

**Jurisdiction (85.71)**

1. Injuries and O.D. contracted in State
2. Employment principally localized in State and employee regularly works in Iowa,
3. Contract of employment in State and employee spends substantial part of working time in Iowa.

**Limitations (85.26)**

1. Maintain claim within 2 years of injury, 3 years from last payment of weekly compensation (does not include payment of medical).

**Report of injury (86.11)**

1. Must file report with IWCC within 4 days after the employer or insurer has notice of an injury causing permanent disability, or within 4 days after first 3 days of temporary disability.
2. Failure to file a FROI may result in \$1,000 fine.

**Burden of Proof**

1. Accident/exposure likely caused or aggravated the condition – preponderance of evidence required.
2. Repetitive trauma - treated same as accident, date of manifestation is date on which the fact of the injury and the causal relationship to employment becomes apparent to a reasonable person.
3. Aggravation – when a work related injury combines with a pre-existing injury to produce additional disability, the entire disability is compensable.

**Notice of Injury (85.23)**

1. Notice of accident shall be given to employer within 90 days from the date of occurrence.

**AWW/Rate (85.36)**

1. AWW - 13 weeks preceding injury, overtime hours included at straight time rate. Abnormally low weeks should be excluded and replaced by closest previous week.
2. Rate – TTD/TPD/PPD – see yearly rate chart published by IWCC, subject to claimant's marital and dependent status.

**Benefits**

1. Medical (85.27) any treatment reasonably required to bring the worker to the greatest level of healing as early as possible. Lifetime medical unless employee agrees to closed file settlement.

- a. Employer has the right to choose the health care provider.
- b. If employee is not satisfied with the choice of physician and care offered, they can file petition for Alternate Care.
- c. Mileage – any reasonable and necessary travel expenses incurred for medical treatment related to injury.
- d. Claimant has right to a second opinion, at employer's cost, of an evaluation of permanent disability. (85.39)

2. TTD/HP (Healing Period)

- a. No limit to number of weeks
- b. Rate subject to minimum and maximum
- c. No waiting period for injuries resulting in permanent partial disability.
- d. For injuries not resulting in permanent disability, benefits are payable on the 4<sup>th</sup> day following injury. If worker misses more than 14 days then compensation paid during the 3<sup>rd</sup> week is increased by 3 days to make up waiting period. (85.32)
- e. Basis for termination
  - i. Return to work
  - ii. Reaches MMI
  - iii. Except when employee has returned to work, notice must be given at least 30 days before benefits are terminated. ("Auxier" notice – 86.13)

3. TPD

- a. If working light duty or earning less than if employed in full capacity, receive 2/3 difference between average amount able to earn in full performance and net amount earned in modified job.

4. PPD

- a. See scheduled injuries chart.
- b. AMA Guides to Permanent Impairment 5<sup>th</sup> Edition only. 6<sup>th</sup> Edition is rejected.
- c. Body as a Whole injuries – entitled to Industrial Disability benefits - similar to loss of earning capacity.
  - a. Shoulder injuries are 'unscheduled' and treated as BAW injuries.

## Iowa Workers' Compensation At-A-Glance Continued

5. PTD/Odd-Lot (85.34)
  - a. Lifetime weekly benefit if employee is permanently and totally disabled; paid for life if injury prevents return to work.
  - b. Odd-Lot if injury prevents employee from obtaining employment in any well-known branch of labor market.
6. Death
  - a. Reasonable burial expenses not to exceed 12 times the statewide average weekly wage in effect at time of death.
  - b. Lump sum paid to Second Injury Fund; \$45,000 if no dependents, \$12,000 if dependents.
  - c. Dependents (85.31)
    - i. Widow, widower, child or children
      - a) Till death of widow or widower or until remarriage – with 2 years benefits paid in lump sum upon remarriage unless there remain dependent children.
      - b) Children – under age 18 or while enrolled in accredited education institution, can continue benefits until age 25
        1. Benefits continue if child is physically or mentally incapable of support or actually dependent.
7. Penalty
  - a. If benefits are delayed or terminated without a reasonable excuse, penalty up to 50% shall be awarded.

### Reduction in Benefits

1. No partial reductions allowed – only total liability defenses recognized. (Very limited exception-below)
  - a. Intoxication (drugs or alcohol), willful intent to injury self or another, willful act of third party are affirmative defenses. Intoxication must actually cause the accident or injury.
  - b. Apportionment possible in very limited circumstances when employee had similar injury with same employer and was compensated.

### Subrogation

1. Employer/carrier entitled to subrogation of 3<sup>rd</sup> party recovery, subject to a reduction for attorney fees.



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### Office Locations

211 N. Broadway, Suite 2500  
St. Louis, MO 63102  
(314) 621-7755

1100 Main Street, Suite 2000  
Kansas City, MO 64105  
(816) 472-4600

222 S. 72<sup>nd</sup> St., Suite 302  
Omaha, NE 68114  
(402) 397-0800

501 Cherry St., Suite. 200  
Columbia, MO 65201  
(636) 946-3030

4905 S. National Ave., Bldg B  
Springfield, MO 65810  
(417) 882-4700

9393 W. 110<sup>th</sup> St., Suite 120  
Overland Park, KS 66210  
(913) 701-6810