

# Workers' Compensation Law Overview

## COMPENSATION

### Waiting Period

No temporary compensation is payable for the first seven calendar days of disability resulting from an injury. If, however, the injury results in disability of more than 14 days, compensation is paid from the date the disability began. There is no waiting period for medical benefits. S.C. Code §42-9-200.

### Average Weekly Wage

For injuries occurring after June 18, 1996, an employee's average weekly wage is calculated based on the total amount of wages paid over the four quarters immediately preceding the quarter in which the accident occurred as reported to the Department of Employment and Workforce. In situations where it is impracticable to calculate the employee's average weekly wage due to the short duration of his/her employment, the average weekly wage may be computed using a similarly situated employee's earnings. S.C. Code §42-1-40.

For injuries occurring prior to June 18, 1996, an employee's average weekly wage is calculated based on wages earned during the 52 weeks immediately preceding the date of injury.

### Compensation Rate

The compensation rate is 66 and 2/3 percent of the average weekly wage and is subject to the maximum and minimum compensation rates in effect on the date of injury. The compensation rate is determined as of the date of injury and is not affected by later changes in the allowed maximum or inflation.

The minimum compensation rate is \$75.00 per week unless that amount exceeds the actual earnings of the employee, in which case the employee's compensation rate is equal to his/her actual earnings. S.C. Code §42-9-10.

### Temporary Total Disability (TTD)

#### Permanent Total Disability (PTD)

The injured employee is entitled to compensation for any periods during which he is totally disabled from work due to the work-related injury. (see "Compensation Rate")

#### Maximum Rates

2005.....	\$592.56
2006.....	\$616.48
2007.....	\$645.94
2008.....	\$661.29
2009.....	\$681.36
2010.....	\$689.71
2011.....	\$704.92
2012.....	\$725.47
2013.....	\$743.72
2014.....	\$752.16
2015.....	\$766.05
2016.....	\$784.03
2017.....	\$806.92
2018.....	\$838.21
2019.....	\$845.74
2020.....	\$866.67

A claimant may receive total disability benefits for a maximum of 500 weeks, either while receiving temporary total benefits or after an award of permanent total disability. S.C. Code §42-9-10. A claimant is only entitled lifetime benefits if the work-related injury results in paraplegia, quadriplegia or a significant physical brain injury.

### Permanent Partial Disability (PPD)

A claimant is entitled to receive an award for his/her diminished physical capacity due to the work-related injury. South Carolina uses a schedule of loss table that assigns the maximum amount of weeks allowed for injuries to various body parts. The South Carolina Workers' Compensation Commission may award up to 100 percent of the allowed value of the injured body part. (The Commission has discretion in determining the claimant's rating within the statutory range.)

### Fractional Weeks

1 Day =	.1428571
2 Days =	.2857142
3 Days =	.4285713
4 Days =	.5714284
5 Days =	.7142857
6 Days =	.8571428

### Death Benefits

If a work-related injury results in death within two years of the injury or while total disability continues and within six years after the injury, the employer shall pay to the dependents of the employee wholly dependent upon his earnings a weekly payment equal to 66 and 2/3 percent of the injured employee's average weekly wage for a period of not less than 500 weeks. S.C. Code §42-9-290. For death benefits when there is more than one dependent, see S.C. Code §42-9-130. For death benefits when the employee leaves no dependents, see S.C. Code §42-9-140.

### Funeral Benefits

Funeral expenses may be paid up to, but not exceeding \$12,000. If the deceased employee leaves no full or partial dependents, funeral costs are paid in full, with that amount deducted from the 500 weeks to be paid. S.C. Code §42-9-140.

## MEDICAL TREATMENT

### Medical Treatment

The Workers' Compensation Act allows for medical, surgical, hospital, and other treatment that tends to lessen the period of disability. This includes medical and surgical supplies as may reasonably be required to effect a cure or give relief until claimant reaches maximum medical improvement (MMI), and for such additional time as the Commission deems necessary. (Note: Providing medicals may be required after MMI if further medicals will lessen the employee's disability and allow the employee to continue working.)

This overview is intended as a concise summary of South Carolina Workers' Compensation Law. It is not intended to be all-encompassing and does not cover all situations and exceptions to general rules. To discuss the applicability or interpretation of any provision of the law to a specific situation, please contact an attorney at Hedrick Gardner Kincheloe & Garofalo, L.L.P.

### Artificial Members and Prosthetic Devices

Artificial members and prosthetic devices as deemed reasonably necessary at the end of the healing process shall be provided by the employer. Once a prosthetic device has been provided, it shall be furnished during the life of the injured employee or so long as necessary. Damage to a prosthetic device as a result of an injury by accident entitles the employee to compensation ensuring the prosthetic device is repaired or replaced. S.C. Code §42-15-60 and 65.

### Medical Records

All existing information compiled by a health care facility or a health care provider directly pertaining to a workers' compensation claim must be provided to the insurance carrier, employer, and employee, their attorneys, certified rehabilitation professional or the South Carolina Workers' Compensation Commission within 14 days of the facility receiving a written request. S.C. Code §42-15-95.

### Fees for Provided Medical Records

- Pages 1 - 30: \$0.65 per page
- Pages 30+: \$0.50 per page
- Clerical fee (for searching and handling): \$15.00 per request
- Actual postage
- Applicable sales tax

### Mileage Reimbursement

Reimbursement is allowed for mileage to and from a medical provider or pharmacy which is more than five miles away from the claimant's home. The amount, set by the IRS, is \$0.545 cents per mile or the actual cost incurred in using public transportation. The actual costs of reasonable overnight

lodging and subsistence when necessary is also reimbursable. (WCC Regulation 67-1601)

### SCHEDULED INJURIES (§42-9-30)

#### Body Parts

Eye.....	140 weeks
Ear: loss of hearing in one ear.....	80 weeks
Ear: loss of hearing in both ears...	165 weeks
Hand.....	185 weeks
Arm.....	220 weeks
Foot.....	140 weeks
Shoulder.....	300 weeks
Hip.....	280 weeks
Back.....	300 weeks
• If loss of use of back is more than 50 percent, then it shall be 500 weeks. Note: This does not mean the rating assigned by the doctors has to be 50 percent.	
Leg.....	195 weeks

#### Fingers and Toes

Thumb.....	65 weeks
First (index) finger.....	40 weeks
Second finger.....	35 weeks
Third finger.....	25 weeks
Fourth (pinkie) finger.....	20 weeks
Great toe.....	35 weeks
All other toes.....	10 weeks
• Loss of first phalange of any digit shall be considered one-half loss of such affected digit.	
• More than one phalange would be considered 100 percent loss of such affected digit.	

#### Disfigurement (Scarring)

Serious permanent disfigurement to face, head, neck, or other areas normally exposed in employment is payable, not to exceed 50 weeks.

Disfigurement is not payable in addition to other disability compensation unless

keloidal or from serious burns.

The South Carolina Workers' Compensation Commission usually does not award disfigurement for burn scars until one year from date of accident.

#### Members/Organs/Other Body Parts\*

(WCC Regulation 67-1101)

Coccyx.....	1-10 weeks
Kidney.....	25-400 weeks
Lung.....	25-400 weeks
Pancreas.....	10-500 weeks
Rib.....	1.5-10 weeks
Tooth.....	0.5-2 weeks
Brain.....	25-250 weeks
Heart.....	25-250 weeks
Intestine, Small.....	10-400 weeks
Larynx.....	25-400 weeks
Liver.....	25-250 weeks
Mandible.....	10-100 weeks
Skin.....	5-300 weeks
Stomach.....	25-250 weeks
Nasal Passage.....	10-75 weeks
Olfactory Nerve.....	10-75 weeks
Sinus.....	5-30 weeks

\* not a complete list of body parts.

## COMMONLY USED FORMS

<b>Form 12A</b>	Employer's First Report of Injury (ACORD 4)
<b>Form 14B</b>	Physician's Statement (must be submitted with settlement Form 16A)
<b>Form 15, Section 1</b>	Agreement for Compensation (to start temporary total disability)
<b>Form 15, Section 2</b>	Temporary Compensation Report (to start compensation and stop compensation within 150 days)
<b>Form 15S</b>	Supplementary Report of Varying Temporary Partial Payments
<b>Form 16A</b>	Agreement for Permanent Disability/Disfigurement Compensation
<b>Form 17</b>	Receipt of Compensation (to stop temporary benefits)
<b>Form 18</b>	Periodic Report (to report payments made/information provided to Commission) (fines for not filing at appropriate intervals)
<b>Form 19</b>	Status Report and Compensation Receipt (to close claim or to deny claim initially)
<b>Form 20</b>	Statement of Earnings of Injured Employee (to calculate average weekly wage and compensation rate for injuries occurring on or after June 18, 1996)
<b>Form 21*</b>	Employer's Request for Hearing (to request hearing to terminate temporary total benefits)
<b>Form 50</b>	Claimant's Request for Hearing
<b>Form 52</b>	Claimant's Request for Hearing in a Death Claim
<b>Form 51</b>	Defendant's Answer to Claimant's Request for Hearing
<b>Form 53</b>	Defendant's Answer to Claimant's Request for Hearing in a Death Claim

\* Mandatory mediation applies in certain classes of cases.