

## **What Benefits does the Nebraska Workers' Compensation Law Provide?**

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The purpose of this article is to give a brief summary of workers' compensation benefits. It is, by necessity, an oversimplification of what can sometimes be a quite complicated process. Our firm has many years of experience in workers' compensation, both representing Plaintiff's and Defendants. We would be glad to try to answer any questions you may have about the law.

If an injury is caused by work, a worker may receive some or all of the following benefits:

### **A. Disability Payments**

**Temporary Total Disability:** These are payments made during the period that a worker is temporarily unable to work. The amount is two-thirds of the workers' average weekly wage for the 26 weeks prior to the injury. For example, if the average weekly wage is \$600 per week, two-thirds of is \$400. This is the amount per week the worker may receive while temporarily unable to work.

**Temporary Partial Disability:** This does not apply very often, but is payment which supplements wages received when, because of the injury, the worker is temporarily is able to return to work on only a part-time basis. For example, if the worker was making \$600 per week at the time of the accident, but while back to work on a part-time basis, is only making \$300 per week, workers' compensation pays two-thirds of the difference between the \$600 and \$300, or an additional \$200 per week.

**Permanent Partial Disability:** These are payments for a disability that is permanent. They are in addition to the payments for temporary total disability and temporary partial disability. The law provides that for injuries to the extremities (i.e. hands, legs, arms, feet) a certain number of weeks of disability are payable. For example, for a permanent injury to the arm the weeks payable are 225. Once the worker reaches maximum medical improvement--which means that the worker has recovered as much as they are going to recover---a doctor will determine a percentage of impairment, or loss of physical function to the member. For example, if a doctor says the worker has a 20% permanent impairment to the arm, this percentage is applied to the 225 weeks to determine how many weeks of permanent partial disability are owing for the arm injury. In this case is would be the 45 weeks (20% times 225 weeks). Then the pay-out is calculated as follows: If the average weekly wage is \$600, you multiply the \$600 by two-thirds and get \$400. Then you multiply the \$400 by 45 weeks and the total benefit is \$18,000.

The law provides for different benefits if the injury is to the body as a whole. This is defined generally as the trunk of the body, including the spine and the head. For body as a whole injuries the law provides that permanent partial disability benefits are payable for

a total of 300 weeks less those weeks paid for temporary total disability and temporary partial benefits.

The benefits for a body as a whole injury are calculated differently than extremity injuries. For body as a whole injuries, the test is the loss of earning capacity as a result of the injury. For example, it may be determined that as a result of a back injury a workers' earning capacity has been reduced by 50%. In that example, the calculation would be made as follows: Assuming the worker has been off work for 50 weeks and has been paid temporary total disability during that period, they would have 250 weeks(300-50) of permanent partial disability remaining. For a worker with a \$600 average weekly wage, the \$600 would be multiplied by two-thirds to get \$400. The \$400 is then multiplied by the 50% impairment rating which means that the worker would be entitled to \$200 per week for the remaining 250 weeks, which equals \$50,000 (\$200 times 250 weeks equals \$50,000).

If the injury is so severe that the worker has a 100% loss of earning capacity, the 300 week limitation does not apply and the worker receives the weekly payments for the rest of their life.

#### B. Medical Payments

The worker is entitled to prompt payment of all reasonable and necessary medical expenses resulting from the injury. This includes, for example, doctor examinations and treatments, prescriptions, physical therapy, surgery, mileage, etc.

#### C. Vocational Rehabilitation

If as a result of the injury the worker is unable to return to work for which they have prior training and experience, they are entitled to vocational rehabilitation benefits. The purpose of vocational is to return the worker to suitable employment. Suitable employment is work within the physical capabilities of the employees and at the approximate rate of pay they were receiving prior to the injury.

The main types of vocational rehabilitation are job placement and formal retraining. During such vocational rehabilitation, the worker is entitled to receive temporary total disability (see above) and reimbursement of other expenses such as tuition, mileage, etc.