



Workers Compensation Claim State Environmental Guide - Maine

MAINE- <http://www.maine.gov/wcb/>

Temporary Total Benefits	<p>No Minimum compensation rate.</p> <p>The maximum for injuries occurring on or after January 1, 2013 is as follows:</p> <table><tr><td>January 1, 2013 through June 30, 2013</td><td>\$717.09</td></tr><tr><td>July 1, 2013 through June 30, 2014</td><td>\$728.63</td></tr><tr><td>July 1, 2014 through June 30, 2015</td><td>\$742.35</td></tr><tr><td>July 1, 2015 through June 30, 2016</td><td>\$763.87</td></tr><tr><td>July 1, 2016 through June 30, 2017</td><td>\$789.35</td></tr><tr><td>July 1, 2017 through June 30, 2018</td><td>\$804.40</td></tr><tr><td>July 1, 2018 through June 30, 2019</td><td>\$829.30</td></tr><tr><td>July 1, 2019 through June 30, 2020</td><td>\$856.79</td></tr><tr><td>July 1, 2020 through June 30, 2021</td><td>\$889.34</td></tr></table> <p>**Change as a result of Main State Legislature's approval of LD 756. The maximum compensation rate for injuries on or after January 1, 2020 is 125% of the State Average Weekly Wage.</p> <p>Generally, the average weekly wage (AWW) is computed by averaging the workers preceding 52-week earnings history to include the week of injury earnings. If 52-weeks are not available, then the minimum earnings required would be 200 days. If less than 200 days is available, the total earnings are divided by the number of weeks worked in the prior year. If employment is seasonal, the entire amount of earnings from the prior year worked is divided by 52 weeks. If none of these methods apply, use the fall-back provision to determine what is reasonable and fair using the earnings that are available.</p> <p>Update for 2022: the state average weekly wage (SAWW) to \$1,036.13. Provides that the maximum for injuries occurring July 1, 2022, through June 30, 2023, is \$1295.16. States that the multiplier is 1.05298. Also, provides tables containing information necessary to make cost of living adjustments. These tables contain the state average weekly wage (SAWW), maximum benefit amount (MAX), and the multiplier to be used to calculate cost of living adjustments. The tables are written for all years. It is necessary to know the employee's date of injury to select the appropriate table.</p> <p>Update for 2023: The Workers' Compensation Board publishes the Department of Labor's new state average weekly wage (SAWW) as of July 1, 2023, which is \$1,103.71. Explains that the SAWW is the basis for calculating maximum benefits, annual adjustments, and impairment awards. Reminds interested parties that the maximum compensation rate for injuries on or after January 1, 2020, is 125 percent of the SAWW. Provides that the maximum for injuries occurring July 1, 2023, through June 30, 2024, is \$ 1379.64. States that the multiplier as of July 1,</p>	January 1, 2013 through June 30, 2013	\$717.09	July 1, 2013 through June 30, 2014	\$728.63	July 1, 2014 through June 30, 2015	\$742.35	July 1, 2015 through June 30, 2016	\$763.87	July 1, 2016 through June 30, 2017	\$789.35	July 1, 2017 through June 30, 2018	\$804.40	July 1, 2018 through June 30, 2019	\$829.30	July 1, 2019 through June 30, 2020	\$856.79	July 1, 2020 through June 30, 2021	\$889.34
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Maine Workers Compensation Claim State Environmental Guide

Temporary Total Benefits (Continued)	<p>2023, is 1.06522. This multiplier is obtained by dividing the new SAWW by the preceding year's average weekly wage. Shows that there is no annual adjustment for injuries occurring on or after January 1, 1993, and that there is no adjustment for injuries occurring on or after November 20, 1987, during periods of partial incapacity. Offers further details. Relates to Workers' Compensation Board updated information for annual adjustments of the weekly compensation rate. Provides tables containing information necessary to make the cost of living adjustments. These tables contain the state average weekly wage (SAWW), maximum benefit amount (MAX), and the multiplier to be used to calculate the cost of living adjustments. The tables are written for all years. It is necessary to know the employee's date of injury to select the appropriate table.</p> <p>The Maximum for injuries occurring on or after January 1, 2020 is as follows:</p> <table style="margin-left: 20px;"> <tr> <td>January 1, 2020 through June 30, 2020</td> <td style="text-align: right;">\$1070.99</td> </tr> <tr> <td>July 1, 2021 through June 30, 2022</td> <td style="text-align: right;">\$1230.00</td> </tr> </table> <p>For the sole purpose of calculating wages for new claims only- we can provide the \$1230.00 figure until it is updated again in July 2022.</p> <p>The Maximum compensation rate effective July 1, 2018 is 829.30. Effective July 1, 2019 the max rate is \$889.34. Effective January 1, 2020 the ax benefit rate will increase from 100% to 125% of the SAWW. The Maximum benefits that was in effect on the date of injury always applies. For injuries between 1-1-93 and 12-31-12: the maximum is 90% of the SAWW. For injuries on or after 1-1-13, the maximum is 100% of the SAWW whichever is higher.</p> <p>Injuries from 1-1-93 through 12-31-12: the weekly benefit is 80% of after tax AWW. The board publishes a "weekly benefit table" every year, the wage tables from 2003-2012 on are available on the Boards web site. (the Board will no longer publish AWW tables after 12/1/11).</p> <p>Injuries on or after 1-1-2013; the weekly benefit is 2/3rds of the injured employees gross average weekly wage, but not more than the maximum benefit level. There is NO Durational Cap for Total Compensation provided the employee remains qualified under section 212 of the statute.</p>	January 1, 2020 through June 30, 2020	\$1070.99	July 1, 2021 through June 30, 2022	\$1230.00
January 1, 2020 through June 30, 2020	\$1070.99				
July 1, 2021 through June 30, 2022	\$1230.00				

Temporary Partial Benefits	<p>The date of injury controls the calculation of the temporary partial benefits. For injuries 1-1-93 through 12-31-12. Calculation of partial benefits is performed by using the "weekly benefit table" and taking the table amount for the weekly earnings and subtracting it from the table amount for the AWW, using the employee's tax filing status. The duration of benefits is determined by the permanent impairment percentage of the "whole body." If the permanent impairment does not exceed the threshold level for the date of injury, the employee is no longer entitled to partial compensation after receiving 520 weeks of benefits.</p> <p>For injuries on or after 1-1-2013, the weekly benefits calculation is 2/3^{ds} of the injured employee's gross average weekly wage, but not more than the maximum benefit level.</p> <p>For injured employees with partial incapacity for injuries on or after January 1, 2006 thru December 31, 2012, the permanent impairment threshold is "greater than 12% whole body".</p> <p>For injured employees with partial incapacity for injuries on or after January 1, 2013, the permanent impairment threshold is "greater than 18% whole body". For dates of injury on or after Jan. 1, 2020, an employee is not eligible for partial compensation after having received 624 weeks (12 years) of benefits under §212, §213, or both. There may still be an extension of partial benefits for extreme financial hardship, but otherwise this is a hard cap. An extension for "long-term" partial incapacity will not be available, except for employees with dates of injury on or after Jan. 1, 2013 and before Jan. 1, 2020.</p> <p>For injuries on or after January 1, 2013, 520 weeks of benefits is the</p>
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Maine Workers Compensation Claim State Environmental Guide

<p>Temporary Partial Benefits (Continued)</p>	<p>durational limit on benefit eligibility for permanently partially incapacitated injured employees; an extension of benefits can be requested. In order to qualify for an extension, all of the following requirements must be met:</p> <ul style="list-style-type: none"> • The injured employee must have a whole person permanent impairment rating resulting from an injury in excess of 18%. The injured employee must have earnings during 12 of the last 24 months prior to the expiration of the cap. The injured employee's earnings over the most recent 26 week period must be 65% or less of the pre-injury average weekly wage; • The injured employee's actual earnings must be commensurate with the injured employee's earning capacity which includes consideration of the injured employee's physical and psychological work capacity as determined by an independent medical examiner. <p>In addition, while the injured employee is receiving extended partial incapacity benefits, the injured employee must complete and provide quarterly employment status reports and tax returns. If an injured employee's weekly earnings over the most recent 26-week period are equal to or greater than the injured employee's pre-injury weekly earnings, the extension of benefits is terminated permanently. Finally, if an injured employee does not qualify for an extension at the end of 520 weeks, the injured employee's partial benefits expire permanently.</p> <p>There is no minimum rate for temporary partial benefits.</p>
<p>Permanent Partial Benefits</p>	<p>Entitlement to benefits for permanent impairment depends on the date of injury. For injuries between 1-1-93 through 12-31-12, an employee may not be awarded a monetary benefit for permanent impairment but they may qualify for specific loss benefits. For injuries on or after 1/1/13, permanent impairment is only relevant to determine whether an employee is entitled to the "long-term partial incapacity" exception.</p>
<p>Permanent Total Benefits</p>	<p>Permanent total incapacity is presumed for 800 weeks in cases of incurable imbecility or actual loss of any combination of two eyes, hands feet, arms or legs. Permanent and complete paralysis of both legs or both arms or one leg and one arm will also be protected under this section. After the 800 weeks, the employee is entitled to total compensation only if there is actual total incapacity.</p>
<p>Fatality Benefits</p>	<p>If death occurs as a result of the compensable workers' compensation claim, the employee's widow, widower, or other eligible dependents are entitled to ongoing total compensation. The duration of these benefits depends on the date of injury. Injuries before 1-1-93 the benefits are payable to the surviving spouse for the duration of his/ her life time until he/she becomes dependent on another person. These benefits may be adjusted annually on July 1 .Injuries on or after 1-1-93 the benefits are capped at 500 weeks from the date of death or until the child's 18th birthday whichever is longer. The dependents are also entitled to the reasonable expenses of burial, not to exceed \$4,000 and an additional payment of \$3,000 as incidental compensation.</p> <p>If death results from an injury occurring on or after Jan. 1, 2020 and the employee had no dependents, death benefits must be paid to the employee's parents during their lifetime, up to 500 weeks. "Parents" may be natural or adoptive, so long as parental rights were not terminated. This new provision is not retroactive, except that for deaths resulting from injuries occurring on or after Jan. 1, 2019 and before Jan. 1, 2020, death benefits paid, or payable, to the State under §355, sub-§14, ¶F will be transferred to the parents.</p>

Maine Workers Compensation Claim State Environmental Guide

Vocational Rehabilitation	Not mandatory. The employee may request vocational rehabilitation and the employer <u>may</u> provide. The Maine WC Board can order the services and the employee must participate or there may be a loss or reduction in benefits. There is a presumption that work is unavailable for an employee participating in a rehabilitation plan ordered by the Workers' Compensation Board for as long as the employee continues to participate in vocational rehabilitation. Effective November 1, 2017, benefits may not be reduced unless there are actual earnings or the employee has received the durational limits (520 weeks) of benefits.
Settlement Allowed	Settlement of both the indemnity and medical benefits allowed. Permanent Impairment opinion from a "qualified health care provider" required. Hearing Officers must make finding regarding expected future medical costs related to the injury.
Cap on benefits, exceptions	Temporary total benefits are not capped. Partial benefits may be capped (see above).

Medical issues

Initial Choice of Provider	The employer has the right to choose a health care provider for the first 10 days after the "inception of health care." If directed, the employee must treat with the employer's choice of physician. In cases of emergency, the injured worker should report to the emergency room.
Change of Provider	After 10 days from the start of treatment with the employer's chosen provider, an injured worker may see a physician of their choice upon notice to the employer. An employee who receives treatment from his chosen health care provider may not change to another provider more than once without approval from the employer or the Board. An employee is entitled to treatment provided by a specialist with a referral from his treating physician. Treatment by a subsequent specialist in the same field is not covered without prior approval from the employer or the Board.

Medical issues

Medical Fee Schedule	Maine has a medical fee schedule which applies to all bills for medical services provided on or after the effective date of the rule change, regardless of date of injury.
Managed Care	No
Utilization Review	Entities Affected: Any entity conducting workers' compensation utilization review must be certified by the Worker's Compensation Board. Citation: Regs 90-351, Chapter 7 Description: To be certified by the Board, an entity must submit evidence of URAC accreditation, or application for URAC accreditation. In the latter case, the entity has six months to achieve URAC accreditation.
Treatment Guidelines	Utilization Review Agents providing or performing UR services shall utilize Treatment Guidelines approved by the Maine Workers' Compensation Board.
Generic Drug Substitution	The state mandates generic substitution.
Medical Mileage Reimbursement Rate	Mileage for attendance at medical appointments, treatment and IMEs is paid at the rate of 44 cents per mile for dates of service on or after 12/11/11. Mileage for dates of service prior to 12/11/11 is reimbursed at the IRS rate in place on the date of treatment. Meals are reimbursed for appointments more than 50 miles one way from the employee's residence. Those maximum rates are \$6.00 for breakfast and lunch and \$16.00 for dinner. For travel more than 100 miles one way, hotels are reimbursed at a maximum of \$120.00.
Network Information	Corvel
Ability to Terminate Medical Treatment	No limit on medical treatment if reasonable, necessary and related.
Settlement Allowed	Yes (see above under "Indemnity Issues.")

Maine Workers Compensation Claim State Environmental Guide

Cap on benefits, exceptions	No limit on the cost of medical treatment.
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Other Issues

Compensability Decision Timeframe	Compensability decision made within 14 days.
Staff Counsel	Unable to assign staff counsel due to geographical location. Panel counsel only
Hearings require attorney or claim handler participation	The claim handler can handle the mediations but hearings require counsel. Mediation may be conducted by phone by agreement of all parties. Requests for phone mediations must be made at least 7 days prior to mediation.
Occupational Diseases	A disease that results from causes or conditions characteristic of a particular trade or occupation may be found compensable, and subject to the more restrictive Occupational Disease Law (39-A M.R.S.A section 601-15).es.
Second Injury Fund availability	none
Other Offset Opportunities	<p>Apportionment opportunities. It is required the carrier for the most recent compensable injuries must initially make all benefits payments to which the employee is entitled, subject to potential reimbursement from carriers responsible for earlier injuries.</p> <p>Depending on the date of injury and PI rating, the Supplemental Benefits Fund may be an option for partial indemnity payments (in excess of 260 weeks) made for dates of injury from 1/1/93-12/31/99</p> <p>Social Security: Applies only to injuries on or after 6/30/85; weekly compensation is reduced by on half (1/2) of the weekly after-tax amount of Social Security retirement benefits received by the employee. Benefits are <u>not</u> affected by Social Security "disability" benefits. Once the Social Security setoff is calculated, the amount of the offset remains fixed regardless of future Social Security COLA. This offset does <u>not</u> apply if the employee was already receiving Social Security retirement benefits at the time of injury, nor does it apply to spouse's or survivor benefits.</p> <p>Employer sponsored self- insurance plan, wage continuation plan, std/ltd plan or pension plan-For those same dates of injury, offset is available for the employer paid portion-calculation is made by using the "weekly benefit table" and looking up the gross amount of the benefit under the employee's tax filing status, taking the result and MULTIPLYING IT BY 1.25 to get the weekly offset amount.</p> <p>Unemployment Benefits: For all dates of injury, compensation is reduced dollar for dollar by the amount of unemployment benefit received. This offset applies to claim for total and partial disability and is offset form the weekly benefit the employee is scheduled to receive.</p>
EDI	FROI & NOC must be filed electronically. Claims EDI Release 3: FROI (1/1/2005) & limited SROI (7/1/2006)
In-State Adjusting Required	No
License or Certification Required	No license or certification required for individual employees of the carrier. Claim professionals who handle claims not on Travelers paper (self-insured employers, fronted carrier, TPA, CSS claims) must be licensed.
WC Hearing Docket Speed	<p>Mediations are set within 60 days but it can take 6 months to get a hearing date. The actual Dispute Resolution Procedure can include a formal hearing and it may take up to a year or more for a decision. If appealed it could take longer.</p> <p>Effective 8/30/12; a new Appellate Division was created, it is made up of panels of no fewer than 3 full-time hearing officers and gives the board authority to adopt routine technical rules of procedure. Appeals must be filed within 20 days after a Hearing Officer's Decision becomes final and is not available on questions of fact.</p>

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Note: The following sections and any information contained within these sections, are intended for internal use only and should not be distributed or shared outside of Travelers.

Need for Reform

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Major Developments

<p>LD 612. An Act to Improve Vocational Rehabilitation Under the Maine Workers' Compensation Act of 1992. [Incorporated above under "Indemnity Issues: Vocational Rehabilitation"]</p>	<p>Under this law, an Employer/ Insurer can no longer bring a Petition for Review of Incapacity to try and stop or reduce an Employee's weekly benefits as long as they are participating in a Board-ordered vocational rehabilitation plan (unless there are actual earnings or the Employee has reached the statutory durational limit on his benefits). [Effective date 11/1/2017]</p>
<p>LD 848. An Act to Support Law Enforcement Officers and First Responders Diagnosed with PTSD.</p>	<p>This amendment was added to §201(3) of the Act ("Mental injury caused by mental stress"). This law creates a rebuttable presumption for law enforcement officers, firefighters, corrections officers or emergency medical services workers diagnosed with PTSD by a psychiatrist or licensed psychologist that the PTSD arose out of and in the course of employment. However, the following exception language still applies: "A mental injury is not considered to arise out of and in the course of employment if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination or any similar action, taken in good faith by the employer." [Effective date 11/1/2017]</p>
<p>LD 984. An Act to Separate Licenses for Property and Casualty and Workers' Compensation Adjusters</p>	<p>As of Jan. 1, 2018, prospective workers' compensation adjusters will no longer be required to take a 77-question property and casualty exam (with limited workers' compensation questions). A workers' compensation exam is being developed. No one currently licensed will have to retest and current exemptions will not be disturbed.</p>

Additional Comments

	<p>The Maine Workers' Compensation Board highly regulates the timeliness of all payments, forms and filings. Audits are conducted pursuant to a yearly schedule. The Board's Abuse Investigation Unit provides an enforcement mechanism when violations of the Workers' Compensation Act are identified. It is imperative that within 30 days of the date of loss that the Employer complete wage forms WCB2 and WCB2B to ensure we are in compliance with the Maine WC Board. For additional information, please see the Maine WC Board site at www.maine.gov/wcb</p> <p>In 2005, the Legislature did change section 312 (IME's) so that there is no such thing as a binding 312 examination. The parties can agree on an examiner without making it a binding examination. The hearing officer is still required, however, to accept the opinion of the 312 examiner unless there is clear and convincing evidence contrary to the examiner's opinion.</p>
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