



QUICK GUIDE TO THE IOWA WORKERS' COMPENSATION ACT*

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COMPENSATION RATE ISSUES

Average Weekly Wage: An employee's gross weekly earnings, or average weekly wage in Iowa, is a function of how often the employee is paid (ie: biweekly, monthly, yearly) for salary employees, divided by the corresponding pay period. IOWA CODE § 85.36. For example, a salaried biweekly employee's AWW is ½ their biweekly wage. IOWA CODE § 85.36(2).

For employees who are paid on a daily, hourly, or output basis, the AWW is based on the employee's gross earning over the 13 weeks of earning immediately preceding the alleged date of injury. IOWA CODE § 85.36(6).

Overtime: Premium or overtime *hours* count towards the AWW, but the *hours* must be treated as though the employee earned their regular rate of pay during that time, not premium or overtime hourly rate. IOWA CODE § 85.36(6).

Ordinary Work Week: Weeks which do not fairly reflect the employee's customary earnings should be replaced by the closest previous week with earnings that fairly represent the employee's customary earnings. IOWA CODE § 85.36(6).

Benefit Rate: An employee's benefit rate is use to pay weekly benefits (TTD/PPD) and is based on the employee's AWW, minus taxes and deductions to reflect the employee's take home spendable earnings. IOWA CODE §§ 85.37; 85.61(7). The Division publishes tools to calculate the benefit rate but you will need to know how many withholdings (formerly deductions) the employee is entitled to. *Id.*

Maximum and Minimum Benefit Rates [85.31, 85.34, 85.37, 85.61(9)]:

Date/Accident	Max. Rate (TTD, HP, PTD/PPD)	Min. Rate (Statewide AWW/35%)
7/01/13 - 6/30/14	\$1,543.00 / \$1,419.00	\$771.28 / \$270.00
7/01/14 - 6/30/15	\$1,572.00 / \$1,447.00	\$786.23 / \$275.00
7/01/15 - 6/30/16	\$1,628.00 / \$1,498.00	\$813.99 / \$285.00
7/01/16 - 6/30/17	\$1,688.00 / \$1,553.00	\$843.81 / \$295.00
7/01/17 - 6/30/18	\$1,720.00 / \$1,583.00	\$860.06 / \$301.00
7/01/18 - 6/30/19	\$1,765.00 / \$1,623.00	\$882.26 / \$309.00
7/01/19 - 6/30/20	\$1,819.00 / \$1,673.00	\$908.57 / \$318.00
7/01/20 - 6/30/21	\$1,864.00 / \$1,715.00	\$931.43 / \$326.00
7/01/21 - 6/30/22	\$2,005.00 / \$1,845.00	\$1,002.51 / \$351.00
7/01/22 - 6/30/23	\$2,081.00 / \$1,915.00	\$1,040.56 / \$364.00
7/01/23 - 6/30/24	\$2,199.00 / \$2,023.00	\$1,099.55 / \$385.00

Minimum Rate Calculation: The minimum weekly benefit for TTD or HP is the *LESSER* of either the benefit rate of a person whose gross weekly earnings are 35% of the state average weekly wage OR the spendable weekly earnings of the employee. IOWA CODE § 85.37(1). The minimum weekly benefit for PPD, PTD or death benefits is equal to the weekly benefit amount of a person whose gross weekly earnings are 35% of the statewide average weekly wage. IOWA CODE § 85.34(2).

SCHEDULE OF COMPENSATION

Temporary Total Disability Benefits (TTD): Are paid to the employee while they are treating or convalescing from their injury. IOWA CODE §§ 85.33(1); 85.34(1). TTD payments end when the employee: (1) returns to work; (2) is medically capable of returning to work; or (3), when the employee is at maximum medical improvement. *Id.*

Temporary Partial Disability Benefits: "TPD" benefits are paid when an employee returns to work but, due to their injury, earns less than they did before the injury. IOWA CODE § 85.33(2). TPD benefit are based calculated by taking the employee current gross weekly earning, minus the employee's pre-injury AWW, and multiplied by two thirds. IOWA CODE § 85.33(4). TPD benefit are best understood to end when the employee reaches MMI. IOWA CODE § 85.34(1)

Waiting Period: TTD and TPD benefits are not payable until the injury results in 3 or more calendar days of disability (beginning on the 4th day). IOWA CODE § 85.32. If an employee is disabled for 14 days or more, the first 3 days of the waiting period become payable, seven days after the 14th day of disability. IOWA CODE §§ 85.32(1-2), 85.33(1) and (4).

Permanent Partial Disability: "PPD" benefits are paid based upon the degree of permanent disability and commence upon conclusion of healing period (when MMI is reached). IOWA CODE § 85.34(1).

Scheduled Member Injuries: "PPD" = (number of weeks for complete member loss) x (degree of functional impairment) x (PPD benefit rate). IOWA CODE § 85.34(2)(a—u).

Member	Weeks	Member	Weeks
Thumb	60	1st finger	35
2 nd finger	30	3 rd finger	25
4 th finger	20	Hand	190
Arm	250	Shoulder	400
Great toe	40	All other toes	15
Foot	150	Leg	220
Eye	140	Hearing 1 ear	50
Hearing 2 ears	175		
Permanent disfigurement (face or head)			150

Body as a Whole Injuries: "PPD" = (500 weeks) x (Degree of Industrial Disability) x (PPD benefit rate). IOWA CODE § 85.34(2)(v).

If Employee's Death Was Caused by Work Accident: Benefits are payable to the employee's dependents to age 18 (or 25 if actually dependent) and the employee's spouse for life (or until remarriage when a two-year lump sum becomes due). IOWA CODE § 85.31(1). A burial benefit exists not to exceed 12 times the statewide average weekly wage in effect at the time of death. IOWA CODE § 85.28.

PENALTIES & COSTS FOR FAILURE TO PAY

Indemnity Benefits (Permanent or Temporary Disability Payments):

- Benefits should begin by the 7th day following injury and continue as long as the entitlement continues.
- If payments are not paid when due, employee may be entitled to interest or penalty benefits.
- Penalties apply to denial, delay in payment, or termination of benefits without requisite notice.
- Penalties up to 50% of the delayed benefit may be awarded where employer failed to prove a reasonable or probable cause for the denial, delay in payment, or termination of benefits.

Interest on Unpaid Benefits:

Keep in mind that unlike penalty benefits, interest is due on delayed or unpaid benefits regardless of whether the delay was unreasonable.

DEFENSE CHECKLIST

Keep in mind the following defenses when evaluating a claim:

- Did not arise out of employment.
- Was not “in the course of” employment.
- Causation Issues: The work-related accident did not cause the injuries.
- Notice (not reported within 90 days). IOWA CODE § 85.23.
- Statute of Limitations (2 years where no benefits paid, 3 years from last benefit). IOWA CODE § 85.26.
- Willful Injury / Intoxication. IOWA CODE § 85.16.
- Apportionment. Are you liable for ALL of employee’s permanency? IOWA CODE § 85.34(7)(a-c).
- Casual vs. Regular Employee. IOWA CODE § 85.1(2).

EXCLUDED EMPLOYMENT

- Household Domestic Workers employed in a home and earning less than \$1,500.00 from their employer during the prior 12 months; Certain Agricultural Employees (for a complete listing of exclusions see IOWA CODE § 85.1(3)); Firefighters and Police Officers; Railroad Employees engaged in interstate or foreign commerce. IOWA CODE § 85.1(6).
- Independent Contractors. IOWA CODE § 85.61(c).
- Owners - Operators of vehicles registered and licensed as trucks, road tractors, or truck tractors provided certain requirements are met. IOWA CODE § 85.61(3).

EXTRATERRITORIAL APPLICATION

If the injury occurred outside the state of Iowa, on or after July 1, 2017, jurisdiction is only available if the employee regularly works in Iowa. IOWA CODE § 85.71. Before July 1, 2017, Iowa had much more permissible rules to establish jurisdiction over outstate injuries which no longer apply.

SUBROGATION CLAIMS

- An employer has a statutory right to be subrogated to any recovery by the employee against a third-party tortfeasor for the employee’s work-related injuries.
- The employer must be served a copy of the original notice by the plaintiff at least 10 days before the trial of the third-party case.
- The employer / insurer has two methods of recovering amounts paid to an employee:
 - 1) indemnification out of the recovery of damages by the plaintiff (subject to the plaintiff counsel’s attorney’s fees);
 - 2) subrogation allows an employer to recover its loss by being substituted for the employee in bringing an action against the third-party tortfeasor.
- The employer has a lien which provides security for all payments including future payments made by the employer after settlement of the third-party case.
- An employer’s lien for workers’ compensation payments made is not reduced by the percentage of fault attributed to the injured employee in the third-party claim. The employer’s / insurer’s right of indemnity is against the worker’s “entire” recovery which has already been reduced in the third-party claim in accordance with the employee’s comparative fault; however, if the employer / insurer chooses to subrogate it would stand in the shoes of the employee and be subject to such defenses and reduction. IOWA CODE § 85.22.

VOLUNTEER FIRE FIGHTERS

- The employer Special rate rules apply in Iowa for volunteer fire fighter, emergency care providers, reserve peace officers, and volunteer ambulance drivers. IOWA CODE § 85.36(9)(a). If applicable, the employee is compensated based on the average weekly wage from their full time job, or at a rate of 140% statewide average weekly wage at time of injury, whichever is greater. *Id.*
- Not every volunteer fire fighter, EMT, police officer, or ambulance driver falls within this classification in Iowa. IOWA CODE §§ 85.61(11) and (12)(a)(2).

140% STATEWIDE AVERAGE WEEKLY WAGE

<u>Date/Accident</u>	<u>Rate</u>
7/01/19 – 6/30/20	\$1,273.20
7/01/20 – 6/30/21	\$1,304.58
7/01/21 – 6/30/22	\$1,403.51
7/01/22 – 6/30/23	\$1,456.78
7/01/23 – 6/30/24	\$1,539.37

MEDICAL BENEFITS

- The employer is liable for all reasonable services and supplies, to include crutches, artificial members, appliances, and permanent prosthetic devices as may be required to treat the compensable injury. Necessary transportation expenses incurred in the course of treatment of an injury are also owed by the employer and include mileage (**as of 7/1/2023 the mileage rate is 65.5 cents per mile**); meals and lodging incidental to treatment; costs of public transportation; and ambulance service.
- Under certain circumstances an employee who has to miss work for injury-related medical treatment may be eligible for payment of lost wages. IOWA CODE §85.27.

MILEAGE RATES

<u>Date/Accident</u>	<u>Rate</u>
7/01/19 – 6/30/20	\$0.545
7/01/20 – 6/30/21	\$0.580
7/01/21 – 6/30/22	\$0.560
7/01/22 – 6/30/23	\$0.625
7/01/23 – 6/30/24	\$0.655

CHOICE OF PHYSICIAN

- The employer is responsible for providing medical care reasonably suited to treat the employee’s injury *and* has the right to choose the medical care.
- An employee who is dissatisfied with the care offered can, in certain situations, request alternate care. If the employer / insurer does not allow the alternate care, the employee (through appropriate proceedings) may apply to the workers’ compensation commissioner for alternate medical care. IOWA CODE § 85.27.
- If an employer-retained physician provides a rating of permanent impairment which the employee feels is too low, the employee does have the right to another examination by a doctor of the employee’s choice at the employer’s expense. Source: Iowa Code §85.39.

INTEREST

- Interest on weekly benefits that are not paid when due **before 7/1/2017** is 10%.
- Interest on weekly benefits that are not paid when due **after 7/1/2017** is 2% plus the one-year treasury constant maturity index on DOI.

**This Quick Guide is intended for general informational purposes only and is not meant to replace legal counsel. We urge you to consult an attorney for any issue regarding applicability or interpretation of any provision of the Iowa Workers’ Compensation Act. This is not intended to be a complete summary of Iowa’s law.*