

Lifetime Income Benefits (LIBs)

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Information for Injured Employees from the Division of Workers' Compensation

Note for All Income Benefits

Income benefits replace a portion of wages an injured employee loses because of a work-related injury or illness.

There are four types of income benefits:

- temporary income benefits (TIBs);
- impairment income benefits (IIBs);
- supplemental income benefits (SIBs); and
- lifetime income benefits (LIBs).

Income benefits may not exceed the maximum weekly amount set by state law (Texas Labor Code §408.061).

Temporary income benefits, impairment income benefits, and lifetime income benefits are also subject to a minimum amount set by state law. The maximum and minimum benefit amounts are based on the state average weekly wage (Texas Labor Code §408.061 and §408.062).

If an injured employee is earning any extra income in addition to his or her workers' compensation benefits, he or she is required to report it to the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) and the insurance carrier. It is against the law to receive temporary income benefits or supplemental income benefits while also receiving wages from an employer without informing the DWC and the insurance carrier (Texas Labor Code §408.143 and Title 28 Texas Administrative Code (TAC) §129.4). An injured employee that fails to report extra income may be fined, charged with fraud, or both (Labor Code § 415.008).

Income benefits do not continue after the death of an injured employee. In the case of an injured employee's death, the injured employee's beneficiaries may be eligible to file a claim for and receive death benefits if the injured employee's death was due to the work-related injury or illness (Texas Labor Code §408.181).

Lifetime Income Benefits (LIBs)

The Legislature determines which workplace injuries are eligible for LIBs payments.

Injured employees may be eligible for LIBs if they incur one of the following injuries:

- total and permanent loss of sight in both eyes;
- loss of both feet at or above the ankle;
- loss of both hands at or above the wrist;
- loss of one foot at or above the ankle and the loss of one hand at or above the wrist;

- an injury to the spine that results in permanent and complete paralysis of both arms, both legs, or one arm and one leg;
- a physically traumatic injury to the brain resulting in incurable insanity or imbecility; or
- third degree burns that cover at least 40 percent of the body and require grafting, or third degree burns covering the majority of either both hands or one hand and the face (Texas Labor Code §408.161).

Note: For the purposes of the above criteria, the total and permanent loss of use of a body part is the loss of that body part (Texas Labor Code §408.161).

Amount of Lifetime Income Benefits

LIBs equal 75 percent of an injured employee's average weekly wage, with a three percent increase each year (Texas Labor Code §408.161).

For example, if the average weekly wage is \$500, the lifetime income benefits would be \$375 a week calculated as follows:

75 percent of \$500 (.75 x \$500) equals \$375

There are statutory maximum and minimum benefit amounts for LIBs (Texas Labor Code §408.061 and §408.062). The maximum benefit amount only applies to the first year an injured employee receives LIBs. The maximum benefit amount does not apply to the three percent annual increases.

When Lifetime Income Benefits Begin (28 TAC §131.1(a)-(e))

An injured employee that believes he or she is eligible for LIBs may submit a written request to the insurance carrier. The insurance carrier is required to respond within 60 days of receiving the request. LIBs payments must begin on or before the 15th day after the insurance carrier decides. If an insurance carrier denies eligibility for LIBs, the insurance carrier must send the injured employee a plain language notice (DWC Form PLN-04, *Notice Regarding Eligibility for Lifetime Income Benefits*) explaining the denial. An injured employee may dispute a denial by requesting a Benefit Review Conference.

For further assistance, call 1-(800)-252-7031 or visit <http://www.tdi.texas.gov/wc/employee/index.html>. The rules and statutes are available at <http://www.sos.state.tx.us/tac/index.shtml>.