicians by the injured employee must be approved by the employer or carrier. Should the employer desire, he may have the employee examined by a physician of his choice. If the employee refuses to submit to such examination, the commission may order suspension of payment of any further compensation as such refusal continues, after a proper Motion, Hearing and Order is entered.

Major Changes for Injuries Occurring on and After July 1, 2012:

Choice of Physician: If the employee is treated for his alleged work-related injury or occupational disease by a physician for six months or longer, or if the employee has surgery for the alleged work-related injury or occupational disease performed by a physician, then that physician shall be deemed the employee's selection.

Drug Testing: A positive test for alcohol, drugs or prescription drugs that are misused creates a rebuttable presumption that the accident was proximately caused by the drug found in the claimant's system and shifts the burden of proof to the claimant to show the claimant's intoxication was not a contributing cause of the accident. Refusal to take a drug test creates a presumption the claimant was using drugs or alcohol.

Apportionment: The preexisting condition does not have to be occupationally disabling for apportionment to apply. Elements of apportionment are: 1. Show a preexisting physical handicap, disease, or lesion exists; 2. Which is a material contributing factor in the results following the accidental injury; and 3. Established or shown by medical findings. Apportionment would still only apply to post MMI indemnity benefits and not pre-MMI benefits.

Claimant Controverting a Disputed Claim: For all claims where no indemnity or medical benefits are paid, claimant must attach medical evidence to their Petition to Controvert except claimant has an additional 60 days if a SOL is approaching.

Attorney's Fees: Claimant attorneys cannot recover attorneys' fees based upon benefits voluntarily paid to an injured employee for temporary or permanent disability. Any settlement negotiated by an attorney shall not be considered a voluntary payment.

Commission Website: <http://www.mwcc.state.ms.us>

Mileage reimbursement: 53.5¢ a mile on and after Jan. 1, 2017