

WORKERS' COMPENSATION POLICY REVIEW

In This Issue:

FEATURED TOPICS

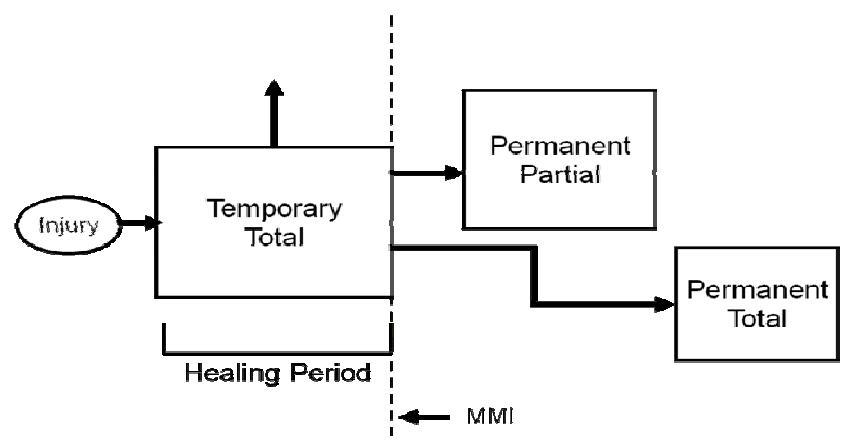
Summary of the Contents	1
The Shape of Permanent Partial Disability Benefits.	3

Summary of the Contents

Most states provide different types of cash benefits during the healing period, which is the period between the date of injury and the date of maximum medical improvement (MMI), and the permanent disability period, which begins at the date of MMI. As shown in the figure below, during the permanent disability period, workers may qualify for permanent partial or permanent total disability benefits. Permanent partial disability (PPD) benefits are the most complicated type of cash benefits and vary the most among jurisdictions. Edward Welch examined the state laws and produced a useful and insightful compilation of the myriad ways that PPD benefits are provided in 51 U.S. jurisdictions. A highlight of the article is a set of illustrations indicating the PPD benefits that six workers would receive in seven hypothetical states.

The next issue of the *Workers' Compensation Policy Review* will contain an article by John Burton that is Part Two of an examination of workers' compensation cash benefits. Part One was included in the March/April 2008 issue. The original plan was to include Part Two in this issue, but that plan was modified in order to accommodate the extensive analysis contained in the article by Ed Welch.

Overview of Disability Benefits



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The Shape of Permanent Partial Disability Benefits

by Edward M. Welch

Introduction

The Workers' Compensation Center at Michigan State University offers a course for Certified Workers' Compensation Professionals (CWCPs).¹ Because there is so much diversity among state laws, we do not attempt to teach the law of any individual state but rather teach the general principles of workers' compensation laws. Our students, however, repeatedly tell us that we could improve the course by providing more state specific information.

Recently I decided to see what I could do to meet this challenge. Perhaps foolishly, I decided to begin by looking at *permanent partial disability (PPD) benefits*. I say "foolishly" because this is the area in which there are the greatest differences among the states. There are probably no two states that measure and compensate permanent partial disability in exactly the same way.

This article provides a summary of what I found when reviewing permanent partial disability benefits in the 51 U.S. jurisdictions. The results are summarized in Table 1 and in a series of figures and tables in this article. More information including a description of permanent partial disability in each state is available on our web site <http://www.lir.msu.edu/wcc/PPD/PPD.htm>.

Other Evaluations

I am not the first nor will I be the last to examine this topic. The foundational work in this area is *Permanent Disability Benefits in Workers' Compensation* by Berkowitz and Burton (1987). Barth and Niss (1999) published an extensive review of the topic in *Permanent Partial Disability Benefits: Interstate Differences*. Burton (2005) published a more recent review of the topic in "Permanent Partial Disability Benefits." Burton also prepared two 2008 articles that examine the topic.

Until recently the U.S. Department of Labor published an annual volume that summarized the quantitative aspects of this topic.² As this article is being written, the Workers Compensation Research Institute and the International Association of Industrial Accident Boards and Commissions are working with Ann Clayton to continue that publication. The California Commission on Health and Safety and Workers' Compensation is also currently working on a survey of PPD benefits, <http://www.dir.ca.gov/CHSWC/chswc.html>.

Sources

The information presented here was compiled by examining state laws and publications available on the web sites for state workers' compensation agencies. Links to these web sites are available at <http://www.lir.msu.edu/wcc>.

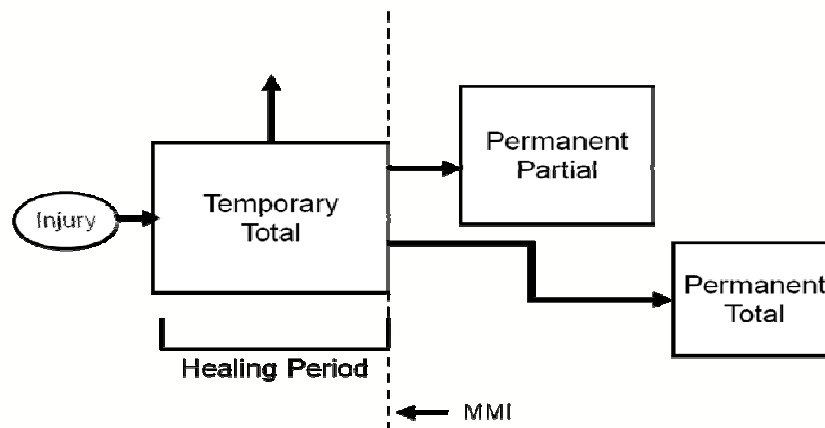
After compiling this data I posted a draft of my findings and invited the graduates of our CWCP course to review their states' laws and to offer comments. Many responded and that information has been incorporated into this article.

Limitations

This review does not attempt to describe all aspects of permanent partial disability benefits in each state. Rather I have focused on the nature of the approach that is used. I have looked at the "shape" of PPD in each state. Claims managers and others should obtain a more detailed analysis of the law in each state when making judgments about the rights of individual workers and the rights and responsibilities of employers and insurance carriers.

I have done everything possible to present an accurate and up-to-date analysis of this topic but it is certainly not perfect and things do change. If you look at your state and believe that I have not gotten it right, please let me know. Your suggestions and comments can be sent to me at welche@msu.edu.

Overview of Disability Benefits



Most workers' compensation claims begin with the payment of *temporary total disability benefits*. These benefits are paid during a *healing period* or until the worker reaches *Maximum Medical Improvement (MMI)*. After the end of the healing period, states determine whether the worker has any residual disability. A few workers are so severely injured that they will never return to work. These workers receive *permanent total disability benefits*.

A significant number of other workers have some permanent residual disability but are not totally disabled. They receive *permanent partial disability benefits*. Those claims are the focus of this article.

A Problem Area

PPD claims are not the most frequent claims nor are they the most costly per claim. But they are frequent enough and costly enough that they account for more workers' compensation dollars than any other type of claim. They are also the most difficult claims to manage and the claims that are most likely to result in litigation.

Alternative Approaches

Introduction

In the following sections, I look at some of the alternatives that are commonly used. In doing this I look at examples from a number of states.

On our web site at www.lir.msu.edu/wcc there is a discussion of how all 50 states and the District of Columbia compensate permanent partial disability.

Impairment Approach

The most common form of compensation for permanent partial disability begins with an assessment of the individual's impairment, that is, the medical consequences of the injury.

Some Elements of the Impairment Approach

In this section we will discuss various aspects of an impairment approach including:

- Schedules
- Impairment Rating
- Guides
- Pre-injury Wages
- Vocational Factors – Loss of Wage-Earning Capacity
- Return to Work

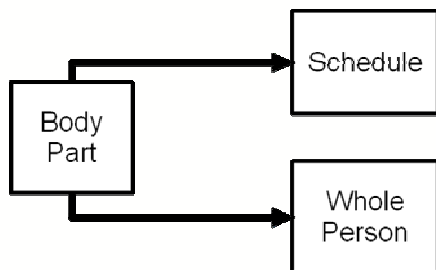
Schedules

Virtually all states have a list that indicates in some way the compensation that should be paid for injuries to certain body parts or members. Most commonly it is a list that shows the number of weeks of compensation payable for the loss of specified body parts. In some states, however, the amount of compensation is expressed as a percentage or number of points or some other measure. The schedule for Delaware shown below is typical of the states that specify a number of weeks for the loss of specific body parts.

Delaware	
Hand	220 Weeks
Arm	250 Weeks
Foot	160 Weeks
Leg	250 Weeks
Thumb	75 Weeks
First finger	50 Weeks
Second finger	40 Weeks
Third finger	30 Weeks
Fourth finger	20 Weeks
Great toe	40 Weeks
Other toes	15 Weeks
Eye	200 Weeks

Unscheduled Losses

In most states the list or schedule does not cover all body parts. Typically injuries to the back, the trunk, and internal organs are “unscheduled.” For these injuries, most states assign a value to what is called a “whole person.”



	Injury	Rating	Value	Duration	Rate
Mr. A	Hand	30%	220 Weeks	66 Weeks	2/3 AWW
Mr. B	Back (Whole Person)	20%	400 Weeks	80 Weeks	2/3 AWW

Assume Mr. A suffered an injury to his hand that resulted in a 30 percent impairment of the hand. A hand is valued at 220 weeks. He would receive benefits for 30 percent of that time or 66 weeks. Assume Mr. B suffered an injury to his back. Backs are not included on the schedule; accordingly, they are evaluated on the basis of a whole person. A rating equal to 20 percent of the whole person results in benefits for 80 weeks. In both cases benefits are paid at the rate of two thirds of the individual's average weekly wage.

Schedule, No Schedule

Several states do not distinguish between scheduled and unscheduled injuries. That is not to say that they do not have a schedule but they do not treat disabilities differently depending on whether they are on a schedule. In Florida they might be inclined to say that they have a schedule that covers all disabilities. In Kentucky they would say that they do not have a schedule, but one could argue that the *AMA Guides* they use are in some sense a form of a schedule.

In many of the states that do make a distinction, the distinction is simply that a "whole person" value is assigned to unscheduled injuries while a schedule lists the value of other injuries. In other states there are more significant differences in the treatment of the two groups of claims. These will be discussed later.

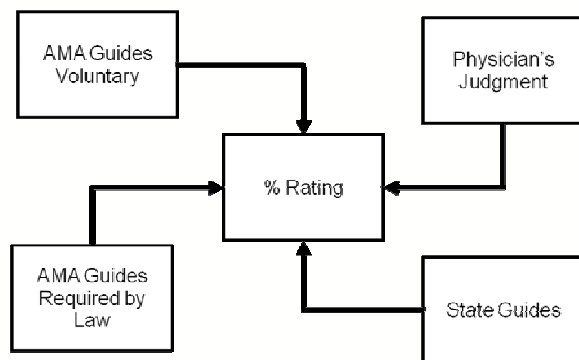
There are also variations in how extensive the schedules are. Some states include only the extremities (such as arms, legs, hands, and feet) and eyes. Others include more body parts.

Some states only pay according to the schedule for an anatomical loss, while others pay for the loss of use of a scheduled body part.

Partial Impairment Rating

If a worker suffers an amputation or a total loss of a listed body part, he or she receives the benefits listed in the schedule. Most injuries, however, do not result in the total loss of a body part but rather in a partial anatomical or partial loss of use of the body part.. In these cases we ask a physician to give an "impairment rating" that is usually expressed as a percentage of the total loss of the body part.

Guides



How do doctors determine the extent of an individual's impairment? The American Medical Association publishes the *Guides to the Evaluation of Permanent Impairment*.

Some states mandate the application of the *AMA Guides* in all claims involving impairment rating. Others require their use in some but not all claims. They are used on a voluntary basis in several other states.

A few states publish their own guides. There are a number of states that do not provide any guidance to physicians about how they should do this. Even in those states, however, customs arise that are generally followed.

Pre-Injury Wages

In most states the worker’s pre-injury wages are an important factor in determining the amount of benefits. This is usually referred to as the worker’s “average weekly wage.” However in some states they play no role and all workers with the same injury receive the same amount of permanent partial disability benefits. The lost arm of a high-paid executive is worth the same amount as the lost arm of a clerk. The lost finger of a concert pianist is worth the same as the lost finger of an opera singer. Other states apply this principle to some but not all claims for PPD benefits.

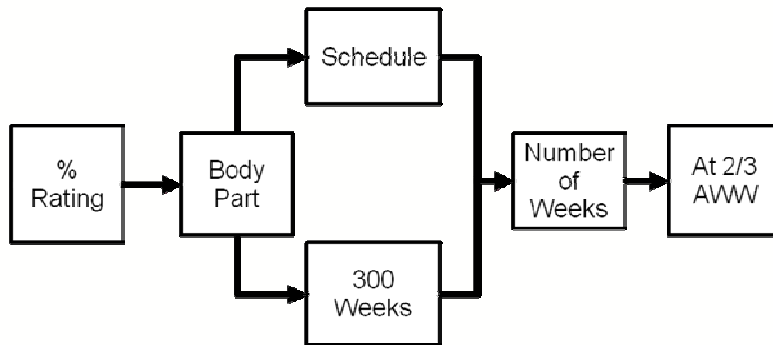
Alaska



Alaska is an example of a state that does not consider pre-injury wages in compensating permanent partial disability. The whole person impairment percentage rating using the *AMA Guides* is multiplied by \$177,000 to determine the PPD benefit.

Simplest Common Approach

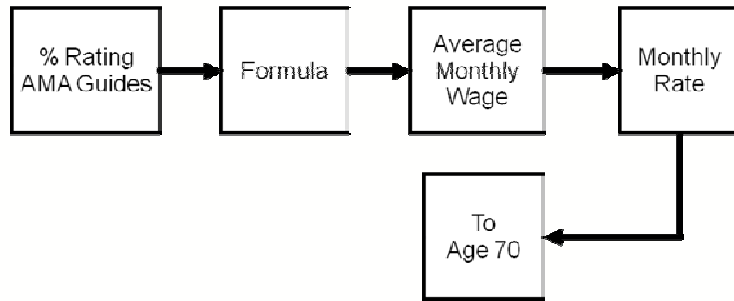
Delaware



It is much more common to consider the pre-injury wage rate in determining the amount of PPD benefits. Delaware is an example of a state that uses the simplest, most common approach. A physician gives an estimate of the extent of the impairment to a specific body part or to the whole person. A schedule lists the number of weeks for various body parts. For those injuries not included on the schedule a whole person is valued at 300 weeks. The impairment rating is multiplied by the listed number of weeks to give the duration of the benefits. The rate of benefits is two thirds of the worker’s average weekly wage. (As with all other workers’ compensation benefits, in every state the weekly PPD benefit is limited by a maximum rate and in many states by a minimum rate.)

Duration v Rate

In most states the impairment rating affects the duration of PPD benefits but in some states the duration is fixed and the amount of weekly benefits varies depending on the rating. In these states all claimants get benefits for the same length of time.

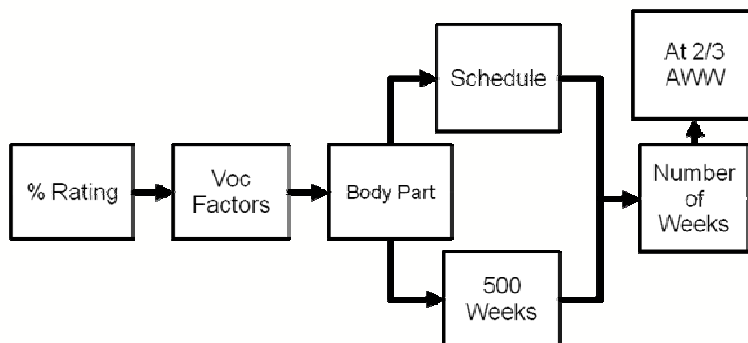
Nevada

In Nevada for example all workers with a permanent partial disability receive benefits to age 70 but the weekly rate is adjusted based on the extent of the impairment.

Loss of Wage-Earning Capacity Approach

Assume Ms. A and Ms. B suffer exactly the same injury to their backs. Assume further that Ms. A works as a heavy laborer and Ms. B works as a human resource manager. It is likely that Ms. A will suffer a much larger wage loss than Ms. B. Under the schemes described above, however, they will receive exactly the same benefits. Some people suggest this is unfair.

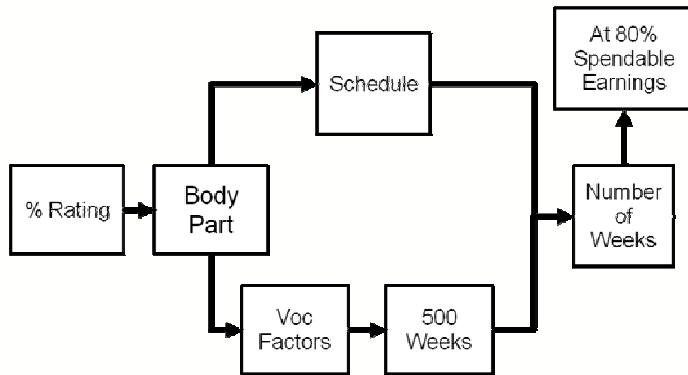
Accordingly, vocational factors such as age, education and work experience are used in determining a disability rating in several states.

Idaho

Thus the scheme in Idaho is very similar to the scheme in Delaware seen above except that the impairment rating is modified by vocational factors.

Some commentators distinguish this approach from an impairment approach and describe it as an approach based upon the *loss of wage-earning capacity*.

Iowa

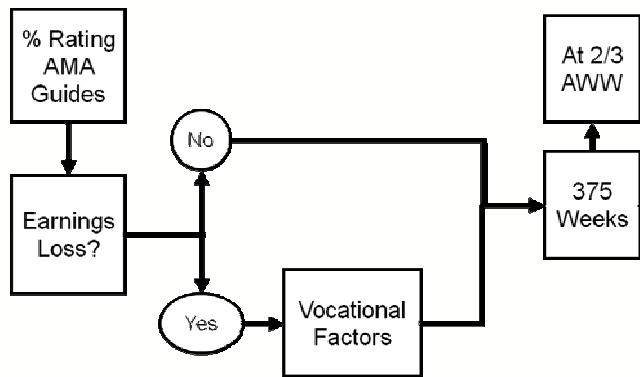


Some states consider vocational factors only in certain cases. In Iowa for example they are considered when rating losses to a whole person with an unscheduled injury but not when rating scheduled injuries.

Return to Work in Impairment Evaluation

As will be discussed below, some states base permanent disability benefits primarily on the worker’s *actual wage loss*. In addition there are a number of the states that use an impairment approach or the loss of earning capacity approach but that alter the calculation of PPD benefits based on factors related to a return to work.

Montana



For example Montana uses a pure impairment approach if the individual has returned to work with no loss of earnings. If the worker continues to have an earnings loss, however, the rating is increased by vocational factors.

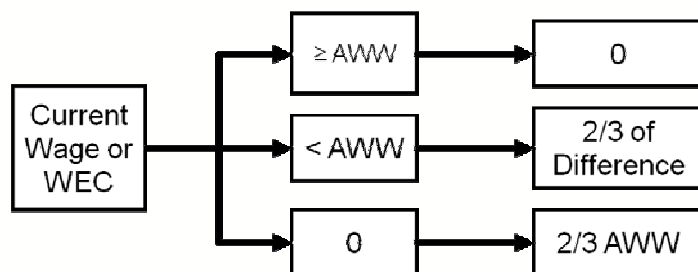
There are a couple of reasons for this approach. One is that workers require less compensation if they are back on the job. Another is to create any incentive for employers to take injured individuals back to work.

The triggering factors vary across the states but include:

- Return to work
- Being able to return to work
- An offer of a return to work

Wage-loss Approach

In a number of states PPD benefits in some claims are based on the worker's actual wage loss.



If the worker returns to work at wages that are equal to or greater than the average weekly wage, no benefits are payable. If the worker has no subsequent wages, he or she receives two-thirds of the average weekly wage subject to a maximum limitation. If the worker returns to a lower-paying position, the worker receives two-thirds of the difference between the worker's preinjury wage and the worker's current wages. .

In most states with a wage-loss approach, benefits are reduced not only for wages actually earned but also for the individual's *wage-earning capacity*. Thus if Mr. D is not earning any wages but the employer can establish that there are many jobs available he could perform that pay \$300 per week, Mr. D will be treated as if he were earning \$300 per week.

Workers	AWW	Current Wage	Wage-Earning Capacity	Difference	Benefit
Ms. A	\$600	0	0	\$600	\$400
Mr. B	\$600	\$600	\$600	0	0
Ms. C	\$600	\$300	\$300	\$300	\$200
Mr. D	\$600	0	\$300	\$300	\$200

Assume a state pays benefits at two-thirds of the average weekly wage subject to the maximum of \$500 per week.

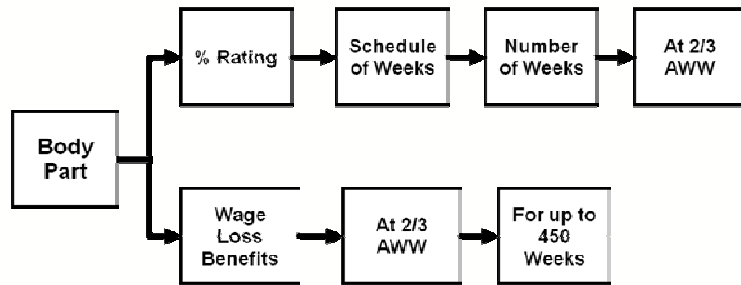
- Ms. A had preinjury average weekly wages of \$600, has not returned to work, and has no wage-earning capacity at this point in time. She will receive \$400 per week.
- Mr. B has returned to work at \$600 per week and will receive no benefits.
- Ms. C has returned to work at \$300 per week. Assume this is also her wage-earning capacity. She will receive benefits equal to two-thirds of the difference between her current wages and her average weekly wage, in this case \$200 $((600-300) \times 2/3 = 200)$.
- Mr. D has not returned to work but the evidence indicates there are jobs that he could perform and that are available to him that would pay \$300 per week. Since he has a wage-earning capacity of \$300 per week he is compensated as if he were earning that amount. Some states say he is "deemed" to have wages of \$300 per week.

Scheduled Benefits in a Wage-loss System

All states that pay wage-loss benefits also pay some benefits according to a schedule. Frequently in wage-loss states the schedule only applies if there is an amputation or complete loss of the body part and does not apply to partial losses.

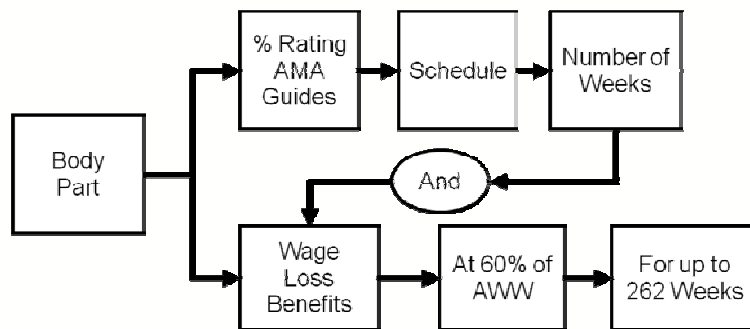
States differ in how they combine the two types of benefits.

Mississippi



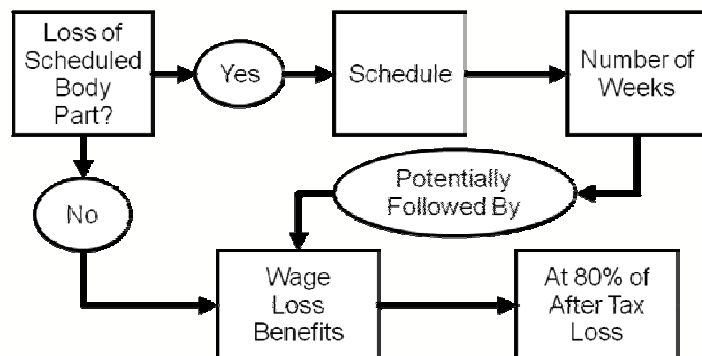
In Mississippi a worker receives either a scheduled impairment benefit or wage loss benefits depending upon the body part injured.

New Hampshire



In New Hampshire a worker with a loss to a scheduled body part and a wage loss will receive both impairment and wage-loss benefits. This is sometimes termed the dual benefits approach.

Michigan



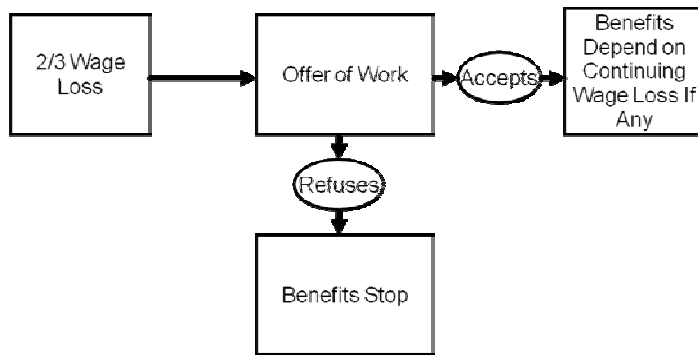
In Michigan most workers receive wage-loss benefits. A worker with an amputation receives scheduled benefits for a proscribed period of time. This is followed by wage-loss benefits if the worker still has a wage loss.

Limits on Duration

Limit on Duration of Wage-loss Benefits					
Arizona		Massachusetts	520	Ohio	200
Connecticut	520	Michigan		Pennsylvania	500
Dist. of Col.	500	Mississippi	450	Rhode Island	321
Illinois		New Hampshire	262	Texas	401
Louisiana	520	New York	525	Virginia	312
Maine	212	North Carolina	300		

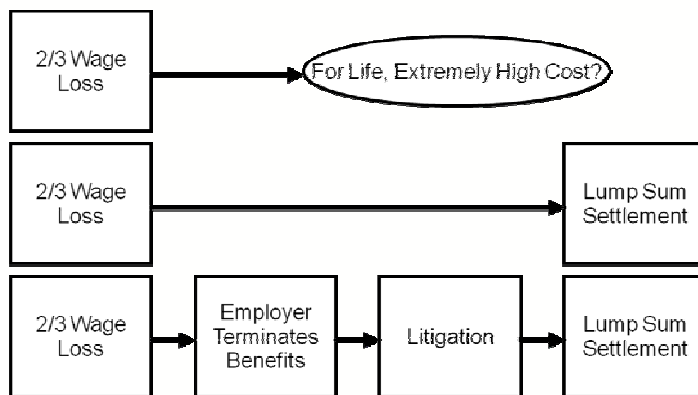
As shown in the table above most states put a limit on the number of weeks of wage-loss benefits. Note that in many states there are exceptions and adjustments to these limits for various reasons.

Refusal of Offer of Employment



An important aspect of the wage-loss approach is a provision that the worker will lose benefits if he or she refuses a reasonable offer of work that is within his or her capabilities. This creates an incentive for the employer to offer work and for the worker to accept it.

Practicalities of the Wage-Loss Approach



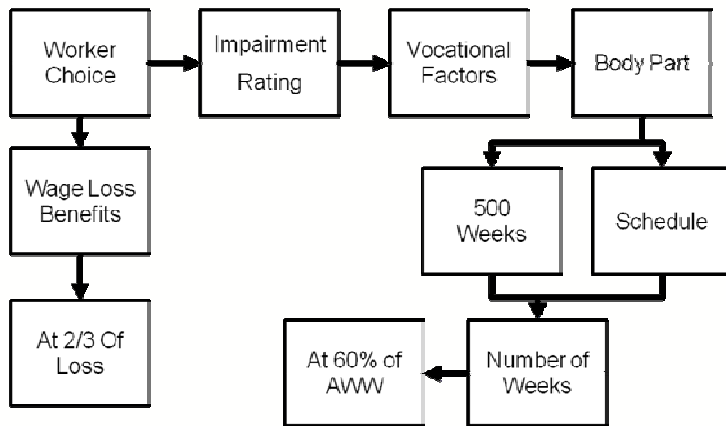
Claims people unfamiliar with the wage-loss approach look at the possibility that the worker could receive benefits for many years or for life and assume it is a very costly system. In fact it is ordinarily no more costly than other systems. This is because most claims are terminated with a compromise and release agreement (often termed a

“lump sum settlement.”) In most of these states the employer has the power to terminate benefits if it believes the worker no longer qualifies. This results in litigation which is often time- consuming and costly and the worker frequently chooses to accept a lump sum settlement. These lump sum payments frequently look very much like the permanent partial benefits paid in other states.

Worker Choice

In a few states the worker is offered a choice of how he or she would like to have PPD compensated. This is sometimes referred to as the bifurcated approach. In Illinois and North Carolina the worker can choose between impairment benefits (or loss of earning capacity benefits) and a form of wage-loss benefits. In Louisiana this choice is limited to workers who have an injury to a scheduled body part and a reduced earning capacity.

Illinois

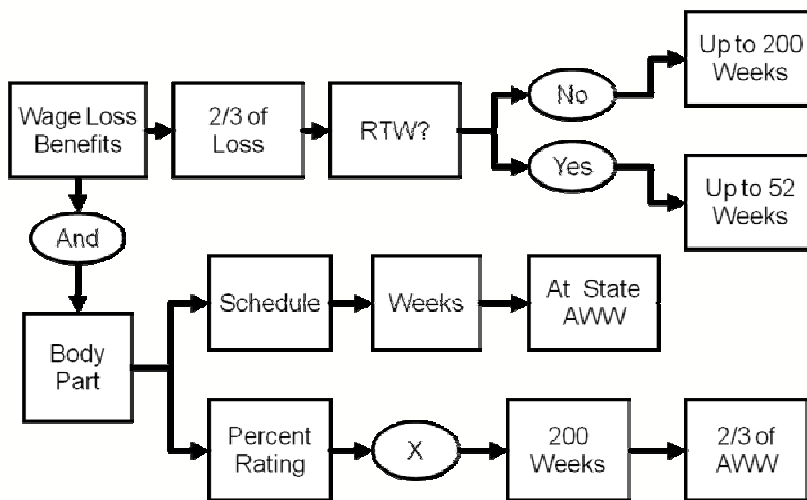


In Illinois workers may choose between wage-loss benefits and benefits based on a loss of earning capacity rating which includes, in addition to the impairment ratings, consideration of age, skill, occupation, and other factors. Benefits based on loss of earning capacity are chosen much more often than the wage-loss benefits.

Combinations

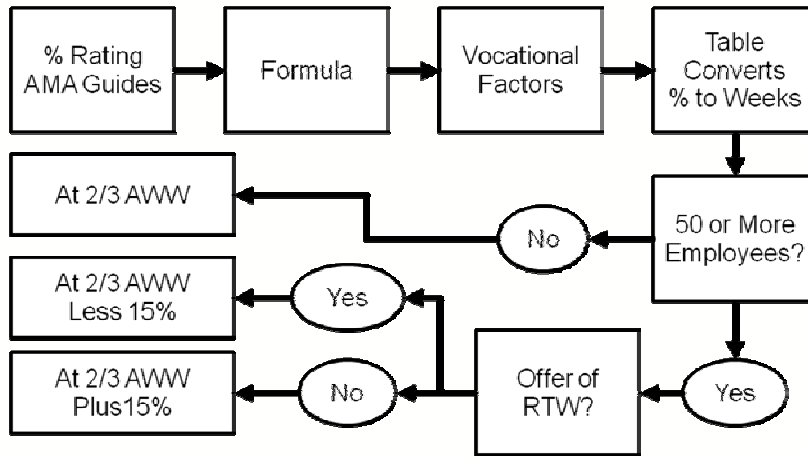
A few more examples will illustrate how some states combine the various approaches discussed above.

Ohio



In Ohio an individual can receive wage-loss benefits for up to 200 weeks if he or she has returned to work at lower wages. Wage-loss benefits are payable to a worker who has not returned to work for up to 52 weeks. In some circumstances it is possible to combine these and receive benefits for up to 226 weeks. In addition workers can receive benefits based on an impairment. Scheduled losses are paid at the state average weekly wage regardless of the worker's earnings. Unscheduled losses are paid as a percentage of 200 weeks at two-thirds of the worker's average weekly wage with a relative low maximum of 1/3 of the state average weekly wage.

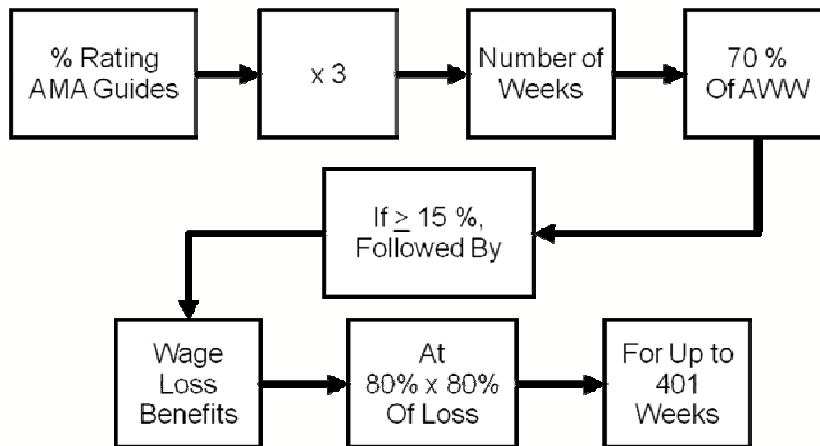
California



In California the process begins with an impairment evaluation using the *AMA Guides*. This is then adjusted based on age and occupational factors to produce an estimate of the percent of *diminished future-earning capacity*. A table then converts the percentage to a number of weeks.

If the employer had fewer than 50 workers, benefits are paid at two-thirds of the average weekly wage. If the employer employed 50 or more workers, then we consider whether or not there was an offer of return to work. If there was an offer, the worker receives 15 percent less. If there was no offer, the worker receives 15 percent more.

Texas



In Texas, workers receive an impairment rating based on the *AMA Guides*. They receive impairment benefits for three weeks for each percent of impairment. (A 10 percent impairment would result in benefits for 30 weeks.) Benefits are paid at 70 percent of the worker's preinjury average weekly wage.

If the impairment rating is 15 percent or more, when the impairment benefits expire, the worker is also entitled to wage-loss benefits. These are paid at the rate of 80 percent of the wage loss. They are payable for up to 401 weeks.

There are various requirements for continuing entitlement to wage-loss benefits, including what other states might call a requirement of a “job search.”

Illustrations of the Approaches

In order to understand the implications of the various approaches, I will look at a set of illustrations. I will look at the PPD benefits that six workers would receive in seven hypothetical states. Below is information about each worker and each state. In all cases assume that the worker received temporary benefits until MMI or a return to work. For these illustrations I will only look at permanent benefits or the benefits received after MMI.

Assume in each case that the worker suffered a back injury, that backs are not listed on a schedule, and that the weekly benefit rates are all below the maximum weekly benefit prescribed in the state statute.

Workers	AWW	Job	Rating	Adj. Rating	RTW
Ms. A	900	Laborer	5%	10%	At MMI
Ms. B	900	Laborer	20%	30%	At MMI
Ms. C	900	Laborer	20%	30%	+ 100 wks
Mr. D	900	Laborer	20%	30%	Never
Mr. E	900	HR Mgr.	20%	20%	At MMI
Mr. F	600	HR Asst.	20%	20%	At MMI

Ms. A is a laborer with an average weekly wage of \$900.00. She suffered a back injury that resulted in an impairment rating of 5 percent. If vocational factors are considered, this would be adjusted to 10 percent. She returned to work at MMI.

Ms. B is a laborer with an average weekly wage of \$900.00. She suffered a back injury that resulted in an impairment rating of 20 percent. If vocational factors are considered, this would be adjusted to 30 percent. Because her employer had an aggressive return-to-work program she returned to work at MMI.

Ms. C is a laborer with an average weekly wage of \$900.00. She suffered a back injury that resulted in an impairment rating of 20 percent. If vocational factors are considered, this would be adjusted to 30 percent. She did not return to work until 100 weeks after MMI.

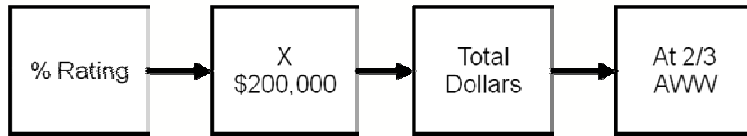
Mr. D is a laborer with an average weekly wage of \$900.00. He suffered a back injury that resulted in an impairment rating of 20 percent. If vocational factors are considered, this would be adjusted to 30 percent. He never went back to work.

Mr. E is a Human Resource (HR) Manager with an average weekly wage of \$900.00. He suffered a back injury that resulted in an impairment rating of 20 percent. He would not receive any adjustment based on vocational factors. Because of the nature of his work he was able to go back to work after three weeks.

Mr. F is an HR Assistant with an average weekly wage of \$600.00. He suffered a back injury that resulted in an impairment rating of 20 percent. He would not receive any adjustment based on vocational factors. Because of the nature of his work he was able to go back to work after three weeks.

Results for Individual States

State 1

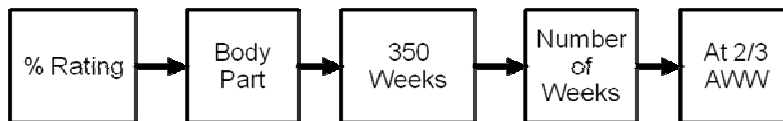


State 1 is a pure impairment state. Benefits are based entirely on the workers impairment rating. No other factors are taken into account.

State 1	AWW	Job	Rating	Adj. Rating	RTW	% Rating	X	Total \$
Ms. A	900	Laborer	5%	10%	At MMI	5%	200,000	10,000
Ms. B	900	Laborer	20%	30%	At MMI	20%	200,000	40,000
Ms. C	900	Laborer	20%	30%	+ 100 Wks	20%	200,000	40,000
Mr. D	900	Laborer	20%	30%	Never	20%	200,000	40,000
Mr. E	900	HR Mgr.	20%	20%	At MMI	20%	200,000	40,000
Mr. F	600	HR Asst.	20%	20%	At MMI	20%	200,000	40,000

The calculation is very simple; just multiply the percent rating by a fixed amount and this gives the benefits paid. (In some states that use this approach, the benefits are paid as a lump sum. In others it is paid over a period of time.) The only thing that differentiates among awards is the degree of impairment. Because of the nature of the work they do, Mr. E and Mr. F will likely go back to work much sooner than the others. Also because he was earning less Mr. F will have a lower wage loss but he will receive the same benefit as all the other workers.

State 2

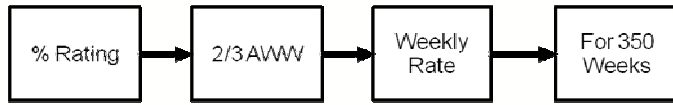


State 2 considers both impairment and pre-injury wages. The rating is applied to a whole person value of 350 weeks to determine how long the worker will receive benefits. They are then paid at 2/3 of the preinjury average weekly wage subject to a maximum weekly benefit.

State 2	AWW	Job	Rating	Adj. Rating	RTW	% Rating	300 Wks	# Wks	2/3 AWW	Total \$
Ms. A	900	Laborer	5%	10%	At MMI	5%	350	18	600	10,500
Ms. B	900	Laborer	20%	30%	At MMI	20%	350	70	600	42,000
Ms. C	900	Laborer	20%	30%	+ 100 Wks	20%	350	70	600	42,000
Mr. D	900	Laborer	20%	30%	Never	20%	350	70	600	42,000
Mr. E	900	HR Mgr.	20%	20%	At MMI	20%	350	70	600	42,000
Mr. F	600	HR Asst.	20%	20%	At MMI	20%	350	70	400	28,000

This is a much more common approach. In addition to considering the impairment rating, Mr. F is treated differently than the others because his pre-injury wages were lower and he so will have a smaller wage loss.

State 3

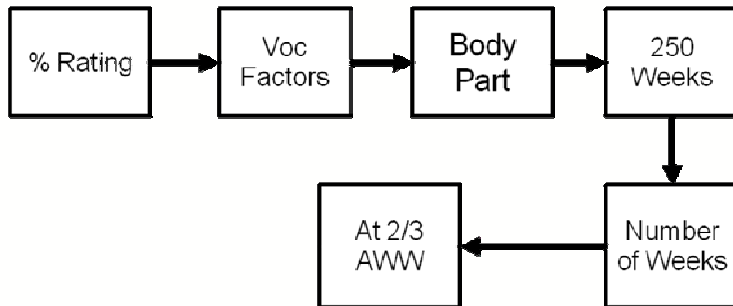


In State 3 everybody entitled to PPD benefits receives them for 350 weeks. The weekly rate is determined by multiplying the rating times 2/3 the average weekly wage.

State 3	AWW	Job	Rating	Adj. Rating	RTW	% Rating	2/3 AWW	Rate	Paid For	Total \$
Ms. A	900	Laborer	5%	10%	At MMI	5%	600	30	350	10,500
Ms. B	900	Laborer	20%	30%	At MMI	20%	600	120	350	42,000
Ms. C	900	Laborer	20%	30%	+ 100 Wks	20%	600	120	350	42,000
Mr. D	900	Laborer	20%	30%	Never	20%	600	120	350	42,000
Mr. E	900	HR Mgr.	20%	20%	At MMI	20%	600	120	350	42,000
Mr. F	600	HR Asst.	20%	20%	At MMI	20%	400	80	350	28,000

The total payments here are exactly the same as in State 2. The difference is that instead of varying the duration of benefits, the weekly rate of the PPD varies. Thus all workers receive benefits for 350 weeks but they receive different weekly amounts.

State 4

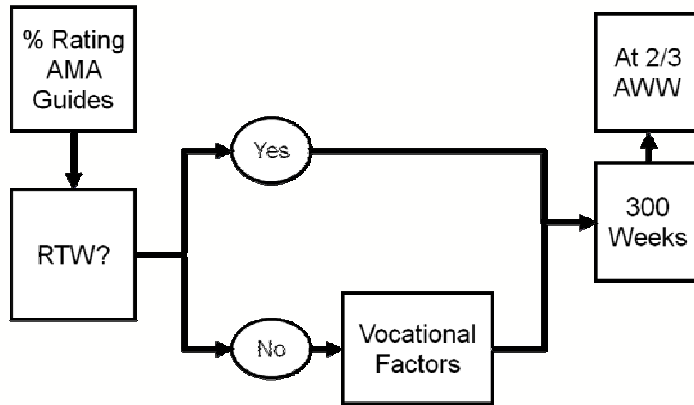


State 4 considers impairment, pre-injury wages, and vocational factors. The impairment rating is adjusted to consider things such as age, education and the kind of work performed. This is applied to a whole person value of 250 weeks to determining how long the worker will receive benefits. They are then paid at 2/3 of the average weekly wage subject to a maximum.

State 4	AWW	Job	Rating	Adj. Rating	RTW	% Rating	Adj. Rating	250 Wks	# Wks	2/3 AWW	Total \$
Ms. A	900	Laborer	5%	10%	At MMI	5%	10%	250	25	600	15,000
Ms. B	900	Laborer	20%	30%	At MMI	20%	30%	250	75	600	45,000
Ms. C	900	Laborer	20%	30%	+ 100 Wks	20%	30%	250	75	600	45,000
Mr. D	900	Laborer	20%	30%	Never	20%	30%	250	75	600	45,000
Mr. E	900	HR Mgr.	20%	20%	At MMI	20%	20%	250	50	600	30,000
Mr. F	600	HR Asst.	20%	20%	At MMI	20%	20%	250	50	400	20,000

In State 4, the rating for the laborers are adjusted as compared to the rating of the HR people because as a result of the nature of their work, they are likely to have a greater wage loss.

State 5

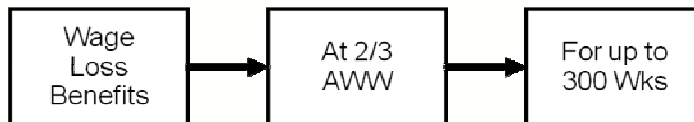


State 5 is like State 4 but it considers vocational factors only for individuals who have not returned to work at MMI. They are not considered if the individual has returned to work.

State 5	AWW	Job	Rating	Adj. Rating	RTW	RTW?	% Rating	Adj. Rating	300 Wks	# Wks	2/3 AWW	Total \$
Ms. A	900	Laborer	5%	10%	At MMI	Yes	5%		300	15	600	9,000
Ms. B	900	Laborer	20%	30%	At MMI	Yes	20%		300	60	600	36,000
Ms. C	900	Laborer	20%	30%	+ 100 Wks	No		30%	300	90	600	54,000
Mr. D	900	Laborer	20%	30%	Never	No		30%	300	90	600	54,000
Mr. E	900	HR Mgr.	20%	20%	At MMI	Yes	20%		300	60	600	36,000
Mr. F	600	HR Asst.	20%	20%	At MMI	Yes	20%		300	60	400	24,000

Because Ms. A and Ms. B returned to work they do not receive the vocational adjustment. Since they are back to work they have less wage loss and less need for compensation. This also creates an incentive for the employer to take them back to work. There is an incentive for them to accept an offer of work because some states deny benefits if they refuse and in all cases the wages earned will be greater than the compensation benefits lost.

State 6

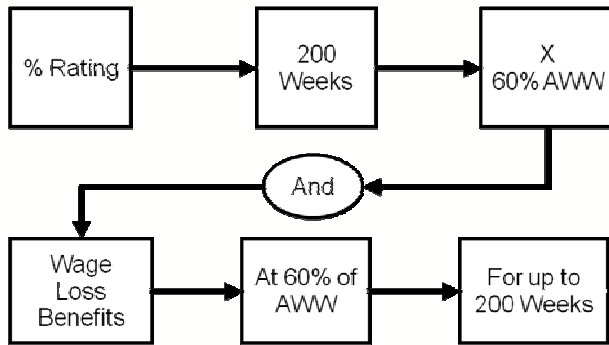


State 6 pays wage-loss benefits at 2/3 of the wage loss for up to 300 weeks. In practice claims are often disputed and settled for a compromise lump sum but the PPD benefits are computed here assuming there are no settlements.

State 6	AWW	Job	Rating	Adj. Rating	RTW	2/3 AWW	Weeks Off	Max Wks	Total \$
Ms. A	900	Laborer	5%	10%	At MMI	600	0	300	0
Ms. B	900	Laborer	20%	30%	At MMI	600	0	300	0
Ms. C	900	Laborer	20%	30%	+ 100 Wks	600	100	300	60,000
Mr. D	900	Laborer	20%	30%	Never	600	>300	300	180,000
Mr. E	900	HR Mgr.	20%	20%	At MMI	600	0	300	0
Mr. F	600	HR Asst.	20%	20%	At MMI	400	0	300	0

In this wage-loss state you only get benefits if you have a wage loss. Ms. A, Ms. B, Mr. E, and Mr. F returned to work at or before MMI. They will get no further benefits. (It can be argued that they do not need them because they are back to work.) Ms. C and Mr. D have at least the potential to receive very substantial benefits.

State 7



In State 7 workers receive both impairment benefits and wage-loss benefits. Impairment benefits are based on a rating and a whole person value of 200 weeks. Wage-loss benefits are paid for up to 200 weeks. Both benefits are paid at 60 percent of the average weekly wage. In practice claims are often disputed and settled for a compromise and release agreement (a lump sum settlement) but the exercise assumes no settlement.

State 7	AW W	Job	Rat- ing	Adj. Rat- ing	RTW	% Rat- ing	200 Wks	# Wks	60% AW W	Imp. Ben	60% AW W	Week s Off	W-L Ben.	Total \$
Ms. A	900	Laborer	5%	10%	At MMI	5%	200	10	540	5,400	540	0	0	5,400
Ms. B	900	Laborer	20%	30%	At MMI	20%	200	40	540	21,600	540	0	0	21,600
Ms. C	900	Laborer	20%	30%	+ 100 Wks	20%	200	40	540	21,600	540	100	54,000	75,600
Mr. D	900	Laborer	20%	30%	Never	20%	200	40	540	21,600	540	>200	108,000	129,600
Mr. E	900	HR Mgr.	20%	20%	At MMI	20%	200	40	540	21,600	540	0	0	21,600
Mr. F	600	HR Asst.	20%	20%	At MMI	20%	200	40	360	14,400	360	0	0	14,400

In pure wage-loss states individuals who return to work quickly sometimes complain that they suffered a very serious injury but received very little in benefits. Accordingly some states pay both wage-loss and impairment benefits. It can be argued that State 7 is the most “equitable” of our example states. Each worker receives different benefits based on his or her actual situation.

Overall Results

	AWW	Job	Rating	Adj. Rating	RTW	State 1	State2	State 3	State 4	State 5	State 6	State 7
Ms. A	900	Laborer	5%	10%	At MMI	10,000	10,500	10,500	15,000	9,000	0	5,400
Ms. B	900	Laborer	20%	30%	At MMI	40,000	42,000	42,000	45,000	36,000	0	21,600
Ms. C	900	Laborer	20%	30%	+ 100 Wks	40,000	42,000	42,000	45,000	54,000	60,000	75,600
Mr. D	900	Laborer	20%	30%	Never	40,000	42,000	42,000	45,000	54,000	180,000	129,600
Mr. E	900	HR Mgr.	20%	20%	At MMI	40,000	42,000	42,000	30,000	36,000	0	21,600
Mr. F	600	HR Asst.	20%	20%	At MMI	<u>40,000</u>	<u>28,000</u>	<u>28,000</u>	<u>20,000</u>	<u>24,000</u>	<u>0</u>	<u>14,400</u>
Total						210,001	206,502	206,503	200,004	213,005	240,006	268,207

The table above summarizes the results for all of the workers in all of the states. A couple of points are worth noting:

- The total cost per state is about the same regardless of the system. Of course I set it up to come out that way! The point is that how you set the values determines the overall cost more than which system you use.
- Some states did much more to recognize the individual differences among the workers but doing this required a much more complicated system. When we teach this topic in our classes we give these examples as a group exercise. The group that gets State 1 finishes in a few minutes but the group with State 7 takes a long time. In real life this complexity probably translates into more administrative costs and more litigation.

Summary of Attributes

Which states use the various attributes of permanent partial disability benefits discussed above? Table 1 provides a listing of these attributes for each state.

A summary of all 51 U.S. jurisdictions can be found under PPD on our web page at: www.lir.msu.edu/wcc.

Schedule, No Schedule (Column I)

States with No Distinction Based on a Schedule	
Alaska	Nevada
California	North Carolina
Connecticut	Oregon
Florida	South Carolina
Kentucky	Texas
Minnesota	Vermont
Montana	Wyoming

Fourteen states do not distinguish between scheduled and unscheduled injuries.

Table 1 - Permanent Partial Disability Attributes

	I Schedule Distinction		II Pre-Injury Wages		III AMA Guides		IV Voc Factors		V RTW		VI Able to RTW		VII Offer of RTW		VIII Duration Fixed		IX Wage Loss	X Worker Choice
	WP Only	Other	All	Some	All	Some	All	Some	All	Some	All	Some	All	Some	All	Some		
Alabama		x	x												x			
Alaska					x													
Arizona		x	x		x						x						x	
Arkansas		x	x		x		x		x				x					
California			x		x		x						x					
Colorado		x		x	x		x											
Connecticut			x														x	
Delaware	x		x															
Dist. of Col.		x	x		x												x	
Florida			x						x									
Georgia	x		x		x													
Hawaii	x																	
Idaho	x		x				x											
Illinois	x		x				x										x	x
Indiana	x																	
Iowa	x		x					x										
Kansas		x	x		x			x				x						
Kentucky			x		x		x				x			x				
Louisiana		x	x		x												x	x
Maine		x	x		x												x	
Maryland	x		x		x			x										
Massachusetts		x		x		x												x
Michigan		x	x															x
Minnesota																		
Mississippi		x	x															x
Missouri	x		x															
Montana			x		x			x	x									
Nebraska	x		x															
Nevada			x		x										x			
New Hampshire		x	x		x													x
New Jersey	x		x															
New Mexico		x	x		x			x	x						x			
New York		x	x															x
North Carolina			x															x
North Dakota		x			x													x
Ohio	x			x														x
Oklahoma	x		x			x												
Oregon				x				x			x							
Pennsylvania		x	x		x													x
Rhode Island		x	x		x													x
South Carolina			x					x										
South Dakota	x		x		x													
Tennessee	x		x		x			x		x								
Texas			x		x													x
Utah	x		x															
Vermont			x		x													
Virginia		x	x															x
Washington		x				x												
West Virginia	x		x			x							x					
Wisconsin		x	x					x		x								
Wyoming				x	x			x			x							

Distinction Based on Schedule			
Number of Weeks Only		Other Distinction	
Delaware	Nebraska	Alabama	Mississippi
Georgia	New Jersey	Arizona	New Hampshire
Hawaii	North Dakota	Arkansas	New Mexico
Idaho	Ohio	Colorado	New York
Illinois	Oklahoma	Dist. of Col.	Pennsylvania
Indiana	South Dakota	Kansas	Rhode Island
Iowa	Tennessee	Louisiana	Virginia
Maryland	Utah	Maine	Washington
Missouri	West Virginia	Massachusetts	Wisconsin
		Michigan	

All the other states distinguish in some way between disabilities that are listed on a schedule and those that are not. In 18 states the distinction is simply that a “whole person” value is assigned to unscheduled disabilities while a schedule lists the value of other disabilities. In 19 other states there are more significant differences in the treatment of the two groups of claims.

AMA Guides (Column III)

AMA Guides Required for:			
All Impairment Rating			Some Impairment Rating
Alaska	Kentucky	Rhode Island	New Mexico
Arizona	Louisiana	South Dakota	North Dakota
Arkansas	Maine	Tennessee	Massachusetts
California	Maryland	Texas	Oklahoma
Colorado	Montana	Vermont	Washington
Dist. of Col.	Nevada	Wyoming	West Virginia
Georgia	New Hampshire		
Kansas	Pennsylvania		

Twenty two states mandate the application of the *AMA Guides* in all claims involving impairment rating. Six states require their use in some claims. As this is being written there is a dispute in South Carolina as to whether they are mandatory.

Pre-injury Wages (Column II)

Pre-injury Wages	
Are not considered in any claims	Are a factor in some but not all claims
Alaska	Colorado
Hawaii	Massachusetts
Indiana	Ohio
Minnesota	Oregon
North Dakota	Wyoming
Washington	

In six states pre-injury wages are not considered in any claims. In five other states they are considered in some but not all claims for PPD.

Duration v Rate (Column VIII)

Rating Affects Weekly Rate	
All Claims	Some Claims
Kentucky	Alabama
Nevada	New Mexico

In most states the impairment rating affects the duration of PPD benefits but in four states the duration is fixed and the amount of weekly benefits varies depending on the rating.

Vocational Factors (Column IV)

Vocational Factors Considered		
All Ratings	Ratings of Some Claims	
California	Arkansas	Montana
Idaho	Colorado	New Mexico
Illinois	Iowa	Oregon
Kentucky	Kansas	Wisconsin
South Carolina	Maryland	Wyoming
Tennessee		

Vocational factors such as age, education and work experience are used in determining a disability rating in all claims in six states and some claims in ten states.

Return to Work in Impairment Evaluation

Return to Work (Column V)

Return to Work Affects Disability Rating	
All Claims	Some Claims
Florida	Arkansas
Montana	Wisconsin
New Mexico	
Tennessee	

Six states alter the formula based on whether the individual has returned to work. In four states this applies to all claims. In two states it applies to just some categories of claims.

Able to Return to Work (Column VI)

Ability to Return to Work Affects Disability Rating	
Some Claims	All Claims
Kansas	Arizona
Kentucky	
Oregon	
Wyoming	

Five states alter the calculation when a worker is found able to return to work. (These states also alter it when the worker has returned to work.)

Offer of Work (Column VII)

Offer of Return to Work Affects Disability Rating	
Some Claims	All Claims
West Virginia	Arkansas
	California

In three states the formula is altered if there is an offer of work that the individual can perform.

Wage-Loss Approach (Column IX)

Wage-Loss Benefits		
Arizona	Massachusetts	Ohio
Connecticut	Michigan	Pennsylvania
Dist. of Col.	Mississippi	Rhode Island
Illinois	New Hampshire	Texas
Louisiana	New York	Virginia
Maine	North Carolina	

In 17 states benefits in some claims are based on the worker’s actual wage loss.

Worker Choice (Column X)

Worker Choice
Illinois
Louisiana
North Carolina

In three states the worker is offered a choice of how he or she would like to have PPD compensated. In Illinois and North Carolina the worker can choose between impairment benefits (or loss of earning capacity benefits) and a form of wage-loss benefits. In Louisiana this is limited to workers who have an injury to a scheduled body part and a reduced earning capacity.

Some Things to Keep in Mind

This discussion may lead readers to make comparisons among the states but I urge caution in this regard. There are a few things that you should keep in mind when examining these systems of PPD benefits and especially when making comparisons among them.

Relationship to Temporary Benefits

	TTD Weeks	PPD Award	Adjustment	PPD Paid	Total Weeks
State A	20	50		50	70
State B	20	50	-20	30	50

In some states permanent partial benefits are paid in addition to temporary benefits. Thus in State A if a worker received 20 weeks of temporary total benefits and a permanent partial award of 50 weeks of benefits, he or she would receive a total of 70 weeks of benefits.

In other states the weeks of temporary total benefits are deducted from the permanent partial award. Accordingly, in State B the worker above would have the 20 weeks of temporary benefits deducted from the 50 weeks of permanent partial benefits resulting in only 30 weeks of permanent partial benefits and a total payment for only 50 weeks.

A few states use a formula and deduct only part of the period of temporary total benefits from the permanent partial award.

Variations in Whole Person Value

There are substantial variations among the states in the value set for a whole person. There is no clear explanation for this. In many cases it is simply historical. In comparing states, one must keep in mind that this is just one variable in the determination of the total amount of benefits a worker receives. One cannot assume that a state with a higher whole person value necessarily pays more in benefits. The way in which ratings are calculated and the maximum benefit level may offset a low or high value placed on a whole person.

Variation in Ratings

Ratings are not consistent across states, even among states that use the *AMA Guides*. A worker that receives a 25 percent rating in one state will not necessarily receive the same rating in another state.

Variation in Maximum Weekly Benefits

There is also considerable variation in the maximum weekly benefits paid in the various states.

Wage-Loss Approach is Less Efficient

The wage-loss approach necessarily requires that cases be kept open for a long period of time and evaluated retrospectively on a continual basis. This is often thought to be a less efficient approach.

Impairment and Loss of Earning Capacity Approaches Are More Efficient

In an impairment or loss-of-earning capacity approaches, at one point in time a prospective assessment is made of the extent of the worker's loss. This eliminates the need to keep the case open and continually re-evaluate the situation. For this reason, these systems are often considered more efficient.

Impairment as a Proxy for Wage Loss

Some states that use an impairment system have made a clear decision to operationally base benefits strictly upon the degree of impairment. In states that use the loss of earning capacity operational approach, the impairment rating is combined with other factors to determine the rating. It may be that both of these operational approaches are using the rating as a "proxy" for actual wage loss. In other words, they are using impairment and other factors as a way to predict actual wage loss in a one-time, more efficient approach.

Impairment and Return to Work

In most impairment or loss of earning capacity systems, the benefits are paid even if the individual has returned to work. This can be justified in two ways. One, the payment is intended to compensate only for impairment or loss of earning capacity, or two, actual wage loss is the assumed purpose of the PPD benefits,; but for the sake of efficiency we have made a one-time judgment that we stick with regardless of subsequent events.

Wage-loss Settlements

Most states that have a wage-loss system resolve a large percentage of their claims through lump sum settlements. These settlements often resemble the payments made as compromise and agreement settlements in impairment or loss of earning capacity states.

Which is Best?

I am often asked which approach is best, impairment, wage loss, loss of earning capacity, or some combination? I don't believe there is any clear answer to this question. I think it depends more on how the system is implemented than which approach to PPD benefits is used.

Endnotes

1. Information is available at <http://www.lir.msu.edu/wcc/>.
2. The final volume in the series was U.S. Department of Labor (2006).

References

- Barth, Peter S., and Michael Niss. 1999. *Permanent Partial Disability Benefits: Interstate Differences*. Cambridge, MA: Workers Compensation Research Institute.
- Berkowitz, Monroe, and John F. Burton Jr. 1987. *Permanent Disability Benefits In Workers' Compensation*. Kalamazoo, MI.: W.E. Upjohn Institute for Employment Research.
- Burton, John F. Jr. 2005. "Permanent Partial Disability Benefits", in Karen Roberts, John F. Burton, Jr., and Matthew M. Bodah, eds. *Workplace Injuries and Diseases: Prevention and Compensation: Essays in Honor of Terry Thomason*. Kalamazoo, MI.: W.E. Upjohn Institute for Employment Research.
- Burton, John F. Jr. 2008a. "Workers' Compensation Cash Benefits: Part One: The Building Blocks." *Workers' Compensation Policy Review* 8, No. 2 (March/April): 15-28.
- Burton, John F. Jr. 2008b. "Workers' Compensation Cash Benefits: Part Two: Cash Benefit Systems and Criteria for Evaluation." *Workers' Compensation Policy Review* 8, No. 4 (July-August):
- U.S. Department of Labor. 2006. *State Workers' Compensation Laws*, Washington, DC: U.S. Department of Labor, Employment Standards Administration, Office of Workers' Compensation Programs.

About the Author

Ed Welch retired in July 2008 from the School of Labor and Industrial Relations at Michigan State University, where he was on the faculty since 1991 and where he served as Director of the Workers' Compensation Center since 1997. He developed a Workers' Compensation Certification Program that since 1999 has provided week-long educational programs to over 2,000 workers' compensation professionals from throughout the U.S. From 1991 to 1999 he was the editor of the newsletter *On Workers' Compensation*. He was the Director of the Michigan Bureau of Workers' Disability Compensation from 1985 through 1990. Prior to that, he was a claimants' attorney in Muskegon and Battle Creek, Michigan and a high school teacher before going to law school.

Ed has written *Employers' Guide to Workers' Compensation*, an analysis of the legal and practical aspects of workers' compensation, published by the Bureau of National Affairs. He has also written several editions of *Workers' Compensation in Michigan: Law and Practice*. This book has become the standard legal treatise on workers' compensation in Michigan. It is, however, not written in a legalistic style, and consequently, anyone familiar with workers' compensation can read and understand it. He has edited *Workers' Compensation Strategies for Lowering Costs and Reducing Workers' Suffering* and published many articles related to workers' compensation. He is known for his ability to explain the complex aspects of workers' compensation in a simple and entertaining manner, as is evident in the article in this issue of the *Workers' Compensation Policy Review*.

Ed has a Bachelor's Degree in English, a Master's Degree in Guidance and Counseling, and a Law Degree, all from the University of Michigan. He was elected a charter member for workers' compensation of the National Academy of Social Insurance and was a member of the National Academy's Steering Committee for Workers' Compensation. He was the Vice President of the International Association of Industrial Accident Boards and Commissions. He served as the secretary to a Labor/Management Discussion Group on Workers' Compensation, which was co-chaired by the National Association of Manufacturers and the AFL-CIO. He served as the neutral co-chair of the Workers' Compensation Committee of the American Bar Association's Labor and Employment Law Section. He served as a member of the Board of Directors of the Institute for Work and Health, a research organization in Toronto, Ontario.

In 1990, he received the outstanding achievement award in workers' compensation, from the National Association of Manufacturers, the Alliance of American Insurers, and the American Insurance Association. (Not bad for a former claimants' attorney.)

I have known Ed for at least 30 years, beginning when we were regular attendees at the National Symposium on Workers' Compensation. We then served as Co-Directors of the National Symposium from 1991 to 2001. In 2008, we organized a special version of the Workers' Compensation Certification Program that provided both national and New Jersey perspectives on workers' compensation. We have remained close friends through these decades—in part because of our devotion to University of Michigan sports. Go Blue. (Except, of course, when Michigan plays Rutgers in the Rose Bowl, which could happen any century now.)

This issue is dedicated to the outstanding career of Ed. Thanks for all you have done for workers' compensation, and best wishes to you and Rosemary during retirement.

John Burton

A Book of Possible Interest to Subscribers

Employment Law: Cases and Materials: Fourth Edition has recently been published by LexisNexis. The volume, written by Steven L. Willborn, Steward J. Schwab, John F. Burton, Jr., and Gillian L. L. Lester, is widely used in courses in law schools and graduate programs in employment relations, and should be valuable for practicing attorneys and others interested in an overview of employment law. John Burton was the lead author on Part VIII of the book, which contains these headings:

Part VIII. Workplace Injuries and Diseases

Chapter 21. The Prestatutory Approaches

- A. The Labor Market
- B. Tort Suits

Chapter 22. Workers' Compensation

- A. The Origins of Workers' Compensation
- B. An Overview of Current Workers' Compensation Programs
- C. The Exclusivity of Workers' Compensation
- D. Which Injuries are Compensable?
- E. Which Diseases are Compensable?
- F. Injuries and Diseases for Which Compensability is Problematic
- G. Cash Benefits
- H. Medical and Rehabilitation Benefits

Chapter 23. The Occupational Safety and Health Act

- A. An Overview of the Act
- B. Substantive Criteria for OSHA Standards
- C. Legal Challenges to Permanent Standards
- D. The General Duty Clause
- E. Enforcement
- F. Employee Rights and Responsibilities
- G. Federal Versus State Authority for Workplace Safety and Health

Chapter 24. Rethinking the Approaches to Workplace Injuries and Diseases

- A. The Labor Market
- B. Tort Suits
- C. Workers' Compensation
- D. The Occupational Safety and Health Act

Employment Law: Cases and Materials: Fourth Edition. 1167 Pages plus Table of Cases and Index. \$94.00 hardcover. ISBN 0-8205-7089-3. Published 2007.

Employment Law: Selected Federal and State Statutes. 2007 Edition. 482 Pages. \$24.00 paperback. ISBN 0-8205-7091-5.

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