

MN Workers' Compensation

Self-Insurance Coverage by Political Subdivision

MN Statute 79A

MN Admin Rule 2780

MN Statute 471.981

MN Statute 176.181

(Municipal subdivisions of the State are excepted from compulsory insurance.)

The Minnesota Department of Commerce grants entities the authority to self-insure their workers' compensation obligations in the State of Minnesota. The process includes, but is not limited to, review of the application, financial position, actuarial study and loss history of the applicant to assure compliance with the law.

Certificate to Self-Insure

As a political subdivision of the State, no formal "certificate" to self-insure is issued.

www.dli.mn.gov
Minnesota Dept of Labor & Industry

www.revisor.mn.gov
Minnesota Office of Revisor of Statutes

www.dol.gov/owcp/regs/statutes/stwclaw/stwclaw.htm
United States Department of Labor

www.wcra.biz
Workers' Compensation Reinsurance Association

www.health.state.mn.us/divs/fpc/directory/fpcdir.html
Minnesota Department of Health

The Minnesota Department of Labor and Industry oversees and administers the workers' compensation system.

Work Comp: General Information

Workers' compensation is a no-fault system designed to provide benefits to employees who are injured as a result of their employment activities. It also helps limit the liability of employers. Because it is a no-fault system, the employee does not need to prove negligence on the part of the employer to establish liability. It also means the employer cannot use negligence on the part of the employee as a defense to a claim. (MN Statute 176.001).

A work-related injury can be any condition that is caused, aggravated employment or accelerated by the activities. This includes traumatic injuries, repetitive-type injuries, occupational diseases and qualifying mental injuries, such as post-traumatic stress disorder (PTSD). The employee needs to show only that the employment activities were a substantial contributing factor to the disability and/or need for medical care. (MN Statute 176.011 Subd. 15 & 16).

Every employer is liable for compensation according to the provisions of chapter 176 and is liable to pay compensation in every case of personal injury or death of an employee arising out of and in the course of employment without regard to the question of negligence. The burden of proof of these facts is upon the employee. (MN Statute 176.021).

Basic Benefits

Workers' compensation provides three basic types of benefits: wage loss, medical and vocational rehabilitation.

Wage-loss benefits:

- Waiting period
- Temporary Total Disability (TTD)
- Temporary Partial Disability (TPD)
- Permanent Total Disability (PTD)
- Permanent Partial Disability (PPD)
- Dependency benefits
- Annual adjustment of benefits
- Direct deposit

Cessation of TTD

MN Statute 176.101

Benefits can cease when any one of the following events occurs:

- The employee returns to work.
- The employee withdraws from the labor market for reasons other than the injury.
- The employee is released to return to work and fails to make a diligent job search for appropriate work.
- The employee refuses an offer of gainful work or work consistent with an approved rehabilitation plan.
- It is 90 days after the employee has received a report of reaching Maximum Medical Improvement, or 90 days after the end of an approved retraining plan, whichever is later.
- Except in the case of retraining, 130 weeks of TTD have been paid.
- Any other grounds to suspend or discontinue benefits as provided under workers' compensation law.

Work Comp: Waiting Period

Wage-loss claims are not paid for the first three (3) calendar-days from the first date that an employee loses time from work as a result of a work-related disability. If the disability continues for ten (10) or more calendar-days, the employee is paid from the first date of losing time.

Additional notes:

- The waiting period is counted in consecutive calendar-days, not workdays.
- The first day of disability is the first day of the waiting period.
- Any disability (claimed lost time or wages), including a fraction of a day of disability, is considered the first day of disability regardless of whether the employee is paid in full by the employer for that day.
- Temporary partial disability, including time lost from work to obtain medical treatment for a work-related injury, is considered a day in which there is disability.
- If there is disability on the tenth calendar-day or beyond (from the first day of disability), compensation is owed from the first day.
- If the only disability beyond the waiting period is for non-scheduled work days, generally no compensation is owed for those non-scheduled work days.

(MN Statute 176.121).

Work Comp: Temp Total Disability (TTD)

Temporary Total Disability (TTD) benefits are paid during the period an employee is totally unable to work due to the effects of the work-related injury. The weekly compensation rate paid during the period of disability is generally two-thirds of an employee's gross weekly wage at the time of injury, subject to statutory minimums and maximums. Benefits are typically paid based on a five (5) day workweek with each day considered to be 0.2 weeks of compensation.

TTD benefits are limited by statute. For injuries occurring on or after Oct. 1, 1995, through Sept. 30, 2008, a maximum of 104 weeks of TTD benefits are payable unless retraining is approved. For injuries occurring on or after Oct. 1, 2008, a maximum of 130 weeks of TTD benefits are payable unless retraining is approved.

Recommencing TTD after cessation:

1) The employee is medically unable to continue working at the job due to the work injury and 130 weeks of TTD have not yet been paid. 2) The employee is laid off or terminated for reasons other than misconduct. The layoff or termination must occur before the 90th day after the employee has reached Maximum Medical Improvement (MMI) and before 130 weeks of TTD have been paid. 3) The employee, after failing to search for appropriate work, begins diligently searching for appropriate work before the 90th day after MMI and before 130 weeks of TTD have been paid. 4) The employee is enrolled in an approved

Reduction of PTD Benefits

MN Statute 176.101

When an insurer has paid \$25,000 in PTD benefits to the employee, the weekly workers' compensation benefits can be reduced by the amount of disability benefits being paid in Social Security Disability Insurance (SSDI) benefits.

Removal From the Labor Market

MN Admin Rule 5220.2540

An employee who voluntarily removes himself or herself from the labor market is no longer entitled to temporary total, temporary partial, or permanent total disability benefits. A removal from the labor market has occurred when the employee is released to return to work by a healthcare provider and the employee retires or the employee's opportunities for gainful employment or suitable employment are significantly diminished due to the employee's move to another labor market.

Work Comp: Temp Partial Disability (TPD)

Temporary Partial Disability (TPD) is a wage-loss benefit payable to employees who are back to work, but earning less than their pre-injury gross weekly wage. It is payable at two-thirds of the difference between what the employee earned at the time of the injury and the current earnings. The benefits are payable only if the employee is employed. During the years, the laws may have included limitations on the duration of TPD benefits. It is important to remember the date of injury controls, so limitations -- if any -- in effect on the date of the injury affect the length of payment of TPD benefits.

For injuries occurring on or after Oct. 1, 1992, TPD is limited to 225 weeks of paid benefits within 450 weeks after the date of injury. All periods of TPD for that date of injury are counted toward the 225-week limitations, except benefits paid during an approved training plan.

If the employee is earning an inconsistent amount of wages during the period for which TPD is due, the insurer may require wage verification before it makes payment of TPD.

Benefits are due within ten (10) days of when the employee or employer sends wage verification. (MN Admin Rule 5220.2540).

Work Comp: Perm Total Disability (PTD)

Permanent Total Disability (PTD) is payable to employees who are never able to return to gainful employment. The PTD rate is two-thirds of an employee's gross weekly wage at the time of the injury, subject to the same maximum weekly compensation for Temporary Total Disability (TTD) and a minimum PTD rate equal to 65 percent of the statewide average weekly wage. In addition, if an employee was a part-time worker, the compensation is computed based upon a normal workweek for that occupation. PTD benefits are paid when the injury or disease results in: the total and permanent loss of sight of both eyes; the loss of both arms at the shoulder; the loss of both legs so close to the hips that no artificial members can be used; complete and permanent paralysis; and/or total and permanent loss of mental faculties.

For injuries after Oct. 1, 1995, PTD benefits may also be sought if the injury results in total incapacity from working at an occupation and one of the following categories applies:

- Has a 17% PPD rating of the whole body;
- Has a 15% PPD rating of the whole body and is at least 50 years old at the time of the injury;
- Has a 13% PPD rating, is at least 55 years old at the time of the injury, and has not completed 12th grade or obtained a GED certificate.

Maximum Medical Improvement (MMI)

MN Statute 176.011

"Maximum medical improvement" means the date after which no further significant recovery from or significant lasting improvement to a personal injury can reasonably be anticipated, based upon reasonable medical probability, irrespective and regardless of subjective complaints of pain. Except where an employee is medically unable to continue working under section 176.101, subdivision 1, paragraph (e), clause (2), once the date of maximum medical improvement has been determined, no further determinations of other dates of maximum medical improvement for that personal injury is permitted. The determination that an employee has reached maximum medical improvement shall not be rendered ineffective by the worsening of the employee's medical condition and recovery therefrom.

Work Comp: Perm Partial Disability (PPD)

Permanent Partial Disability (PPD) benefits are payable for the permanent functional loss of use of the body based upon a disability schedule. For example, an amputation of a body part or some surgeries will result in an additional payment of a PPD benefit.

Since 1984, PPD ratings have been assigned as a percentage of disability to the body as a whole. The PPD schedule is used when determining the rating. The total percentage rating is multiplied by a specific dollar amount or a number of weeks to determine the benefits that are payable. Ratings cannot exceed 100% of the whole body for any one injury. PPD benefits can be paid concurrently with Temporary Partial Disability (TPD) and Permanent Total Disability (PTD) benefits, but not with Temporary Total Disability (TTD) benefits.

PPD is usually paid when TTD ends, and when the employee reaches Maximum Medical Improvement (MMI). If the benefits are being paid periodically following the payment of TTD, or concurrently with the payment of TPD, the payments must be continued without interruption at the same intervals that the TTD benefits were paid. If a rating has not been received when an employee reaches MMI, the insurer must request an assessment of PPD from the treating doctor.

Work Comp: Dependency Benefits

When a worker dies as a result of a work injury or occupational disease, the dependents of the employee may be entitled to workers compensation benefits, including unpaid Permanent Partial Disability (PPD) and dependency benefits. The amount and duration of the dependency benefit is based on the employee's weekly wage at the time of injury, with adjustments, and the number and type of dependents existing at the time of death. (MN Statute 176.111).

Work Comp: Annual Adjustment of Benefits

Workers' compensation benefits for Temporary Total Disability (TTD), Temporary Partial Disability (TPD), Permanent Total Disability (PTD), and dependency benefits result in eligibility to receive annual increases to the weekly rate during the life of a claim. The date of injury determines if any adjustments are due, when the first adjustment is made, and the percent increase that is applied.

For dates of injury between Oct. 1, 1995, and Sept. 30, 2013, cost-of-living adjustments are made on the fourth anniversary of the injury. For dates of injury on and after Oct. 1, 2013, cost-of-living adjustments are made on the third anniversary of the injury. (MN Statute 176.645).

Payment of Full Wages

MN Statute 176.221, Subd 9

An employer who pays full wages to an injured employee is not relieved of the obligation for reporting the injury and making a liability determination within the times specified in chapter 176. If the full wage is paid, the employer's insurer or self-insurer will report the amount of this payment to the State and determine the portion which is temporary total compensation. The employer shall also make appropriate adjustments to the employee's payroll records to assure that the employee's sick leave or vacation time is not inappropriately charged against the employee, and to assure the proper income tax treatment for the payments, as the portion paid in lieu of workers' compensation wage benefits is non-taxable.

Garnishment of Benefits

MN Admin Rule 5220.2560

Workers' compensation benefits are not subject to attachment or garnishment, although they may be withheld under MN Statute 518A.53, and paid for child support or spousal maintenance if the other requirements of that statute are met.

Work Comp: Direct Deposit

An employee may request in writing that benefit payments be sent directly to the employee's bank or other financial institution. The written request should include the name and address of the institution, the routing number and the account number to which the payments should be credited. The self-insured employer or insurer will comply with this request. (MN Admin Rule 5220.2540).

An employer or insurer responsible for payment of periodic monetary benefits under chapter 176 will send the payments by electronic funds transfer to a bank, savings association, or credit union, if requested by the employee or a dependent. (MN Statute 176.221).

Work Comp: Determination on Claim

The insurer or employer (if self-insured) and self-administered or utilizing a Third-Party Administrator (TPA), will file a Notice of Insurer's Primary Liability Determination form (NOPLD), either accepting or denying the claim, within 14 days of receiving notice of an employee's lost time from work.

A notice of denial of liability must state in detail the facts forming the basis for the denial and specific reasons explaining why the claimed injury or occupational disease was determined not to be within the scope and course of employment.

(MN Statute 176.221 and MN Admin Rule 2550.2570).

Work Comp: Processing Benefits

Paying Wage Benefits

Within 14 days of notice to or knowledge by the employer of a compensable injury, the payment of temporary total compensation will commence. Once Temporary Total Disability (TTD) or Permanent Total Disability (PTD) benefits have been commenced, they must continue to be paid on a regular basis at the intervals the employee would have received wages from the employer had the employee continued working. For Temporary Partial Disability (TPD) benefits, payment is due ten (10) days following the date the employee or employer sends wage verification to the insurer. (MN Statute 176.021, 176.221, and MN Admin Rule 5220.2540).

Discontinuing Wage Benefits

Once the employer has commenced payment of benefits, the employer may not discontinue payment of compensation until it provides the employee with notice in writing of intention to do so. The insurer or employer (if self-insured) and self-administered or utilizing a Third-Party Administrator (TPA), will file a Notice of Intent to Discontinue Benefits form (NOID). The notice will indicate the proposed date of discontinuance and clearly indicate the reason, with documentation of supporting facts attached. (MN Statute 176.238 and MN Admin Rule 2550.2570).

Non-Taxable Income

26 USC 104

Gross income does not include — amounts received under workmen's compensation acts as compensation for personal injuries or sickness.

IRS Publication 525

Amounts received as workers' compensation for an occupational sickness or injury are fully exempt from tax if they are paid under a workers' compensation act or a statute in the nature of a workers' compensation act. The exemption also applies to survivors. The exemption, however, does not apply to retirement plan benefits received based on age, length of service, or prior contributions to the plan, even if retired because of an occupational sickness or injury. If part of workers' compensation reduces social security or equivalent railroad retirement benefits received, that part is considered social security (or equivalent railroad retirement) benefits and may be taxable. If disability pension is paid under a statute that provides benefits only to employees with service-connected disabilities, part of it may be workers' compensation - that part is exempt from tax, while the rest of pension, based on years of services, is taxable as pension or annuity

Work Comp: Reporting and Other Information

First Report of Injury

It is the responsibility of the employer, not the employee, to complete the First Report of Injury form (FROI). (MN Statute 176.231 and MN Admin Rule 5220.2530).

Recovery of Overpayments

No lump-sum or weekly payment, or settlement, which is voluntarily paid to injured employee or survivors of deceased employee in apparent or seeming accordance with provisions of chapter 176 by employer or insurer, or is paid pursuant to order of workers' compensation division, compensation judge, or court of appeals relative to claim by injured employee or employee's survivors, and received in good faith by employee or employee's survivors shall be refunded to the paying employer or insurer in the event that it is subsequently determined the payment was made under mistake in fact or law by employer or insurer. (MN Statute 176.179)

Collective Bargaining Agreements

Upon appropriate filing, a provision in a collective bargaining agreement may establish certain obligations and procedures relating to workers' compensation. This agreement must be limited to: (a) alternative dispute resolution system; (b) agreed list of providers; (c) use of limited list of impartial physicians; (d) creation of light-duty, modified job, or return to work program; (e) use of limited list of individuals and companies for establishment of vocational rehabilitation or retraining programs; (f) establishment of safety committees and safety procedures, (g) 24-hour healthcare plan. (MN Statute

Additional Payments

If employees of a political subdivision of the state who are entitled to the benefits of the workers' compensation law have, at the time of compensable injury, accumulated credits under a vacation, sick leave or overtime plan or system maintained by the governmental agency by which they are employed, the appointing authority may provide for the payment of additional benefits to such employees from their accumulated vacation, sick leave or overtime credits. Such additional payments to an employee may not exceed the amount of the total sick leave, vacation or overtime credits accumulated by the employee and shall not result in the payment of a total weekly rate of compensation that exceeds the weekly wage of the employee. Such additional payments to any employee shall be charged against the sick leave, vacation and overtime credits accumulated by such employee. Employees of a political subdivision entitled to the benefits of the workers' compensation law may receive additional benefits pursuant to a collective bargaining agreement or other plan, entered into or in effect on or after January 1, 1980, providing payments by or on behalf of the employer and these additional benefits may be unrelated to any accumulated sick leave, holiday or overtime credits and need not be charged against any accumulation; provided that the additional payments shall not result in the payment of a total weekly rate of compensation that exceeds the weekly wage of the employee. (MN Stat 176.021), [page 6](#)