

# Workers' Compensation Benefits

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Information for Injured Employees from the Division of Workers' Compensation

## What are Workers' Compensation benefits?

[Tex. Labor Code §§408.081 - 408.187]

There are four types of workers' compensation benefits:

**Income benefits** replace a portion of any wages you lose because of a work-related injury or illness.

**Medical benefits** pay for necessary medical care to treat your work-related injury or illness.

**Burial benefits** pay for some of the deceased employee's funeral expenses to the person who paid the funeral expenses.

**Death benefits** pay a portion of lost family income for family members of employees who die because of a work-related injury or illness. Death benefits are also payable to employees' parents when there are no surviving eligible dependent family members.



Payment of income or death benefits can be made to the beneficiary by:

- (1) check, or
- (2) electronic funds transfer (EFT).

To be eligible for electronic funds transfer, you must be expected to receive benefits for at least eight (8) weeks. To receive payment by electronic funds transfer, you or your beneficiary must make the request in writing to the insurance carrier and provide:

- the name of the financial institution;
- the type of account (checking or savings);
- the routing/transit number; and
- the account number you want benefits electronically transferred to.

## Definitions

The following terms are defined:

**Average Weekly Wage (AWW)** is the average amount of weekly wages you earned during the 13 weeks immediately before your work-related injury or illness occurred. Income and death benefit payments are based on your average weekly wage.

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**Claim Employer** is an employer with whom the injured employee filed a claim for workers' compensation benefits and for whom the injured employee was working at the time of the on-the-job injury.

**Disability** occurs when a work-related injury or illness causes you to lose the ability to earn your weekly wages. Disability refers to your ability to earn an income, not to a physical handicap.

**Impairment Rating** is the percentage of permanent physical damage to your body that resulted from a work-related injury or illness.

**Maximum Medical Improvement (MMI)** is the earlier of:

- the point in time when your work-related injury or illness has improved as much as it is going to improve; *or*
- 104 weeks from the date you became eligible to receive temporary income benefits.

**Maximum Weekly Income Benefit** may not exceed 100 percent of the state average weekly wage rounded to the nearest whole dollar. The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) will compute the maximum weekly income benefit for October 1 through September 30 of each year no later than October 1<sup>st</sup> of each year.

**Minimum Weekly Income Benefit** is 15 percent of the state average weekly wage rounded to the nearest whole dollar. The TDI-DWC will compute the minimum weekly income benefit for October 1 through September 30 of each year no later than October 1<sup>st</sup> of each year.

**Multiple Employment** means an employee who has more than one employer.

**Non-Claim Employer** is an employer, other than the claim employer, by whom the employee was employed at the time of the on-the-job injury.

**Non-pecuniary Wages** are wages in a form other than money (i.e., health insurance premiums; vehicle; clothing; or rent/housing).

For further assistance, call

1-800-252-7031

or visit

[www.tdi.state.tx.us](http://www.tdi.state.tx.us)

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**Pecuniary Wages** are wages in the form of money (i.e., salary; commissions; and bonuses).

## **Medical Benefits**

[Tex. Labor Code §408.021, Tex. Admin. Code §126.9]

**Medical benefits** pay for necessary medical care to treat your work-related injury or illness. Your employer's workers' compensation insurance company pays medical benefits directly to the health care provider who provides your medical care.

Medical benefits are paid only for the treatment of your work-related injury or illness. The insurance carrier does not pay for the treatment of other injuries or illnesses, even if the treatment was provided at the same time you received treatment for your work-related injury. Your health care provider may not bill you for treatment related to a work-related injury or illness, but may bill you for treatment of other injuries or illnesses.

## **When Medical Benefits Begin**

You may receive necessary medical treatment immediately after the work-related injury or illness. If your employer has elected to contract with a certified workers' compensation health care network (network), you are required to obtain medical treatment through the network if you live within the network's service area. You must select a doctor from a list of network providers, which you can obtain from your employer or insurance carrier.

If you are not covered by a network, you have the right to an initial choice of doctor, with the exception of doctors previously removed or denied admission to the TDI-DWC former Approved Doctors List. A list of doctors restricted from providing workers' compensation health care can be found on the TDI website at <http://www.tdi.state.tx.us/wc/hcprovider/doctordata.html>. If you need assistance locating a doctor, you may contact the Office of Injured Employee Counsel (OIEC) at 1-866-EZE-OIEC (1-866-393-6432) or TDI-DWC at 1-800-252-7031.

After you have chosen a doctor, if you or your doctor move or the doctor becomes unavailable to provide medical treatment, you will be allowed to choose another doctor. If you are covered by a network, any request to change treating doctors must be processed through your employer's network. If you are not covered by a network, any request to change doctors must be approved by the local TDI-DWC office handling your claim. You will need to complete

the *Employee's Request to Change Treating Doctors* (DWC Form-53) and file it with the local TDI-DWC office. If your request to change treating doctors is approved, TDI-DWC will notify all parties that your medical treatment is going to be managed by a different doctor.

All medical treatment for a work-related injury or illness must be recommended by your treating doctor except in an emergency. If your work-related injury or illness poses a risk to your life and your doctor is unavailable to treat you, you may seek the help of another doctor. Your treating doctor may refer you for medical treatment to another doctor, without permission or approval from the TDI-DWC or the insurance carrier.

Although a doctor may not charge you for treatment of a work-related injury or illness, the doctor may send you a copy of your bill marked as "information only" upon your request.

The doctor cannot try to contact you for payment using any of the following methods:

- send you a bill when you did not request an information copy;
- have a collection agency send you a letter or contact you;
- file a lawsuit in court against you; or
- collect, charge or require you to pay a co-payment when filing a claim with private health insurance.

A doctor may only request payment from you when the work-related injury or illness has been reviewed through dispute resolution hearings before the TDI-DWC or the Courts and has been finally determined to be an injury or illness that is not work-related.

## **Return to Work**

It is beneficial to all parties involved that you return to work as quickly as possible. Injured employees that continue to work as part of their recovery/treatment plan, in medically appropriate productive work, heal faster, and may retain their job skills.

Injured employees who remain off work longer than is medically necessary are more likely to:

- develop complications that will lengthen their recovery;
- become depressed;
- lose physical conditioning; and/or
- focus on their pain and injury.

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Many employers offer return-to-work opportunities. Return to work is set up by an employer to help injured employees go back to work more quickly and safely while they heal. This can be done by either making changes to their regular job or placing them in a temporary or alternate work assignment that fits the restrictions as determined by your treating doctor. You should contact your employer to check on the availability of return-to-work opportunities.

## Income Benefits

[Tex. Labor Code §§408.081- 408.162, Tex. Admin. Code §131.4]

**Income benefits** replace a portion of wages you lose because of a work-related injury or illness. There are four types of income benefits:

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

Income benefits may not exceed the maximum weekly amount set by state law. Temporary income benefits, impairment income benefits, and lifetime income benefits are also subject to a minimum amount set by state law. Maximum and minimum benefit amounts are based on the state average weekly wage.

You must report any income (other than income benefits you may be receiving) to the TDI-DWC and the insurance carrier so an adjustment can be made to your income benefit payments. You may be fined and/or charged with fraud if you receive temporary income benefits or supplemental income benefits while also receiving wages from an employer without informing the TDI-DWC and the insurance carrier.

Income benefits are no longer payable following the death of an injured employee receiving income benefits. The injured employee's beneficiaries may be eligible to apply and receive death benefits if the injured employee's death was due to the work-related injury or illness.

## **Calculation of Average Weekly Wage (AWW)**

Your income benefits are determined based on the calculation of your average weekly wage (AWW). A full-time employee is one who regularly works at least 30 hours per week. To calculate your average weekly wage, (**Note:** calculation is different for school district employees), add

your earnings for the 13 weeks prior to the injury including any overtime or other special pay and any non-pecuniary wages the employer does not continue after your injury and divide by 13. If you did not work for your employer for 13 weeks before the work-related injury or illness occurred, your average weekly wage may be calculated using the earnings of an employee with the same or similar job.

### AWW Calculation – Full time employee

13 weeks wage at \$824.23 =	\$10,714.99
Health Insurance Premium (discontinued \$82 per week x 13) =	<u>\$ 1,066.00</u>
Average weekly wage =	\$11,780.99 ÷ 13 = \$906.23

## Death and Burial Benefits

[Tex. Labor Code §§408.181- 408.187, Tex. Admin. Code §§132.1-132.17]

**Death benefits** pay a portion of lost family income for dependent family members of employees who die because of a work-related injury or illness. Death benefits are also payable to employees' parents when there are no surviving eligible dependent family members.

**Burial benefits** pay for some of the deceased employee's funeral expenses to the person who paid the funeral expenses.

## **When Death Benefits Begin and End**

A beneficiary becomes eligible for death benefits the day after the employee's death. Death benefits end depending on the beneficiary's qualifications.

## **Death benefits are paid if there is a:**

- surviving spouse;
- dependent child;
- dependent grandchild; or
- other eligible dependent family member; or
- parents, when there are no surviving eligible dependent family members

of an employee killed on the job. Except for the spouse and minor children, other family members must have been at least 20 percent dependent on the deceased employee's income to receive death benefits as a dependent survivor.