

CHAPTER 387

AN ACT concerning workers' compensation and amending R.S.34:15-12.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S.34:15-12 is amended to read as follows:

Schedule of payments.

34:15-12. Following is a schedule of compensation:

a. For injury producing temporary disability, 70% of the worker's weekly wages received at the time of the injury, subject to a maximum compensation of 75% of the average weekly wages earned by all employees covered by the "unemployment compensation law" (R.S.43:21-1 et seq.) and a minimum of 20% of such average weekly wages a week. This compensation shall be paid during the period of such disability, not however, beyond 400 weeks. The amount of the maximum compensation shall be computed, determined, rounded out to the nearest dollar, and promulgated by the Commissioner of Labor and Workforce Development on or before September 1 in each year based on said average weekly wages as of the calendar year preceding, and shall be effective as to injuries occurring in the calendar year following such promulgation. In any year in which the maximum benefit rate based upon said computation would not be increased or decreased beyond \$1.00 in amount, the rate promulgated theretofore shall continue.

b. For disability total in character and permanent in quality, 70% of the weekly wages received at the time of injury, subject to a maximum and a minimum compensation as stated in subsection a. of this section. This compensation shall be paid for a period of 450 weeks, at which time compensation payments shall cease unless the employee shall have submitted to such physical or educational rehabilitation as may have been ordered by the rehabilitation commission, and can show that because of such disability it is impossible for the employee to obtain wages or earnings equal to those earned at the time of the accident, in which case further weekly payments shall be made during the period of such disability, the amount thereof to be the previous weekly compensation payment diminished by that portion thereof that the wage, or earnings, the employee is then able to earn, bears to the wages received at the time of the accident. If the employee's wages or earnings equal or exceed wages received at the time of the accident, then the compensation rate shall be reduced to \$5.00. In calculating compensation for this extension beyond 450 weeks the above minimum provision shall not apply. This extension of compensation payments beyond 450 weeks shall be subject to such periodic reconsiderations and extensions as the case may require, and shall apply only to disability total in character and permanent in quality, and shall not apply to any accident occurring prior to July 4, 1923.

c. For disability partial in character and permanent in quality, weekly compensation shall be paid based upon 70% of the weekly wages received at the time of the injury, subject to a maximum compensation per week of 75% of the Statewide average weekly wages (SAWW) earned by all employees covered by the "unemployment compensation law" (R.S.43:21-1 et seq.) and paid in accordance with the following "Disability Wage and Compensation Schedule" and a minimum of \$35.00 per week. The amount of awards for up to and including 180 weeks shall remain at the amounts listed in the "Disability Wage and Compensation Schedule" until January 1, 1982. On January 1, 1982, the dollar amounts listed for the first 180 weeks in the "Disability Wage and Compensation Schedule" shall be replaced by the following percentages of the Statewide average weekly wage:

\$47-20% of the Statewide

\$61-26% SAWW

average weekly	\$63-27% SAWW
wages, hereinafter	\$66-28% SAWW
referred to as "SAWW"	\$68-29% SAWW
\$49-21% SAWW	\$70-30% SAWW
\$51-22% SAWW	\$73-31% SAWW
\$54-23% SAWW	\$75-32% SAWW
\$56-24% SAWW	\$77-33% SAWW
\$59-25% SAWW	\$80-34% SAWW
	\$82-35% SAWW

In the event that the 20% limitation for attorney fees as set forth in R.S.34:15-64 is reduced to a maximum of 10% before January 1, 1982, the above schedule shall be effective within 60 days of such reduction in attorney fees. All amounts in the "Disability Wage and Compensation Schedule" shall be rounded out to the nearest dollar. When a claim petition alleges more than one disability, the number of weeks in the award shall be determined and entered separately for each such disability and the number of weeks for each disability shall not be cumulative when entering an award.

DISABILITY WAGE AND COMPENSATION SCHEDULE

Weeks of Allowable Compensation	Maximum Weekly Compensation Applicable
first 90 weeks.	\$47
91 through 96 weeks	\$49
97 through 102 weeks	\$49 for the first 96 weeks then \$51 for each remaining week
103 through 108 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for each remaining week
109-114 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for each remaining week
115-120 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for each remaining week
121-126 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for each remaining week
127-132 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks

133-138 weeks	then \$61 for the next 6 weeks then \$63 for each remaining week \$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for the next 6 weeks then \$63 for the next 6 weeks then \$66 for each remaining week
139-144 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for the next 6 weeks then \$63 for the next 6 weeks then \$66 for the next 6 weeks then \$68 for each remaining week
145-150 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for the next 6 weeks then \$63 for the next 6 weeks then \$66 for the next 6 weeks then \$68 for the next 6 weeks then \$70 for each remaining week
151-156 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for the next 6 weeks then \$63 for the next 6 weeks then \$66 for the next 6 weeks then \$68 for the next 6 weeks then \$70 for the next 6 weeks then \$73 for each remaining week
157-162 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for the next 6 weeks then \$63 for the next 6 weeks then \$66 for the next 6 weeks

163-168 weeks	then \$68 for the next 6 weeks then \$70 for the next 6 weeks then \$73 for the next 6 weeks then \$75 for each remaining week
169-174 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for the next 6 weeks then \$63 for the next 6 weeks then \$66 for the next 6 weeks then \$68 for the next 6 weeks then \$70 for the next 6 weeks then \$73 for the next 6 weeks then \$75 for the next 6 weeks then \$77 for each remaining week
175-180 weeks	\$49 for the first 96 weeks then \$51 for the next 6 weeks then \$54 for the next 6 weeks then \$56 for the next 6 weeks then \$59 for the next 6 weeks then \$61 for the next 6 weeks then \$63 for the next 6 weeks then \$66 for the next 6 weeks then \$68 for the next 6 weeks then \$70 for the next 6 weeks then \$73 for the next 6 weeks then \$75 for the next 6 weeks then \$77 for the next 6 weeks then \$80 for the next 6 weeks
181-210 weeks	then \$80 for each remaining week 35% of the Statewide average weekly wages, hereinafter referred

	to as "SAWW"
211-240 weeks	40% of SAWW
241-270 weeks	45% of SAWW
271-300 weeks	50% of SAWW
301-330 weeks	55% of SAWW
331-360 weeks	60% of SAWW
361-390 weeks	65% of SAWW
391-420 weeks	70% of SAWW
421-600 weeks	75% of SAWW

Said compensation shall be expressly subject to the provisions of R.S.34:15-37, and shall be paid to the employee for the period named in the following schedule (paragraphs 1 to 23 inclusive):

Lost Member	Number of Weeks' Compensation
1. Thumb	80
2. First finger (commonly called index finger)	60
3. Second finger	50
4. Third finger.	40
5. Fourth finger (commonly called little finger).	30
6. Great toe	40
7. Toe, other than a great toe	15
8. Hand, or thumb and first and second fingers (on one hand) or four fingers (on one hand)	260

except that, in the event that the loss of function of the hand is determined to be equal to or greater than a 25% loss of use of the hand, the award shall be calculated based on 300 weeks of compensation.

9. Arm	330
10. Foot.	250

except that, in the event that the loss of function of the foot is determined to be equal to or greater than a 25% loss of use of the foot, the award shall be calculated based on 285weeks of compensation.

11. Leg	315
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12. The loss of the first phalange of the thumb or of any finger shall be considered to be equal to the loss of 1/2 of such thumb or finger, and the compensation shall be for 1/2 of the periods of time above specified. The loss of any portion of the thumb or any finger between the terminal joint and the end thereof shall be compensated for a like proportion of the period of time prescribed for the loss of the first phalange of such member.

13. The loss of the first phalange and any portion of the second shall be considered as the loss of the entire finger or thumb, but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

14. The loss of the first phalange of any toe shall be considered to be equal to the loss of 1/2 of such toe, and compensation shall be for 1/2 of the period of time above specified.

15. The loss of the first phalange and any portion of the second shall be considered as the loss of the entire toe.

16. For the loss of vision of an eye, 200 weeks.

17. For the enucleation of an eye, 25 weeks, in addition to such compensation, if any, as may be allowable under paragraph 16 of this subsection.

18. For the loss of a natural tooth, four weeks for each tooth lost.

19. For the total loss of hearing in one ear, 60 weeks. For the total loss of hearing in both ears by one accident, 200 weeks.

20. The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two thereof as the result of any one accident, shall constitute total and permanent disability to be compensated according to the provisions of subsection b. of this section.

21. Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand and amputation at the elbow shall be considered equivalent to the loss of the arm. Amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot, and amputation at the knee shall be considered equivalent to the loss of the leg. An additional amount of 30% of the amputation award shall be added to that award to compute the total award made in amputations of body members, provided, however, that this additional amount shall not be subject to legal fees. An award of permanent total disability shall not bar an additional amount from being added to an amputation award. The amount of the additional award shall not be subject to subrogation pursuant to R.S.34:15-40, as it shall not be considered a payment of compensation except for rating purposes. 22. In all lesser or other cases involving permanent loss, or where the usefulness of a member of any physical function is permanently impaired, the duration of compensation shall bear such relation to the specific periods of time stated in the above schedule as the disabilities bear to those produced by the injuries named in the schedule. In cases in which the disability is determined as a percentage of total and permanent disability, the duration of the compensation shall be a corresponding portion of 600 weeks. Should the employer and employee be unable to agree upon the amount of compensation to be paid in cases not covered by the schedule, either party may appeal to the Division of Workers' Compensation for a settlement of the controversy.

23. Where there is a traumatic hernia, compensation will be allowed if notice thereof is given by the claimant to the employer within 48 hours after the occurrence of the hernia but any Sunday, Saturday or holiday shall be excluded from this 48-hour period.

d. If previous loss of function to the body, head, a member or an organ is established by competent evidence, and subsequently an injury or occupational disease arising out of and in the course of an employment occurs to that part of the body, head, member or organ, where there was a previous loss of function, then the employer or the employer's insurance carrier at the time of the subsequent injury or occupational disease shall not be liable for any such loss and credit shall be given the employer or the employer's insurance carrier for the previous loss of function and the burden of proof in such matters shall rest on the employer.

e. In case of the death of the person from any cause other than the accident or occupational disease, during the period of payments for permanent injury, the remaining payments shall be paid to such of the deceased person's dependents as are included in the provisions of R.S.34:15-13 or, if no dependents, the remaining amount due, but not exceeding \$5,000, shall be paid in a lump sum to the proper person for burial and funeral expenses; but no compensation shall be due any other person than the injured employee on account of compensation being paid in excess of 450 weeks on account of disability total in character and permanent in quality as provided by subsection b. of this section.

2. This act shall take effect immediately.

Approved January 21, 2020.