

Workers' Compensation 101 & Injury Management

James Jones, CSP, CAWC
Regional Loss Control Manager
United Heartland



AMERICAN SOCIETY OF
SAFETY PROFESSIONALS

Wisconsin Chapter

**2019 Risk, Health, & Safety
For All Conference**

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Potawatomi Hotel & Casino

Agenda

- Types of WC Injuries and Claims
- Basic Rules for WC in Wisconsin
- Interesting Changes to WI WC law
- Calculation of Benefits
- Experience Modification Rates
- How to Lower Your Mod

Questions

- What is the first state to adopt workers' compensation legislation?
- What year?
- What insurance company?
- Before this year, what did employees have to do to get benefits if injured at work?

Types of Injuries

Accidental vs. Occupational

Types of Injuries

- Accidental injury (traumatic)
 - Unexpected/unforeseen
- Occupational injury (occupational disease)
 - Mental or physical harm resulting from occupational exposure, not sudden or traumatic as to definition of an accident.

Types of Claims

Medical Only vs. Indemnity

Medical Only vs. Indemnity

- Medical only = no compensable lost time from work, no resulting permanent partial disability.
- Indemnity = employee has sustained a wage loss or sustained permanent residuals from compensable injury at work.
 - Three-day waiting period
 - WC benefits for lost time commence fourth day
 - If employee is off more than seven days; three-day waiting period is paid
 - Benefits based on six-day work week
 - Sundays are not counted in disability period

Types of Benefits

Medical vs. Indemnity



Medical Benefits

- Unlimited medical, surgical, chiropractic, psychological, podiatric, dental and hospital treatment.
- Includes artificial appliances to cure and relieve effects of the injury.
 - Examples: Prosthetics, crutches, cane, etc.
- Employee has choice of treating practitioner.
- Employee is entitled to a second opinion at the cost of insured/carrier.

Indemnity

- TTD – Temporary total disability for lost wages (i.e. off of work for several weeks)
- TPD – Temporary partial disability for partial loss of wages (i.e. 20 lb. lifting restriction for two weeks)
- PPD – Permanent partial disability for functional impairment resulting from injury (i.e. loss of finger, amputation)
- PTD – Permanent total disability (i.e. maybe a career ending injury)
- Vocational Benefits – Retraining, re-schooling
- Statue of Limitations – guess the # of years....

Basic Rules for Workers' Compensation in Wisconsin



Basic Rules for WC in Wisconsin

- **Compensability**
 - Employee under the act at time of hire
 - The employee must sustain an injury
 - At the time of injury, employee must be in the course and scope of employment
 - The injury must arise out of employment
 - Discuss deviation of work, horseplay, intoxication, traveling employee, etc.

Basic Rules for WC in Wisconsin

- **Benefits**
 - Medical, Unlimited
 - Indemnity (TTD paid until employee is RTW; PPD paid monthly)
- **Penalties**
 - Safety
 - Bad Faith, \$30K per occurrence
 - Late Payment 10%
 - Unreasonable refusal to rehire one year of wages

Basic Rules for WC in Wisconsin

- Disputes
 - Typical Disputes
 - Out of course and scope of employment
 - Lack of reporting
 - PTD (inability to work in any capacity)

Calculation of Benefits

Indemnity



Indemnity

- Date of injury is a non compensable day
- Three-day waiting period in Wisconsin
- Seven-day disability period
- Compensation commences on the eighth day
- If disability exceeds seven days, waiting period is paid
- Sundays are excluded from disability period (don't confuse with OSHA recordkeeping, Sunday is counted)

Calendar of Events

Sun	Monday	Tuesday	Wed	Thurs	Fri	Sat
					10/02	10/03
10/04	10/05	10/06	10/07	10/08	10/09	10/10
	10/12					
10/18	10/19	10/20	10/21	10/22	10/23	10/24

Date of Injury -- Disability Period -- Benefits Paid -- RTW

Employer can continue wages to the injured employee.

Employer must be reimbursed by the carrier at the TTD rate established.

Rate Calculation

- Hourly Rate x Average Hours Worked/Day
- Gross Earnings 52 Calendar Weeks Preceding Injury
- Paid at the Higher Amount @ 2/3 or x .6667

$\$10.00 \times 40 = \$400.00 = \$20,800$ for 52 wks

$\$400 \times .6667 = \266.80 (TTD Rate)

Rate Calculation

- Overtime hours included if part of a normal work week
- Monthly salary converted to weekly by multiplying salary /12 months = monthly salary x 3/13 or .23 per week (Remember Sundays not included)
- Part-Time Escalation to Full Time (need to do math based on 52 weeks)

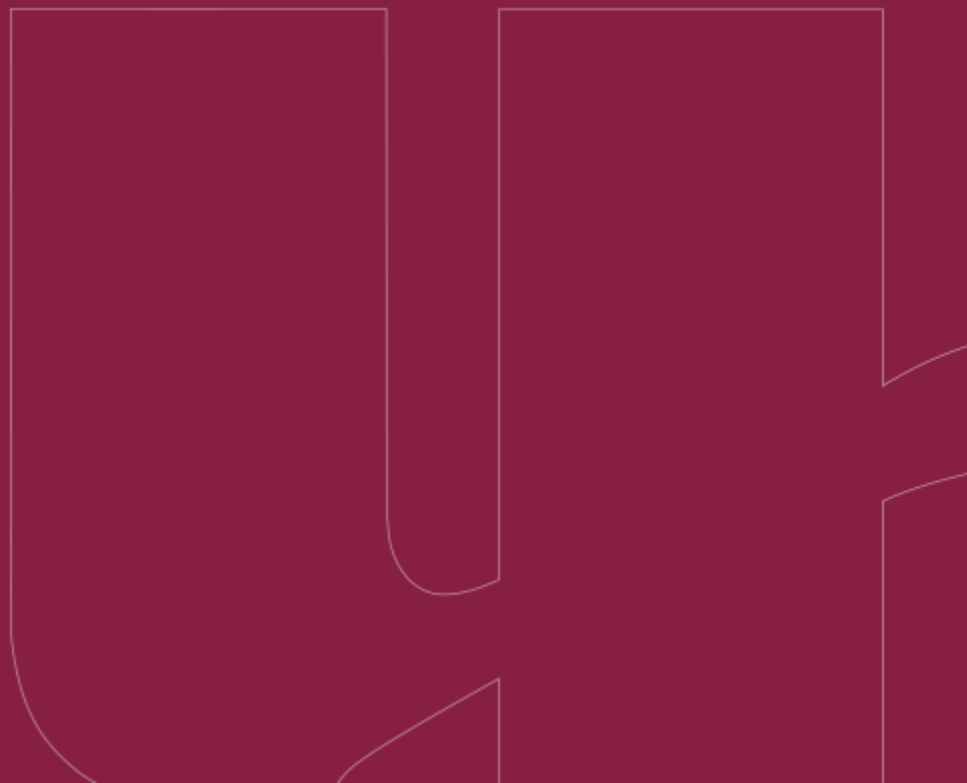
WI WKC 9572 – Maximum Wage and Rate Chart

(as of 1/1/19)

EFFECTIVE DATE	01/01/2019	01/01/2018
MAXIMUM WEEKLY WAGE FOR TEMPORARY, PERMANENT TOTAL & DEATH BENEFITS	\$1,524.00	\$1,491.00
WEEKLY RATE	\$1,016.00	\$994.00
DAILY RATE	\$169.33	\$165.67
MAXIMUM WAGE FOR PERMANENT PARTIAL ONLY	\$543.00	\$543.00
MONTHLY RATE	\$1,568.67	\$1,568.67
WEEKLY RATE	\$362.00	\$362.00
MAXIMUM ANNUAL WAGE (WEEKLY WAGE X 50)	\$76,200.00	\$74,550.00
MAXIMUM DEATH BENEFIT (ANNUAL WAGE X 4)	\$304,800.00	\$298,200.00
MAXIMUM PAYMENT TO SPOUSE		
MONTHLY RATE	\$4,402.66	\$4,307.33
WEEKLY RATE	\$1,016.00	\$994.00
MAXIMUM PAYMENT FROM CHILDREN'S FUND		
MONTHLY RATE	\$440.27	\$430.73
WEEKLY RATE	\$101.60	\$99.40
DEATH BENEFITS TO UNESTRANGED PARENTS	\$6,500.00	\$6,500.00
MAXIMUM BURIAL EXPENSE	\$10,000.00	\$10,000.00
PAYMENT INTO STATE FUND s. 102.59	\$20,000.00	\$20,000.00
PAYMENT INTO STATE FUND TOTAL DEPENDENCY-- s. 102.49	\$20,000.00	\$20,000.00

Data from chart taken from
<https://dwd.wisconsin.gov/dwd/publications/wc/WKC-9572-P.pdf>

Experience Modification Rates



Workers' Compensation

- Wisconsin Compensation Rating Bureau
- Determinants:
 - - how hazardous the jobs are in your industry
 - - gross payroll
 - - past loss experience

The Cost

$$\text{RATE "X" } \frac{\text{PAYROLL "X" MOD.}}{\$100} =$$

TOTAL PREMIUM

Class Code Rates for 10/1/2018

CLASS CODE	DESCRIPTION	CURRENT RATE
8832	Physician and Clerical	\$0.38 – no overnight care
8833	Hospital Professional Employees	\$1.12 – with overnight care
9040	Hospital: All Other	\$5.94 – example this was \$6.62 in 2017
	Others as an example	
5551	Roofing	\$26.00 – was \$28.70 in 2017
5059	Steel Erection	\$19.88 – was \$25.80 in 2017

Above rates effective 10/1/18 taken from <https://www.wcrb.org/class-code-lookup/>

Experience Modification

- Indication of how safe or unsafe an organization has worked during a **three-year** period
- Each year, Mod updates are given to every organization
- 1.00 - unity
- Less than 1.00 – credit modifier
- Over 1.00 – debit modifier
- Uses 3 years of past History
- Takes 3 years to Do/Undo

ABC Clinic = **0.93**

Premium Example with Rates

Rate x Payroll x Mod

• 8832: Physician and Clerical	$\$0.38 \times \frac{\$2,271,248}{100} = \$8,630$
• 8833: Hospital: Professional EE	$\$1.12 \times \frac{\$30,000,000}{100} = \$336,000$
• 9040: Hospital: All Other Employees	$\$5.94 \times \frac{\$1,550,000}{100} = \$92,070$
Standard Premium -	\$436,700
x Mod	<u>0.93</u>
Adjusted Premium	\$406,131

\$30K savings with lower mod

What if...Mod is 1.07, Adjusted Premium would be \$476,269

Interesting Changes In the Law



Key Items in WC Law Changes – 4/1/16

- Reduce the statute of limitations for traumatic injuries from 12 years to six years
- Allow apportionment of permanent partial disability (PPD) – require employees to disclose all previous permanent disabilities or impairments to the alleged injured body parts so that liability for employees' conditions can be apportioned between the prior impairments and the injuries resulting from the alleged work event
- Update the permanent partial disability minimum ratings to reflect medical

Key Items in new WC Law – 4/1/16

- Eliminate wage escalation so TTD benefits are paid based upon actual earnings at time of injury rather than an escalated rate
- Fund a position at the Department of Justice (1) to fight workers' compensation fraud – EE, ER and insurance carrier fraud

Key Items in new WC Law – 4/1/16

- Eliminate benefits to workers who violate an employer's drug and alcohol policy if the use of the drugs/alcohol are shown to be the cause of the injury – still need to prove.....Employers will/should expect this pushback
 - Policy wasn't clear
 - Employee didn't violate the written policy
 - The drugs/alcohol didn't cause the injury
 - Claims that employee never reviewed a copy of the written policy

Key Items in new WC Law – 4/1/16

- Employer Drug and Alcohol Policy....Employers will need to:
 - **Prove** that drugs/alcohol caused the injury
 - Document the employees behavior before the incident
 - Have an up to date policy
 - Have proof that the employee received the policy.

Key Items in new WC Law – 4/1/16

- Allow the employer/carrier to deny benefits if a worker is brought back to work on light duty and they subsequently are fired for good cause, these include:
 - Safety violations
 - Ignoring specific directives of the employer
 - Misconduct or substantial fault
 - Positive results from post accident drug/alcohol tests

102.57 Violations of safety provisions, penalty.

- If injury is caused by the failure of the **employer** to comply with any statute, rule, OSHA or order of the Department of Safety and Professional Services.
 - Compensation and death benefits shall be increased by 15 percent (not to exceed \$15,000). This is paid directly to the injured employee.
- Failure of an employer reasonably to enforce compliance by employees constitutes failure by the employer to comply with that statute, rule or order.

102.58 Decreased compensation (OLD RULE but Still Out There)

- If injury is caused by the failure of the **employee** to use safety devices that are provided, that are adequately maintained, and the use of which is reasonably enforced by the employer;
- If injury results from the **employee's** failure to obey any reasonable rule adopted, reasonably enforced by the employer for the safety of the employee, and of which the employee has notice, or;
- If injury results from the intoxication of the employee by alcohol beverages, use of a controlled substance, or a controlled substance analog;
 - The compensation and death benefit shall be reduced by 15% (not to exceed \$15,000).

How to Lower Your Mod

- Light Duty
- Understand Direct and Indirect
- Prevention – Risk Factors / Solutions – Safety Culture
- Cost Containment

Modified / Alternate Duty

Impact on the Experience Mod

- Medical Only – receives a 70% discount
 - \$1000 medical only claim goes into the formula as if it were a \$300 claim
 - Lighter impact on the experience mod
- Indemnity – does not receive discount
 - Effective 10/1/16, the first \$16,500 of an indemnity claim goes into the formula as a \$16.5K claim

Modified / Alternate Duty Impact Example (1)

Loss Type	Total Incurred	Limited Loss	Year 1	Year 2	Year 3
Indemnity	\$3,275	\$3,275	\$2,333	\$4,667	\$7,000
Medical	\$3,211	\$ 963	\$ 614	\$1,228	\$1,842

70% reduction



Cumulative premium costs



Direct and Indirect Costs of Accidents – 1:1 ratio

- Direct

- Medical Bills
- Lost Wages

- Indirect

- Loss of skilled worker
- Training replacements
- Loss of productivity, work stoppage
- Accident investigation, corrective actions
- Administrative expenses



Lower Through Prevention

- Set a good example - employees watch you
- Assess hazards:
 - Observe employees - correct unsafe acts and recognize positive behaviors
 - Observe environment - correct unsafe conditions and continue to monitor going forward
- Train - tell, show, explain, check, retrain
- Provide fair, consistent and progressive enforcement
- Accident investigation
- Implement and review safety programs
- Implement safety committee and subsequent sub-committees (e.g.; slip/fall team) as needed

Timely Reporting

- Delays in reporting can cause WC claim costs to increase by up to 51%, according to the National Council of Compensation Insurance, Inc.
- NCCI indicates each day of late reporting can increase claims costs by 2.4% per day

Discussion?

- Thank you!





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