

Workers' Compensation Benefits

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Information for Injured Employees from the Division of Workers' Compensation

What are Workers' Compensation Benefits?

[Texas Labor Code §§408-081 – 408.187]

There are four types of workers' compensation benefits:

Income benefits replace a portion of any wages you lose because of a work-related injury or illness.

Medical benefits pay for reasonable and necessary medical care to treat your compensable work-related injury or illness.

Burial benefits pay for some of the deceased employee's funeral expenses to the person that paid the funeral expenses.

Death benefits pay a portion of lost family income for dependent family members of employees that die because of a work-related injury or illness. Death benefits are also payable to employees' parents when there are no surviving eligible dependent family members.

Payment of income or death benefits can be made to the beneficiary by:

- check, or
- electronic funds transfer.

To be eligible for electronic funds transfer, you must be expected to receive benefits for at least eight weeks. To receive payment by electronic funds transfer, you or your beneficiary must make the request in writing to the insurance carrier and provide:

- the name of the financial institution;
- the type of account (checking or savings);
- the routing/transit number; and
- the account number you want benefits electronically transferred to.

Definitions

The following terms are defined:

Average weekly wage (AWW) typically is the average amount of weekly wages you earned during the 13 weeks immediately before your work-related injury or illness occurred. Income and death benefit payments are based on your average weekly wage.

Employer is a person that makes a contract of hire, employs one or more employees, and has workers' compensation insurance coverage.

Disability occurs when a work-related injury or illness causes you to lose the ability to earn your weekly wages.

Disability refers to your ability to earn an income and not to a physical handicap.

Impairment rating is the percentage of permanent physical or functional damage to your body that resulted from a work-related injury or illness.

Maximum medical improvement (MMI) is the earlier of:

- the point in time when your work-related injury or illness has improved as much as it is going to improve; or
- 104 weeks from the date you became eligible to receive temporary income benefits.

If you have had spinal surgery or have been approved for spinal surgery within 12 weeks of the expiration of the statutory MMI period, you may request an extension of MMI from the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) in accordance with the 28 Texas Administrative Code §126.11.

Maximum weekly income benefit may not exceed 100 percent of the state average weekly wage rounded to the nearest dollar. TDI-DWC will compute the maximum weekly income benefit for October 1 through September 30 of each year no later than October 1 of each year.

Minimum weekly income benefit is 15 percent of the state average weekly wage rounded to the nearest dollar. TDI-DWC will compute the minimum weekly income benefit for October 1 through September 30 of each year no later than October 1 of each year.

Multiple employment means an employee that has more than one employer.

Non-claim employer is an employer, other than the claim employer, by whom the employee was employed at the time of the on-the-job injury.

Non-pecuniary wages are wages in a form other than money. Examples of these wages are health insurance premiums, a vehicle, clothing, or rent/housing.

Pecuniary wages are wages in the form of money. Examples of these wages are salary, commissions, bonuses.

**For further assistance,
call 800-252-7031 or visit**

www.tdi.texas.gov/wc/employee/index.html

Medical Benefits

[Texas Labor Code §408.021, 28 Texas Administrative Code §126.9]

Medical benefits pay for reasonable and necessary medical care to treat your compensable work-related injury or illness. Your employer's workers' compensation insurance carrier pays medical benefits directly to the health care provider that provides your medical care.

Medical benefits are paid only for the treatment of your compensable work-related injury or illness. The insurance carrier does not pay for the treatment of other injuries or illnesses, even if the treatment was provided at the same time you received treatment for your work-related injury. Your health care provider may not bill you for treatment related to a work-related injury or illness, but may bill you for treatment of other injuries or illnesses.

When Medical Benefits Begin

You may receive reasonable and necessary medical treatment immediately after the compensable work-related injury or illness. If your employer has elected to contract with a certified workers' compensation health care network (network), you are required to obtain medical treatment through the network if you live within the network's service area unless it is emergency medical treatment. You must select a doctor from a list of network health care providers, which you can obtain from your network.

If you are not covered by a network, you have the right to an initial choice of doctor, with the exception of doctors previously removed or denied admission to TDI-DWC's former Approved Doctors List or sanctioned from practice by TDI-DWC. A list of doctors restricted from providing workers' compensation health care can be found on the Texas Department of Insurance website at www.tdi.texas.gov/wc/hcprovider/status.html. If you need assistance locating a doctor, you may contact the Office of Injured Employee Counsel (OIEC) at 1-866-EZE-OIEC (1-866-393-6432) or TDI-DWC at 1-800-252-7031.

Under certain circumstances (e.g., death or the doctor becomes unavailable to provide medical treatment), you may be allowed to choose another doctor. If you are covered by a network, any request to change treating doctors must be processed through your employer's network. If you are not covered by a network, any request to change doctors must be approved by the local TDI-DWC office handling your claim. You will need to complete the DWC Form-053, *Employee's Request to Change Treating Doctors - Non-Network* and file it with

the local TDI-DWC office. If your request to change treating doctors is approved, TDI-DWC will notify all parties that your medical treatment is going to be managed by a different doctor.

All medical treatment for a work-related injury or illness must be recommended by your treating doctor except in an emergency. Your treating doctor may refer you for medical treatment to another doctor, without filing a DWC Form-053 with TDI-DWC.

Although a doctor normally may not pursue payment for treatment of a work-related injury or illness, the doctor may send you a copy of your bill marked as "information only" upon your request.

The doctor providing treatment for a compensable injury may violate the law if the doctor:

- sends you a bill when you did not request an information copy;
- has a collection agency send you a letter or contact you;
- files a lawsuit in court against you; or
- collects, charges or requires you to pay a co-payment when filing a claim with your private health insurance.

A doctor may only request payment from you when the work-related injury or illness has been reviewed through TDI-DWC dispute resolution hearings or in district court and the injury or illness has been finally determined as not work-related, or when you have violated the requirement to obtain medical care authorized by your treating doctor.

Return to Work

It is beneficial to all parties involved that you return to work as quickly as possible. Injured employees that continue to work as part of their recovery/treatment plan in medically appropriate productive work, typically heal faster and retain more of their job skills.

Injured employees that remain off work longer than is medically necessary are more likely to:

- develop complications that will lengthen their recovery;
- become depressed;
- lose physical conditioning; and/or
- focus on their pain and injury.

Many employers offer return-to-work opportunities. Return-to-work programs may be set up by an employer to help injured employees go back to work more quickly and

safely while they heal. This can be done by either making changes to their regular job, or placing them in a temporary or alternate work assignment that fits the restrictions as determined by a treating doctor. You should contact your employer to check on the availability of return-to-work opportunities.

Income Benefits

[Texas Labor Code §§408.081- 408.162, 28 Texas Administrative Code §131.4]

Income benefits replace a portion of wages you lose because of a work-related injury or illness. There are four types of income benefits:

- temporary income benefits;
- impairment income benefits;
- supplemental income benefits; and
- lifetime income benefits.

Income benefits may not exceed the maximum weekly amount set by state law. Temporary income benefits, impairment income benefits, and lifetime income benefits are also subject to a minimum amount set by state law. Maximum and minimum benefit amounts are based on the state average weekly wage. A copy of the maximum and minimum benefits for each type of income benefit can be found on the TDI website at www.tdi.texas.gov/wc/employee/maxminbens.html.

You must report any income (other than income benefits you may be receiving) to TDI-DWC and the insurance carrier so an adjustment can be made to your income benefit payments. You may be fined and/or charged with fraud if you receive temporary income benefits or supplemental income benefits while also receiving wages from an employer without informing TDI-DWC and the insurance carrier.

Income benefits are no longer payable following the death of an injured employee receiving income benefits. In the case of an injured employee's death, the injured employee's beneficiaries may be eligible to file a claim to receive death benefits if the injured employee's death was due to the work-related injury or illness.

Calculation of Average Weekly Wage

Your income benefits are determined based on the calculation of your average weekly wage. A full-time employee is one who regularly works at least 30 hours per week. To calculate the average weekly wage for a full-time employee, (*note*: calculation may be different for school districts and seasonal employees), add the earnings for the 13 weeks prior to the injury, including any overtime

or other special pay, and any non-pecuniary wages the employer does not continue after your injury and divide by 13. If you did not work for your employer for 13 weeks before the work-related injury or illness occurred, your average weekly wage may be calculated using the earnings of an employee with the same or similar job. (For more information see the Average Weekly Wage Calculation fact sheet).

Average weekly wage calculation for a full time employee

13 weeks wage at \$824.23 =	\$10,714.99
Health insurance premium (discontinued \$82 per week x 13) =	\$1,066.00
Average weekly wage =	$\$11,780.99 \div 13 = \906.23

Death and Burial Benefits

[Texas Labor Code §§408.181- 408.187, 28 Texas Administrative Code §§132.1-132.17]

Death benefits pay a portion of lost family income for dependent family members of employees that die because of a work-related injury or illness. Death benefits are also payable to employees' parents when there are no surviving eligible dependent family members.

Burial benefits pay for some of the deceased employee's funeral expenses to the person that paid the funeral expenses. Currently the maximum burial benefit is \$10,000.

When Death Benefits Begin and End

A beneficiary becomes eligible for death benefits the day after the employee's death. Death benefits continue for specified periods of time by the type of beneficiary.

Death benefits for an employee killed on the job are paid if there is a:

- surviving spouse;
- dependent child;
- dependent grandchild;
- other eligible dependent family member; or
- parents, when there are no surviving eligible dependent family members.

Except for the spouse and minor children, other family members must be at least 20 percent dependent on the deceased employee's income to receive death benefits as a dependent survivor.