Section 2
Indemnity Benefits

Average Weekly Wage

Minnesota Statutes §176.011 governs the calculation of the employee's average gross weekly wage. The employee's average weekly wage on the date of injury controls the rate(s) at which benefits payable on a claim. As such, it does not include any wage adjustments the employee might receive in the future. However, if after the injury the employee receives a wage adjustment that is retroactive to prior to the date of injury, that adjustment is included in determining the average weekly wage.

Full Time Regularly Scheduled Employees

The average weekly wage for full time regularly scheduled employees is arrived at by multiplying the number of hours per week the employee was hired to work by the employee's hourly wage. For employees who are paid on a monthly or yearly basis, simply convert the monthly or yearly salary into a weekly wage.

Other than Regularly Scheduled Employees

For part time or irregularly scheduled employees, compute the average weekly wage based on the employee's earnings over the last 26 weeks prior to the injury. Include in the earnings any vacation or holiday pay the employee received during that period. (Generally this does not include lump sum payouts of previously accrued vacation.) Here are the steps to take:

1. **Compute the average daily wage.** Divide the total amount the employee earned (including vacation and holiday pay) in the last 26 weeks by the total number of days the employee actually worked (including days of paid vacation and holidays) during that time period.

2. **Compute the average number of days worked per week.** Divide the total number of days actually worked (including days of paid vacation and holidays) in the last 26 weeks by the number of weeks the employee actually worked (including weeks of paid vacation and holidays) during that time period.\

3. **Compute the average weekly wage.** Multiply the average daily wage by the average number of days worked per week.

For example, if an employee earns an average of $55.00 per day and works an average of two days per week, the average weekly wage is $110.00.

Generally when the injury occurs during the middle of a work week, it is either not included in these computations or counted as a partial week under step 2 above. Also, remember, when doing these calculations, only include the number of weeks in which the employee actually performed the duties of the job or weeks of paid vacation or holidays.

For example, if an employee worked 20 of the prior 26 weeks, the total days worked are divided by 20 weeks not 26 weeks.

Piece Rate Employees

Employees that are paid on a piece rate have wages that can vary from hour to hour. If the employee also works part time or irregularly schedule hours, calculate the average weekly wage as described above. For full time regularly scheduled piece rate employees, first determine the average hourly wage by dividing the total wages earned in the 26 weeks prior to the injury (only including the weeks the employee actually performed the duties of the job or weeks of paid vacation or holidays) by the total number of hours worked (including hours of paid vacation and holidays). Then multiply the number of hours per week the employee was hired to work by that average hourly wage to arrive at the average weekly wage.

Overtime

If the employee works frequent or regular overtime throughout the year, the overtime earnings need to be included in the average weekly wage.

For example, an employee earns $300.00 per week and $100.00 per week in regular or frequent overtime. The average weekly wage is $400.00. Always review case law involving overtime to determine if it should be included in the average weekly wage on a specific claim.

Multiple Employers

If an employee works for more than one employer on the date of injury, wages from all employers must be included in determining the average weekly wage.

Additions to the Average Weekly Wage

Earnings in addition to normal salary, such as declared tips, the value of room and board, etc., may be considered as part of the employee's wages, and if so, should be calculated as part of the average weekly wage. Bonuses are generally included in the average weekly wage if they are tied directly to the employee's performance. When the bonus is dependent almost entirely on the performance of the company as a whole, the bonus is generally not included. Where the bonus is not paid on weekly basis, pro-rate the bonus as needed to convert it into a weekly amount.

Employer contributions to employee insurance policies and pension funds are generally not included in the average weekly wage as the employee does not have direct control over those funds and the payment of those contributions is not taxable to the employee.

Self-Employment

Because of the nature of their employment, the calculation of the average weekly wage can be very difficult for the employees that are self-employed. Thus the courts have used a more flexible approach in determining the average weekly wage.

What the employee is paid in salary or the lack of any actual salary may not be indicative of the average weekly wage. Factors involving earnings by the business including the reinvestment of earnings back into the business and expenses for depreciation of equipment may affect the calculations. The use of income tax data may provide vital information in determining the average weekly wage.

Minors and Apprentices

For employees that are minors or apprentices who have injuries which result in permanent total disability being payable, there is a minimum imputed average weekly wage equal to the amount needed to entitle the employee to the maximum compensation rate on the date of injury. This imputed average weekly wage would not apply in cases where the employee's actual average weekly wage already entitles the employee to the maximum compensation rate on the date of injury.

The same requirement applies to apprentices that have injuries resulting in a permanent partial disability and to minors with a date of injury prior to October 1, 2002 that have injuries resulting in a permanent partial disability.

Seasonal Employees

For employees whose hours are affected by seasonal conditions, such as those in the mining, construction, or other industries, the average weekly wage is never less than five times the daily wage as calculated above.

Volunteers

While many voluntary uncompensated employees are not covered by the workers' compensations laws, for those that are covered, their average weekly wage is based the usual wage for paid employees performing similar services. See Minnesota Statutes §176.011, Subd. 9 for more information.

Temporary Total Disability (TTD)

TTD benefits are paid during the period an employee is totally unable to work due to the effects of the work-related injury, subject to the waiting period, if applicable, as described in Section 1. The weekly compensation rate is generally two-thirds of an employee's average weekly wage at the time of injury, subject to statutory minimums and maximums. TTD benefits cannot be paid concurrently with permanent partial disability (PPD). PPD is discussed in more detail later in this section.

Benefits are typically paid based on a five-day work week with each day considered to be .2 weeks of compensation. Occasionally an employee may work a different number of days per week, such as four, six, or seven. In these situations, each day of TTD is computed by multiplying the weekly TTD rate by the fraction (or decimal equivalent) each day of work represents.

For example, if an employee worked four days per week, calculate the TTD rate at .25 weeks of compensation for each day owed. The six and seven day per week workers would be entitled to 1/6 or 1/7 of a week of compensation, respectively, for each day of TTD.

For injuries occurring from October 1, 1995 through September 30, 2000, a maximum of 104 weeks of TTD benefits are payable unless retraining is approved. All periods of TTD for that date of injury are counted towards the 104 week limitation, except benefits paid during an approved retraining plan.

For injuries occurring from October 1, 2000 through September 30, 2008, a maximum of 104 weeks of TTD benefits are payable unless retraining is approved. All periods of TTD for that date of injury are counted towards the 104 week limitation, except benefits paid during an approved retraining plan. The insurer must send written notification to the employee of the 104 week limitation on TTD once they have paid 52 weeks of TTD. A copy of the notice must be filed with the department.

For injuries occurring on or after October 1, 2008, a maximum of 130 weeks of TTD benefits are payable unless retraining is approved. All periods of TTD for that date of injury are counted towards the 130 week limitation, except benefits paid during an approved retraining plan. The insurer must send written notification to the employee of the 130 week limitation on TTD once they have paid 52 weeks of TTD. A copy of the notice must be filed with the department.

Statutory Language

Below is the statutory language dealing with the maximum and minimum compensation rates for TTD for injuries occurring from October 1, 1995, through September 30, 2000.

176.101 Compensation Schedule. (1995)

Subd. 1. **Temporary total disability.**

(a) For injury producing temporary total disability, the compensation is 66-2/3 percent of the weekly wage at the time of injury.

(b) (1) Commencing on October 1, 1995, the maximum weekly compensation payable is $615 per week.

(2) The workers' compensation advisory council may consider adjustment increases and make recommendations to the legislature.

(c) The minimum weekly compensation payable is $104 per week or the employee's actual weekly wage, whichever is less.

Below is the statutory language dealing with the maximum and minimum compensation rates for TTD for injuries occurring from October 1, 2000, through September 30, 2008.

176.101 Compensation Schedule. (2000)

Subd. 1. **Temporary total disability.**

(a) For injury producing temporary total disability, the compensation is 66-2/3 percent of the weekly wage at the time of injury.

(b) (1) Commencing on October 1, 2000, the maximum weekly compensation payable is $750 per week.

(2) The workers' compensation advisory council may consider adjustment increases and make recommendations to the legislature.

(c) The minimum weekly compensation payable is $130 per week or the employee's actual weekly wage, whichever is less.

Below is the statutory language dealing with the maximum and minimum compensation rates for TTD for injuries occurring from October 1, 2008, through September 30, 2013.

176.101 Compensation Schedule. (2008)

Subd. 1. **Temporary total disability.**

(a) For injury producing temporary total disability, the compensation is 66-2/3 percent of the weekly wage at the time of injury.

(b) (1) Commencing on October 1, 2008, the maximum weekly compensation payable is $850 per week.

(2) The workers' compensation advisory council may consider adjustment increases and make recommendations to the legislature.

(c) The minimum weekly compensation payable is $130 per week or the employee's actual weekly wage, whichever is less.

Below is the statutory language dealing with the maximum and minimum compensation rates for TTD for injuries occurring on or after October 1, 2013.

176.101 Compensation Schedule. (2013)

Subd. 1. **Temporary total disability.**

(a) For injury producing temporary total disability, the compensation is 66-2/3 percent of the weekly wage at the time of injury.

(b) (1) Commencing on October 1, 2013, and each October 1 thereafter, the maximum weekly compensation payable is 102 percent of the statewide average weekly wage for the period ending December 31 of the preceding year.

(2) The workers' compensation advisory council may consider adjustment increases and make recommendations to the legislature.

(c) The minimum weekly compensation payable is $130 per week or the employee's actual weekly wage, whichever is less.

Calculation of the Rate

As stated earlier, the TTD rate is two-thirds of the average weekly wage the employee earned at the time of the injury, subject to maximums and minimums.

For example, for injuries occurring from October 1, 2018, through September 30, 2019, the maximum rate is $1,098.54 (102 percent of the 2017 statewide average weekly wage) and the minimum rate is $130.00 or the employee's actual average weekly wage, whichever is less. The following table shows how these maximum and minimum rates might affect the initial compensation rate that is payable.

Employee's Average Weekly Wage	Initial TTD Rate Paid
≥ $1,647.81	$1,098.54
> $195.00 and < $1,647.81	2/3rds of average weekly wage
≥ $130.00 and ≤ $195.000	$130.00
< $130.00	average weekly wage

For dates of injury occurring from October 1, 1995 through September 30, 2013, cost of living adjustments are made on the fourth anniversary of the injury. For dates of injury occurring on or after October 1, 2013, cost of living adjustments are made on the 3rd anniversary of the injury. (See Annual Adjustment of Benefits later in this section for more information.)

Note: An employee is only entitled to receive TTD if there is a total disability from all jobs. If an employee with multiple employers is only off work due to the injury from one job, TTD benefits are not payable. Instead, Temporary Partial Disability (TPD) would be payable. TPD is discussed in more detail later in this section.

Discontinuing TTD

Minnesota Statutes §176.101, Subd. 1 (effective for injuries occurring on or after October 1, 1995) outlines conditions for discontinuing TTD.

Providing that timely notice has been given to the employee (see Section 7 Forms), TTD may cease for many reasons including when any one of the following events occurs:

- The employee returns to appropriate work.
- The employee is released to return to work without any restrictions.
- The employee withdraws from the labor market for reasons other than the injury.
- The employee is released to return to work and fails to make a diligent job search for appropriate work.
- The employee refuses an offer of gainful employment that the employee is physically able to perform or an offer of work consistent with an approved rehabilitation plan.
- It is 90 days after the employee has received a report that they have reached maximum medical improvement or 90 days after the end of an approved retraining plan, whichever is later.
- 104 or 130 weeks of TTD have been paid (depending on date of injury), except in the case of retraining.

- Any other grounds to suspend or discontinue benefits as provided under Chapter 176 (e.g. when the employee retires for reasons other than the work injury, per Minnesota Statutes §176.101, Subd. 8).

Recommencing TTD

TTD may recommence for many reasons including when any one of the following events occurs:

- The employee is medically unable to continue working at the job due to the work injury and the maximum number of weeks of TTD has not yet been paid.

- The employee is laid off or terminated for reasons other than misconduct. The layoff or termination must occur before the 90th day after the employee has reached MMI and before the maximum number of weeks of TTD has been paid. For injuries occurring from October 1, 1995 through September 30, 2000, the layoff must occur within one year of returning to work. For injuries occurring on or after October 1, 2000, the layoff can occur any time after the employee returns to work.

- The employee, after failing to search for appropriate work, begins diligently searching for appropriate work before the 90th day after MMI and before the maximum number of weeks of TTD has been paid.

- The employee is enrolled in an approved retraining plan.

Temporary Total Disability – Exercise 2A

1. a) Calculate the average weekly wage and TTD rate of an employee who is injured while working 12 hours per week at a fast food restaurant earning $7.00 per hour.

   b) Calculate the average weekly wage and the TTD rate assuming the same employee has a full time job working 40 hours per week at $16.50 per hour in addition to the part time job at the fast food restaurant.

2. a) Calculate the average weekly wage and TTD rate of an employee who has been an assembler for six years earning $8.60 per hour, 40 hours per week. Assume that she worked overtime during two weeks in the past year prior to the injury, earning an additional $80.00 in each of those weeks.

   b) Calculate the average weekly wage and TTD rate, assuming the same employee was promoted to supervisor three weeks before the injury. Assume that she now works 40 hours per week, but she earns $10.00 per hour as a supervisor.

3. An employee worked two jobs at the time of the injury. The first job is full-time Monday through Friday, earning $8.00 per hour, 40 hours per week. The second job is part-time on Saturday and Sunday, working three hours each day at $7.00 per hour, plus $20.00 in declared tips each weekend. What is this employee's average weekly wage and TTD rate?

4. a) Calculate the TTD rate for an employee who quit her job as a chemical engineer earning $45,000.00 per year to take a job as a naturalist at a camp earning $80.00 per week at the time of the injury. She also gets room and board, estimated to be worth $70.00 per week.

   b) Assume that the injury occurs the first week of camp. This is before the last check is received from the chemical company and before any checks are paid by the camp. Does this change the TTD rate? If so, how and why?

Temporary Partial Disability (TPD)

TPD is a wage loss benefit payable to employees who are back to work, but earning less than their pre-injury average weekly wage. It is payable at two-thirds of the difference between what the employee earned at the time of the injury and the current earnings. The benefits are payable only if the employee is employed. Be careful not to confuse “not being employed” with “being employed, but on vacation.” If an employee who is collecting TPD takes one week of vacation, the employee is still employed and TPD should be paid for that week at an average weekly rate. TPD benefits can be paid concurrently with permanent partial disability (PPD). PPD is discussed in more detail later in this section.

Over the years, the laws may have included limitations on the duration of TPD benefits. It is important to remember that the date of injury controls, so limitations, if any, in effect on the date of the injury affects the length of payment of TPD.

For injuries occurring from October 1, 1992, through September 30, 2018, TPD is limited to 225 weeks of paid benefits or until 450 weeks after the date of injury, whichever occurs first. All periods of TPD for that date of injury are counted toward these limitations, except benefits paid during an approved retraining plan.

For injuries occurring on or after October 1, 2018, TPD is limited to 275 weeks of paid benefits or until 450 weeks after the date of injury, whichever occurs first. All periods of TPD for that date of injury are counted toward these limitations, except benefits paid during an approved retraining plan.

Statutory Language

Below is the statutory language dealing with temporary partial disability for injuries occurring from October 1, 1995, through September 30, 2018.

176.101 Compensation Schedule. (1995)

Subd. 2. **Temporary partial disability.**

(a) In all cases of temporary partial disability the compensation shall be 66-2/3 percent of the difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee’s partially disabled condition. This compensation shall be paid during the period of disability except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to the maximum rate for temporary total compensation.

(b) Temporary partial compensation may be paid only while the employee is employed, earning less than the employee’s weekly wage at the time of the injury, and the reduced wage the employee is able to earn in the employee’s partially disabled condition is due to the injury. Except as provided in section 176.102, subdivision 11, paragraph (b) and (c), temporary partial compensation may not be paid for more than 225 weeks, or after 450 weeks after the date of injury, whichever occurs first.

(c) Temporary partial compensation must be reduced to the extent that the wage the employee is able to earn in the employee’s partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 500 percent of the statewide average weekly wage.

Below is the statutory language dealing with temporary partial disability for injuries occurring on or after October 1, 2018.

176.101 Compensation Schedule. (2018)

Subd. 2. **Temporary partial disability.**

(a) In all cases of temporary partial disability the compensation shall be 66-2/3 percent of the difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition. This compensation shall be paid during the period of disability except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to the maximum rate for temporary total compensation.

(b) Temporary partial compensation may be paid only while the employee is employed, earning less than the employee's weekly wage at the time of the injury, and the reduced wage the employee is able to earn in the employee's partially disabled condition is due to the injury. Except as provided in section 176.102, subdivision 11, paragraph (b) and (c), temporary partial compensation may not be paid for more than 275 weeks, or after 450 weeks after the date of injury, whichever occurs first.

(c) Temporary partial compensation must be reduced to the extent that the wage the employee is able to earn in the employee's partially disabled condition plus the temporary partial disability payment otherwise payable under this subdivision exceeds 500 percent of the statewide average weekly wage.

Calculation of the Rate

As stated above, the TPD rate is two-thirds of the difference between the employee's average weekly wage at the time of the injury and the current earnings. The benefits are subject to the maximum compensation rate for TTD, but not the minimum. In rare situations, an employee's TPD rate would be reduced if their current wage plus their current TPD rate exceeds 500 percent of the statewide average weekly wage.

The current average weekly wage is subtracted from the average weekly wage at the time of the injury. This difference is then multiplied by two-thirds and any annual adjustments are made to the product.

For example, an employee earning $500.00 per week at the time of the injury is now earning $200.00 per week. The wage loss is $300.00 per week and the unadjusted TPD is two-thirds of that, or $200.00 per week. The $200.00 is multiplied by any annual adjustments that would apply.

For dates of injury occurring from October 1, 1995 through September 30, 2013, cost of living adjustments are made on the fourth anniversary of the injury. For dates of injury occurring on or after October 1, 2013, cost of living adjustments are made on the 3rd anniversary of the injury. (See Annual Adjustment of Benefits later in this section for more information.)

If the employee is earning an inconsistent amount of wages during the period for which TPD is due, the insurer may require wage verification before they make payment of TPD. Keep in mind that if the employee's wages are consistent for a period of time, the insurer should not require this information before making payment.

Benefits are due within 10 days of when the employee or employer sends wage verification to the insurer. See Minnesota Rules Part 5220.2540, Subp. 1 for more information.

Remember, calculation of TPD it is based on weekly wages, *not* hourly wages, and is done on a weekly basis, *not* per pay period or some other period of time.

Temporary Partial Disability – Exercise 2B

For all of the exercises, assume no annual adjustments are due:

1. Calculate the TPD due for an employee who earned $700.00 per week at the time of the injury and is currently earning $500.00 per week.

2. Calculate the TPD due for an employee who earned $500.00 per week, when the injury occurred, and is currently earning $200.00 per week.

3. Calculate the TPD due for an employee who earned $500.00 per week at the time of the injury and earned $550.00 the past week as a result of working overtime.

4. Calculate the TPD due for an employee who earned $800.00 per week at the time of the injury and is currently unemployed, due to a layoff from his present employment. Assume the employee has been served with a medical report stating that he reached MMI more than 90 days ago.

5. An employee has been collecting $200.00 TPD per week for the past 20 weeks. Please answer the following questions:

   a) Should the employee be required to send you proof of earnings before you issue each TPD check?

   b) If the employee takes one week of unpaid vacation, how much TPD is due for that week?

Permanent Total Disability (PTD)

PTD is payable to employees who are never able to return to gainful employment. The PTD rate is usually calculated using the same method as TTD and is subject to the same maximum rate as TTD but not the same minimum rate. In addition, if an employee was a part time worker, the compensation rate is computed based upon a normal work week for that occupation. See Minnesota Statutes 176.011, Subd. 18 for more information.

Statutory Language

176.101 Compensation Schedule. (1995)

Subd. 5. **Definition.** For purposes of subdivision 4, "permanent total disability" means only:

(1) the total and permanent loss of the sight of both eyes, the loss of both arms at the shoulder, the loss of both legs so close to the hips that no artificial members can be used, complete and permanent paralysis, total and permanent loss of mental faculties; or

(2) any other injury which totally and permanently incapacitates the employee from working at an occupation which brings the employee an income, provided that the employee must also meet the criteria of one of the following clauses:

  (a) the employee has at least a 17 percent permanent partial disability rating of the whole body;

  (b) the employee has a permanent partial disability rating of the whole body of at least 15 percent and the employee is at least 50 years old at the time of the injury; or

  (c) the employee has a permanent partial disability rating of the whole body of at least 13 percent and the employee is at least 55 years old at the time of the injury, and has not completed the grade 12 or obtained a GED certificate.

For employees who are statutorily declared to be permanently totally disabled, per clause (1) above, the insurer is obligated to continue payment of PTD benefits even if the employee is able to return to work.

Reduction of Benefits

Once an insurer has paid $25,000.00 in PTD benefits to the employee, the weekly workers' compensation benefits can be reduced by the amount of disability benefits being paid by certain government disability programs, including old age and survivor's benefit programs. The benefits paid by the government disability program must be as a result of the injuries sustained in the workers' compensation injury.

For example, an employee is receiving Social Security disability benefits as a result of back problems due to a work injury and VA disability benefits due to a knee injury occurring prior to the work injury. Only the Social Security benefits can be used to reduce the weekly PTD benefits.

Injuries Occurring prior to October 1, 1995

The laws prior to October 1, 1995 had basically the same language, noted in clause (1) above, for statutory permanent total injuries. However, for any other injuries that led to PTD benefits, the threshold requirements in clause (2) did not exist. For those injuries, the requirements were generally that the employee's physical condition, in combination with age, training and experience, and the type of work available in the geographical area produces no or only sporadic employment resulting in insubstantial earnings. Benefits are payable during the lifetime of the employee.

The compensation rate is two-thirds of an employee's average weekly wage at the time of the injury, subject to the same maximum as TTD. The PTD rate may be eligible for annual cost of living adjustments depending on the law in effect on the date of injury. (See Annual Adjustment of Benefits later in this section for more information.) In addition to the PTD payable, employees may be eligible for Supplementary Benefits (SB) in certain situations. SB can be payable once the employee has been paid a certain numbers of weeks of PTD or once it is a certain number of years after the injury, whichever comes first, if the current PTD rate (after any offsets noted above) is below the current SB rate. Since SB were implemented in 1972, the qualifying number of weeks and years needed in order for the employee to be eligible for SB has changed a number of times. Refer to the law effect on the date of injury for the specific criteria. Also, the amount of SB payable may be reduced by five percent if the SB are payable because of the offset noted above. This five percent reduction only applies if the other government disability program is Social Security disability benefits, not if it is Social Security old age or survivor's benefits or any other government disability program. In most situations, any SB paid were reimbursed to the insurer by the Special Compensation Fund upon the filing an annual claim for reimbursement form by the insurer.

The following table gives three examples of how weekly amounts of PTD and SB may be calculated.

PTD Rate as of October 1, 2006	Weekly Social Security	Adjusted PTD Rate	SB Rate as of October 1, 2006	SB Due	SB Due Minus 5%	PTD Plus SB Due
$650.00	$100.00	$550.00	$509.00	$0.00	$0.00	$550.00
$650.00	$200.00	$450.00	$509.00	$59.00	$56.05	$506.95
$650.00	$200.00	$450.00	$509.00	$59.00		$509.00

In the first example, the employee was not eligible for SB as the adjusted PTD rate, after offset for Social Security, was not below the SB rate at that time. The only difference between the second and third examples is the five percent offset of SB.

Note: The amount of weekly benefits (PTD plus SB) payable to the employee can change several times during the year as the effective dates of Social Security increases, annual adjustments to the PTD rate, and the annual change in the SB rate may occur on different dates during that year.

Injuries Occurring on or after October 1, 1995

For injuries occurring on or after October 1, 1995, except for the instances where the employee qualifies for statutory PTD benefits as noted in clause (1) above, an employee may only be considered to be PTD if the threshold criteria regarding age, level of physical disability, and education are met. Training, experience, and the type of work available in the geographical area, are only considered if the employee meets the threshold criteria.

For injuries occurring from October 1, 1995 through September 30, 2018, PTD benefits end at age 67, when the employee is presumed to be retired. The employee can rebut the presumption of retirement.

For injuries occurring on or after October 1, 2018, PTD shall cease at age 72, except that if an employee is injured after age 67, PTD benefits shall cease after five years of those benefits have been paid.

The PTD rate is two-thirds of an employee's average weekly wage at the time of the injury, subject to a maximum weekly compensation for TTD. Employees are no longer eligible for SB, however a minimum PTD rate equal to 65 percent of the statewide average weekly wage was added to the law. The 65 percent of the statewide average weekly wage is the same as the SB rate (for older dates of injury). So, in simple terms, the minimum initial PTD rate an employee could receive is the SB rate on the date of injury. For dates of injury occurring from October 1, 1995 through September 30, 2013, the PTD rate would be eligible for cost of living adjustments as of the fourth anniversary of the injury. For dates of injury occurring on or after October 1, 2013, the PTD rate would be eligible for cost of living adjustments as of the 3rd anniversary of the injury. (See Annual Adjustment of Benefits below for more information.) The PTD rate could be reduced by the amount of disability benefits being paid by certain government disability programs once $25,000.00 in PTD benefits have been paid to the employee.

The following table gives two examples of how the minimum PTD rate (SB rate) would or would not apply. In both situations the date of injury is October 1, 2006.

Employee's Average Weekly Wage	2/3 of Weekly Wage	Minimum PTD Rate (SB Rate)	Initial PTD Rate Paid
$600.00	$400.00	$509.00	$509.00
$900.00	$600.00	$509.00	$600.00

Annual Adjustment of Benefits

Workers' compensation benefits for temporary total, temporary partial, permanent total, and dependency benefits may be eligible to receive annual adjustments to the weekly rate during the life of a claim. The date of injury determines if any adjustments are due, when the first adjustment is made, and the percent adjustment that is applied.

Statutory Language

176.645 Adjustment of benefits. (1995)

Subd. 1. **Amount.** For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2 and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, of the year previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on or after October 1, 1977, but prior to October 1, 1992, under this section shall exceed six percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be six percent. No adjustment increase made on or after October 1, 1992, under this section shall exceed four percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be four percent. For injuries occurring on and after October 1, 1995, no adjustment increase made on or after October 1, 1995, shall exceed two percent a year; in those instances where the adjustment under the formula of this section would exceed this maximum, the increase shall be deemed to be two percent. For injuries occurring on and after October 1, 2013, no adjustment increase shall exceed three percent a year. If the adjustment under the formula of this section would exceed three percent, the increase shall be three percent. No adjustment under this section shall be less than zero percent. The Workers' Compensation Advisory Council may consider adjustment or other further increases and make recommendations to the legislature.

Subd. 2. **Time of first adjustment.** For injuries occurring on or after October 1, 1981, the initial adjustment made pursuant to subdivision 1 is deferred until the first anniversary of the date of the injury. For injuries occurring on or after October 1, 1992, the initial adjustment under subdivision 1 is deferred until the second anniversary of the date of the injury. The adjustment made at that time shall be that of the last year only. For injuries occurring on or after October 1, 1995, the initial adjustment under subdivision 1 is deferred until the fourth anniversary of the date of injury. The adjustment at that time shall be that of the last year only. For injuries occurring on or after October 1, 2013, the initial adjustment under subdivision 1 is deferred until the third anniversary of the date of injury. The adjustment made at that time shall be that of the last year only.

The following table is a more easily readable translation of the statutory language.

Dates of Injury	Adjustment Frequency	Cap
10/2/1975 - 9/30/1981	Adjustments annually on October 1st	6%
10/1/1981 - 9/30/1992	Adjustments annually on the anniversary date	6%
10/1/1992 - 9/30/1995	1st adjustment on the 2nd anniversary date and annually thereafter	4%
10/1/1995 - 9/30/2013	1st adjustment on the 4th anniversary date and annually thereafter	2%
10/1/2013 to present	1st adjustment on the 3rd anniversary date and annually thereafter	3%

Annual Adjustment of Benefits – Exercise 2C

For all of the exercises, use the chart on the following page.

1. An employee has a date of injury of January 1, 1986 and an average weekly wage of $420.00. The maximum compensation rate on the date of injury is $342.00.

   a) What is the TTD rate on the date of injury?

   Next, find the adjusted TTD rate on May 10, 2006.

   b) How many adjustments are due?

   c) What is the multiplication factor?

   d) What is the adjusted TTD rate?

2. An employee has a date of injury of January 1, 1996 and an average weekly wage of $950.00. The maximum compensation rate on the date of injury is $615.00.

   a) What is the TTD rate on the date of injury?

   Next, find the adjusted TTD rate on May 10, 2006.

   b) How many adjustments are due?

   c) What is the multiplication factor?

   d) What is the adjusted TTD rate?

M.S. 176.645 multiple admustments sheet for dates of injury 10/1/1985 through 9/30/2006

D/I	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
10/1/05 thru 10/1/06	N/A																				
10/1/04 thru 10/1/05	N/A	N/A																			
10/1/03 thru 10/1/04	N/A	N/A	N/A																		
10/1/02 thru 10/1/03	1.01030	N/A	N/A	N/A																	
10/1/01 thru 10/1/02	1.02000	1.03051	N/A	N/A	N/A																
10/1/00 thru 10/1/01	1.02000	1.04040	1.05112	N/A	N/A	N/A															
10/1/99 thru 10/1/00	1.02000	1.04040	1.06121	1.07214	N/A	N/A	N/A														
10/1/98 thru 9/30/99	1.02000	1.04040	1.06121	1.08243	1.09358	N/A	N/A	N/A													
10/1/97 thru 9/30/98	1.02000	1.04040	1.06121	1.08243	1.10408	1.11545	N/A	N/A	N/A												
10/1/96 thru 9/30/97	1.02000	1.04040	1.06121	1.08243	1.10408	1.12616	1.13776	N/A	N/A	N/A											
10/1/95 thru 9/30/96	1.02000	1.04040	1.06121	1.08243	1.10408	1.12616	1.14868	1.16051	N/A	N/A	N/A										
10/1/94 thru 9/30/95	1.03760	1.07910	1.12226	1.16715	1.21384	1.26239	1.30329	1.33301	1.37380	1.42875	1.44347	N/A									
10/1/93 thru 9/30/94	1.02640	1.06499	1.10759	1.15189	1.19797	1.24589	1.29573	1.33771	1.36821	1.41008	1.46648	1.48158	N/A								
10/1/92 thru 9/30/93	1.01650	1.04334	1.08257	1.12587	1.17090	1.21774	1.26645	1.31711	1.35978	1.39078	1.43334	1.49067	1.50602	N/A							
10/1/91 thru 9/30/92	1.03610	1.09257	1.11060	1.13992	1.18278	1.24819	1.30685	1.38526	1.44607	1.53168	1.58131	1.61736	1.66685	1.74336	1.76132						
10/1/90 thru 9/30/91	1.03500	1.07236	1.13080	1.14946	1.17981	1.22417	1.29187	1.35259	1.43375	1.49669	1.58529	1.63665	1.67397	1.72519	1.80438	1.82297					
10/1/89 thru 9/30/90	1.03630	1.07257	1.11129	1.17186	1.19120	1.22265	1.26862	1.33877	1.40169	1.48579	1.55102	1.64284	1.69607	1.73474	1.78782	1.86988	1.88914				
10/1/88 thru 9/30/89	1.05630	1.09464	1.13295	1.17385	1.23782	1.25824	1.29146	1.34002	1.41412	1.48058	1.56941	1.63831	1.73530	1.79152	1.83237	1.88844	1.97512	1.99546			
10/1/87 thru 9/30/88	1.03990	1.09845	1.13832	1.17816	1.22069	1.28722	1.30846	1.34300	1.39350	1.47056	1.53968	1.63206	1.70371	1.80457	1.86304	1.90552	1.96383	2.05397	2.07513		
10/1/86 thru 9/30/87	1.04440	1.08607	1.14722	1.18886	1.23047	1.27489	1.34437	1.36655	1.40263	1.45537	1.53585	1.60803	1.70451	1.77934	1.88468	1.94574	1.99010	2.05100	2.14514	2.16723	
10/1/85 thru 9/30/86	1.05260	1.09934	1.14320	1.20756	1.25139	1.29519	1.34195	1.41509	1.43844	1.47641	1.53192	1.61664	1.69262	1.79418	1.87294	1.98382	2.04810	2.09480	2.15890	2.25799	2.28125

To use this worksheet you must know the date of injury, number of adjustments, and original compensation rate. Find the date of injury in the first column and then multiply the original compensation rate by the number found in the number of adjustments column. For example: D/I 12/1/85, C/R = $125.00. The C/R as of 12/1/89 would be $125.00 x 1.20756 = $150.95.

This sheet is only to aid in making overall adjustments. It is not exact, but is very close. The actual compensation rate should be determined by the long method: C/R x adj. x adj. etc.

Permanent Partial Disability (PPD)

Permanent partial disability (PPD) benefits are payable for the permanent functional loss of use of the body based upon a disability schedule.

For injuries prior to 1984, PPD ratings were given to each body part, such as the back, arm, or leg. The ratings were multiplied by a specific number of weeks and again multiplied by the compensation rate to determine the amount payable. If there was an injury to more than one member of the body due to the injury resulting in ratings to more than one member of the body, the ratings were increased by 15%. This was called the “multiple injury factor” and it applied to most but not all of the rating categories provided by statute. Payment of benefits was usually made in a lump sum.

For injuries since 1984, PPD ratings have been assigned as a percentage of disability to the body as a whole and there have been rules (usually called the “PPD schedule”) which are required to be used in determining the rating. The total percentage rating is multiplied by a specific dollar amount or a number of weeks to determine the benefits that are payable. Ratings can not exceed 100% of the whole body for any one injury. Permanent partial disability benefits can be paid concurrently with TPD and PTD, but not with TTD.

Determining the proper permanent partial disability rating and payment amount for a claim can be complicated. This section will primarily focus on dates of injury since 1984 and will explain:

- how to compute the amount due.
- the basics of using the PPD schedule.
- how to combine multiple ratings.
- when and how PPD is payable.
- how to apportion pre-existing PPD.
- what the insurer needs to do when PPD is or is not payable.

Statutory Language

176.101 Compensation Schedule. (1995)

Subd. 2a. **Permanent partial disability.**

(a) Compensation for permanent partial disability is as provided in this subdivision. Permanent partial disability must be rated as a percentage of the whole body in accordance with rules adopted by the commissioner under section 176.105. The percentage determined per the rules must be multiplied by the corresponding amount ...

Injuries occurring from October 1, 1995 through September 30, 2000

Impairment Rating (%)	Amount	Impairment Rating (%)	Amount
0-25	$ 75,000	61-65	$160,000
26-30	80,000	66-70	180,000
31-35	85,000	71-75	200,000
36-40	90,000	76-80	240,000
41-45	95,000	81-85	280,000
46-50	100,000	86-90	320,000
51-55	120,000	91-95	360,000
56-60	140,000	96-100	400,000

For example, if the rating is 11%. Find the 0-25% range on the table and multiply 11% by $75,000. The amount owed is $8,250.00.

Note: For ratings that fall between ranges, simple rounding rules for selecting the correct range are to be followed (Herrley v. Brunner Trucking, WCCA 8/31/1989). For example, if the rating is 25.49%, multiply 25.49% by $75,000. However, if the rating is 25.5%, multiply 25.5% by $80,000.

Injuries occurring from October 1, 2000 through September 30, 2018

Impairment Rating (%)	Amount	Impairment Rating (%)	Amount
less than 5.5	$ 75,000	50.5 to less than 55.5	$165,000
5.5 to less than 10.5	80,000	55.5 to less than 60.5	190,000
10.5 to less than 15.5	85,000	60.5 to less than 65.5	215,000
15.5 to less than 20.5	90,000	65.5 to less than 70.5	240,000
20.5 to less than 25.5	95,000	70.5 to less than 75.5	265,000
25.5 to less than 30.5	100,000	75.5 to less than 80.5	315,000
30.5 to less than 35.5	110,000	80.5 to less than 85.5	365,000
35.5 to less than 40.5	120,000	85.5 to less than 90.5	415,000
40.5 to less than 45.5	130,000	90.5 to less than 95.5	465,000
45.5 to less than 50.5	140,000	95.5 - 100	515,000

For example, if the rating is 11%. Find the 10.5 to less than 15.5% range on the table and multiply 11% by $85,000. The amount owed is $9,350.00.

Injuries occurring on or after October 1, 2018

Impairment Rating (%)	Amount	Impairment Rating (%)	Amount
less than 5.5	$ 78,800	50.5 to less than 55.5	$173,300
5.5 to less than 10.5	84,000	55.5 to less than 60.5	199,500
10.5 to less than 15.5	89,300	60.5 to less than 65.5	225,800
15.5 to less than 20.5	94,500	65.5 to less than 70.5	252,000
20.5 to less than 25.5	99,800	70.5 to less than 75.5	278,300
25.5 to less than 30.5	105,000	75.5 to less than 80.5	330,800
30.5 to less than 35.5	115,500	80.5 to less than 85.5	383,300
35.5 to less than 40.5	126,000	85.5 to less than 90.5	435,800
40.5 to less than 45.5	136,500	90.5 to less than 95.5	488,300
45.5 to less than 50.5	147,000	95.5 - 100	540,800

For example, if the rating is 11%. Find the 10.5 to less than 15.5% range on the table and multiply 11% by $89,300. The amount owed is $9,823.00.

PPD Schedule Basics

The first two PPD schedules apply to injuries occurring from January 1, 1984 through June 30, 1993. For injuries occurring on or after July 1, 1993, a revised PPD schedule has been in effect (Minnesota Rules Parts 5223.0300-5223.0650). Both the older and revised rules are available from the Minnesota Bookstore or on-line through the Minnesota Office of Revisor of Statutes at www.revisor.mn.gov. Be sure to use the rules in effect on the date of injury when determining the percentage of disability owed. This section will primarily focus on the most recent PPD schedule.

The PPD schedule is structured to allow the user to find the rating for a given loss based on the “End Organ Impairment”. For instance, all amputation ratings are separated into two parts (one for the upper extremity and one for the lower extremity). Musculoskeletal losses have separate parts based on the area of the body involved i.e. cervical spine, thoracic spine, lumbar spine, shoulder and upper arm, etc.

Within each part, the categories are generally grouped by the type of impairment being rated and then structured in a hierarchical manner starting with the smallest functional loss. Using this method, ratings for certain impairments sometimes include lesser included impairments. For instance, the rating for a total arthroplasty (surgical removal and/or replacement) of a joint (such as the knee) already includes the smaller ratings given for other partial surgical removals in that joint (such as cartilage removal in the knee).

When using the musculoskeletal and peripheral nervous system parts in the schedule, the maximum rating allowed for loss to any member of the body is the rating given for amputation of that member. So, when rating loss of function, it is important to compare the rating(s) in total for each member to make sure they do not exceed the amputation rating. For fingers and toes each joint is not a separate member of the body. The entire finger or toe is considered a member of the body.

As much as possible, one category is used to rate each separate impairing condition. However, in certain situations, multiple categories must be used to determine the total rating for the functional loss. When that is necessary, the schedule requires that you either combine (using the statutory formula) or add (not using the statutory formula) the ratings together to determine the overall rating.

Each mutually exclusive impairing condition needs to be rated. This applies whether the injury is to one member of the body or multiple members of the body. Because an injury to one member of the body can cause, in many cases, multiple separate types of impairments, each separate impairment must be rated. For instance, one knee injury can cause permanent impairment to the cartilage, ligaments, and bones of the knee. Each of these impairments is rated separately.

When rating limitation of motion, passive (forced) range of motion is used, not active (voluntary) range of motion. The only exception is for tendon injuries in the fingers and thumb. In those cases the active range of motion is used instead of passive range of motion.

Ratings may be rounded to four decimal places.

Final ratings are done at the time of maximum medical improvement (MMI), unless otherwise specified in the rule, and should be based on the permanent functional loss at that time. However there may be times when the insurer knows that there is a minimum ascertainable PPD rating even though the employee has not reached MMI and a rating may not yet have been received from the treating doctor. This is especially true in cases where there is medical data showing that a specific type of condition or treatment exists for which the statute or PPD schedule has a minimum rating.

Also, there are times when there is a rating assigned based on a permanent anatomical change (such as surgical removal/replacement of parts of the body) even though functional loss has been restored (through treatment).

If a functional loss (for which there is objective medical evidence) is not rated by the schedule, the closest applicable category for the most similar condition must be used to rate the loss per Minnesota Statutes §176.105, which indicates that:

- only categories set out in the schedule can be used to establish PPD ratings
- any objective functional loss not rated in the schedule must be assigned the rating for the most similar condition that is rated

This means that PPD must be awarded if there is a functional loss and the rules must allow a doctor to choose the closest category by analogy when no category in the schedule describes that functional loss.

Combining Permanency Ratings

As previously mentioned, there are many situations in which multiple categories from the schedule must be used to determine the total rating for the functional loss. When that is necessary, the schedule requires that you either combine (using a statutory formula), add (not using the statutory formula), or multiply the individual ratings together to determine the overall rating. If the schedule does not tell you to add or multiply the ratings together, assume that you use the formula to combine the ratings. The statutory combining formula is used to ensure that the total rating never exceeds 100% of the body as a whole and is as follows:

A + B(1-A)

A is the largest percentage and B is the lesser percentage. If more than two ratings are involved, the formula is used again, and A becomes the result of the previously applied formula. To simplify calculations, first convert the percentage ratings to decimals.

For example, if the three ratings are 10%, 3% and 2%, start with A=.10 and B=.03 and combine the ratings using the formula as follows:

.10 + .03(1-.10)
.10 + .03(.90)=.10 +.027=.127 or 12.7% (converting back to a percentage)

The two ratings to be combined are now 12.7% and 2% (the third rating given). Now A=.127 and B=.02. Use the formula a second time as follows:

.127 + .02(1-.127)
.127 + .02(.873)=.127 + .01746=.14446 rounded to .1445 or 14.45% (converting back to a percentage)

Note: The results should be calculated out to at least the fourth decimal place. In this example, the employee is entitled to payment of 14.45% of the body as a whole.

Combining Ratings using an Alternate Method

(a mathematical equivalent)

There is another formula that is the algebraic equivalent to the statutory formula that is usually simpler to use. This formula takes fewer steps when combining more than two ratings and is as follows:

1 – [(1-A) x (1-B) x (1-C) etc.]

Step 1 Convert the percentages to decimals.
Step 2 Do the calculations within the parentheses, ( ), first.
Step 3 Do the multiplication within the brackets, [ ], next.
Step 4 Do the subtraction of 1 minus the product of the numbers within the brackets [ ].
Step 5 Change the decimal answer back to a percentage.

For example, use the same three ratings, 10%, 3% and 2%, that were used above when combining ratings using the statutory formula. Using this alternate formula, A=10%, B=3%, and C=2%.

Step 1 10% = .10, 3% = .03, and 2% = .02
Step 2 1 - [(1-.10) x (1-.03) x (1-.02)] = 1 - [(.90) x (.97) x (.98)]
Step 3 1 - [(.90) x (.97) x (.98)] = 1 - [.85554]
Step 4 1 - [.85554] = .14445 rounded to .1445
Step 5 .1445 = 14.45%

Permanent Partial Disability – Exercise 2D

Refer to Minnesota Rules Part 5223.0510 Musculoskeletal Schedule; Knee and Lower Leg to complete the following exercise. Use a date of injury of October 1, 2000 when performing the calculations.

1. Calculate the PPD due (% and $) for an undisplaced plateau fracture. (Hint: see Subp. 2)

   _______% x $___________ = $___________

   Calculate the total PPD due (% and $) for the fracture described above with additional ratings for a meniscectomy performed on each knee where less than 50% of the medial cartilage is removed in each knee. (Hint: see Subp. 3)

   1 - [(1-A) x (1-B)]

   1 - [(1-_____) x (1-_____) x (1-_____)]

   1 - [(_____) x (_____) x (_____)]

   1 - [__________] = __________

   __________% x $__________= $__________

Refer to Minnesota Rules Part 5223.0390 Musculoskeletal Schedule; Lumbar Spine to complete the following exercise.

2. Determine the total PPD rating for the a low back injury where subsequent to the injury there was radicular pain, objective radicular findings, an MRI scan showing evidence of spinal stenosis at one level that impinges on the nerve root which correlates with the neurological findings, and where, at MMI after non-surgical treatment, the radicular pain is no longer present.

   _______%

   In the above scenario, what would the rating be if there had been non-fusion surgical treatment at that one level?

   _______%

   What would be the rating if at MMI there still was radicular pain despite that surgical treatment?

   _______%

   Lastly what would be the rating be if later on a fusion was done at that one level which subsequently alleviates the ongoing radicular pain?

   _______%

Injuries Occurring from January 1, 1984 through September 30, 1995

For injuries occurring from January 1, 1984 through September 30, 1995, the PPD rating is expressed as a percentage of the whole body, and benefits are paid as either Impairment Compensation or Economic Recovery Compensation. The primary factor in determining which of the two is payable is whether the employee returned to or was offered suitable employment within 90 days after being served a medical report of MMI or having ended retraining.

Impairment Compensation (IC)

IC is due if the employee returned to or was offered suitable employment prior to the end of the 90 day period described above. IC is calculated by multiplying the PPD rating by a specified dollar value found in a table in the statute.

For example: If the rating is 10%, the employee is entitled to IC in the amount of $7,500.00 ($75,000 x 10%).

In most cases, IC is payable in a lump sum 30 days after an employee has returned to suitable employment. There are some situations in which IC would be paid periodically, such as retirement or when paying PTD benefits.

Economic Recovery Compensation (ERC)

ERC is due if the employee has not returned to nor was offered suitable employment prior to the end of the 90 day period. ERC is determined by multiplying the PPD percentage rating of the body by the number of weeks in a table found in the statute, and then again by two-thirds of the employee's average weekly wage at the time of the injury (subject to the maximum compensation rate, but not the minimum).

At a minimum, ERC must be at least 120% of the amount that would be payable as IC. This makes the calculation of ERC a three-step process. First, the actual ERC is calculated as stated above. Then the amount of IC should be determined and multiplied by 120%. Finally, the two results are compared and the higher of the two is payable.

For example: Assuming a 10% PPD rating and an average weekly wage of $200.00, ERC benefits are calculated as follows:

10% x 600 weeks= 60 weeks x 133.33 (2/3 of $200) = $7,999.80.

Minimum ERC amount is: $75,000 x 10%= $7,500.00 x 120%= $9,000.00

When comparing the two amounts, the employee is entitled to higher of the two amounts or $9,000.00 for ERC benefits.

ERC benefits are generally paid weekly at the same intervals and rate as the TTD payments were initially made. If an employee returns to work after ERC payments have begun, any remaining ERC benefits are paid in a lump sum 30 days after the return to work.

Note: Remember that ERC and TTD are not payable concurrently.

Injuries Occurring on or after October 1, 1995

Benefits are calculated using the same method as IC (see above for injuries occurring from January 1, 1984 through September 30, 1995). Benefits are payable after TTD has been discontinued and at the same weekly rate and interval as the TTD rate at the time of the injury.

Injuries Occurring on or after October 1, 2000

Benefits are still calculated using the same method as IC (see above) and are still payable after TTD has been discontinued, but the insurer must use the new statutory table in effect for these injuries when calculating the benefits. In addition, if an employee requests payment of PPD benefits in a lump sum, the lump sum payment must be made within 30 days. The lump sum payment may be discounted to the present value up to a maximum five percent basis. If the employee does not request that the compensation be paid in a lump sum, benefits are payable at the same weekly rate and interval as the TTD rate at the time of the injury.

Apportionment of Pre-existing PPD

Generally the entire condition affected by a work-related injury is compensable under workers' compensation. However, the amount of PPD payable on a claim may be reduced by pre-existing PPD in certain situations.

For injuries prior to 1984, that reduction was only allowed if:

- the pre-existing PPD was for the same body part, and
- the pre-existing PPD was previously paid on a prior work-related injury.

For example, there is currently a 20% rating to the right arm for a 1983 injury. If there was a pre-existing 5% rating to the same arm and if that rating was paid on a prior work-related injury, the pre-existing 5% could be apportioned and only 15% would be paid on the current claim. However, if the pre-existing rating was for another body part, such as the left arm, no apportionment would be allowed. Likewise if the 5% to the same arm had arisen from a non work-related injury, no apportionment would be allowed.

For injuries since 1984, a statutory change makes it possible for the insurer to reduce the rating by the amount that is attributable to a pre-existing permanent disability in many other situations. See Minnesota Statutes §176.101, Subd. 4(a) and Minnesota Rules Part 5223.0315 (for dates of injury July 1, 1993 & after) or Minnesota Rules Part 5223.0250 (for dates of injury January 1, 1984 - June 30, 1993). However, before the apportionment is allowed, all of the following criteria must be met:

- The date of injury must be on or after January 1, 1984.

- The pre-existing permanent disability must be clearly documented in medical reports or records. (**Note:** A copy of this information must be sent to the employee at the time the insurer begins to pay PPD.)

- This medical documentation must have existed prior to the date of injury.

- The pre-existing disability must be either a congenital condition or the result of a traumatic injury or incident. But it does not need to be caused by a previous workers compensation injury.

- The pre-existing disability must be a contributing factor to the current PPD rating.

  For example, if the current PPD rating is for an arm disability and the pre-existing disability is for a leg condition, the deduction is not allowed as the leg condition did not contribute to the current PPD rating for the arm.

Also, if a PPD rating is reduced due to a pre-existing disability, the insurer still must use the appropriate dollar amount in Minnesota Statutes §176.101, Subd. 2(a) that corresponds to the full (unreduced) rating to determine the amount of PPD owed.

For example: Assuming an October 1, 2000 date of injury, if the total PPD rating is 28% but the amount owed is reduced by an 8% pre-existing disability that meets the requirements, the insurer would make payment of the remaining 20% based on the dollar amount that corresponds to the full 28% rating, which is $100,000. They would owe 20% of $100,000 or $20,000.00.

If the conditions allowing the apportionment are met, the rules cited above explain how to do the calculation in three different situations:

1. When the pre-existing disability has not been previously rated.

2. When the pre-existing disability has been previously rated as a percentage of the body as a whole.

3. When the pre-existing disability has been previously rated as a percentage of a particular body part.

Using the following example, the calculations for the above three situations are described below.

Example: The current date of injury is October 1, 2000. The current rating for the total condition is 27% under Minnesota Rules Part 5223.0370, Subp. 4D and 5 for herniated discs at levels C-2 and C-3, where there was a multiple level fusion performed and pain or paresthesia persisted despite the treatment. There is a pre-existing permanent partial disability clearly documented in a medical report or record before the current injury. This was a herniated disc at the C-2 level that was treated without surgery and had good results, with no persistent pain or paresthesia.

Note: If the pre-existing disability is at a level other than C-2 or C-3, there is no deduction since the current rating for the C-2 and C-3 levels is probably not attributable to the pre-existing disability rating for a different level. Likewise if the pre-existing disability at level C-2 did not involve ratings under 4D and 5 (for a herniated disc with fusion surgery), the deduction would be questionable as the current rating at the C-2 level probably is not attributable to the pre-existing disability rating.

1. **Situation #1:** The pre-existing disability was not work related and was never previously rated. *Use the PPD schedule in effect for the current injury to determine a rating for the pre-existing disability. The pre-existing disability rating would be 9% under Minnesota Rules Part 5223.0370, Subp. 4D. The total amount of PPD owed would be 18% (27% - 9%) of $100,000 or $18,000.00.*

2. **Situation #2:** The pre-existing disability was previously rated as 14% of the body as a whole. *The total amount of PPD owed would be 13% (27% - 14%) of $100,000 or $13,000.00.*

3. **Situation #3:** The pre-existing disability was previously rated as 15% of the back. *Using Table 1 located in Minnesota Rules Part 5223.0315 C, the 15% rating to the back is converted to 10.65% of the body as a whole by multiplying 71% (the maximum whole body value for the back) by .15 (15%). The total amount of PPD owed would be 16.35% (27% - 10.65%) of $100,000 or $16,350.00.*

Minimum Ascertainable PPD

There may be times when the insurer knows that a minimum PPD is ratable even though a rating might not yet have been received from the treating doctor. This is true in cases where there is medical data showing a condition for which the PPD schedule has a rating.

For example, there has been an amputation of part of a finger. Another example is surgery on the knee where up to 50% of a meniscus is removed.

In these situations, the final PPD rating from the treating doctor may be higher than the minimum rating appears to be now. Nevertheless, the insurer is expected to pay PPD benefits as soon as any permanency is apparent and payable (for example the date of injury is on or after October 1, 1995 and the employee has returned to work). This means that they must pay the current minimum rating (called the minimum ascertainable PPD) now and then pay any remaining PPD that is due once the treating doctor gives a final rating.

Time of Payment

PPD must be paid at the time specified in Minnesota Statutes §176.021 and 176.101. If the benefits are being paid periodically, the payments must be continued without interruption at the same intervals that the TTD was or would have been paid. This applies whether or not TPD is being paid concurrently with the PPD. When PPD is being paid periodically and concurrently with the payment of PTD, the payments must be continued without interruption at the same intervals as the PTD is being paid. If a rating has not been received when an employee reaches MMI, the insurer must request an assessment of PPD from the treating doctor.

When the extent of the PPD is **not disputed**, the insurer must, within 30 days of knowledge of a minimum rating or receipt of a medical report containing a rating:

- make at least a minimum lump sum payment or begin periodic payments to the employee and
- inform the employee in writing of the PPD rating and the number of weeks the PPD payments will be made under the statute.

When the extent of the PPD is **disputed**, the insurer must, within 30 days of the receipt of a medical report containing a rating:

- make at least the minimum lump sum payment or begin periodic payments, based any undisputed portion of the rating,
- notify the employee in writing that an independent medical examination has been scheduled and the date, time and place of the examination, and
- determine and pay any remaining PPD within 120 days of receipt of the initial medical report which contained the PPD rating.

Before Payment is Due

If the PPD benefits are not currently payable, the insurer must, within 30 days of the knowledge of a minimum rating or receipt of a medical report containing a rating:

- inform the employee in writing of the rating and
- advise the employee when the PPD will be payable.

Vesting

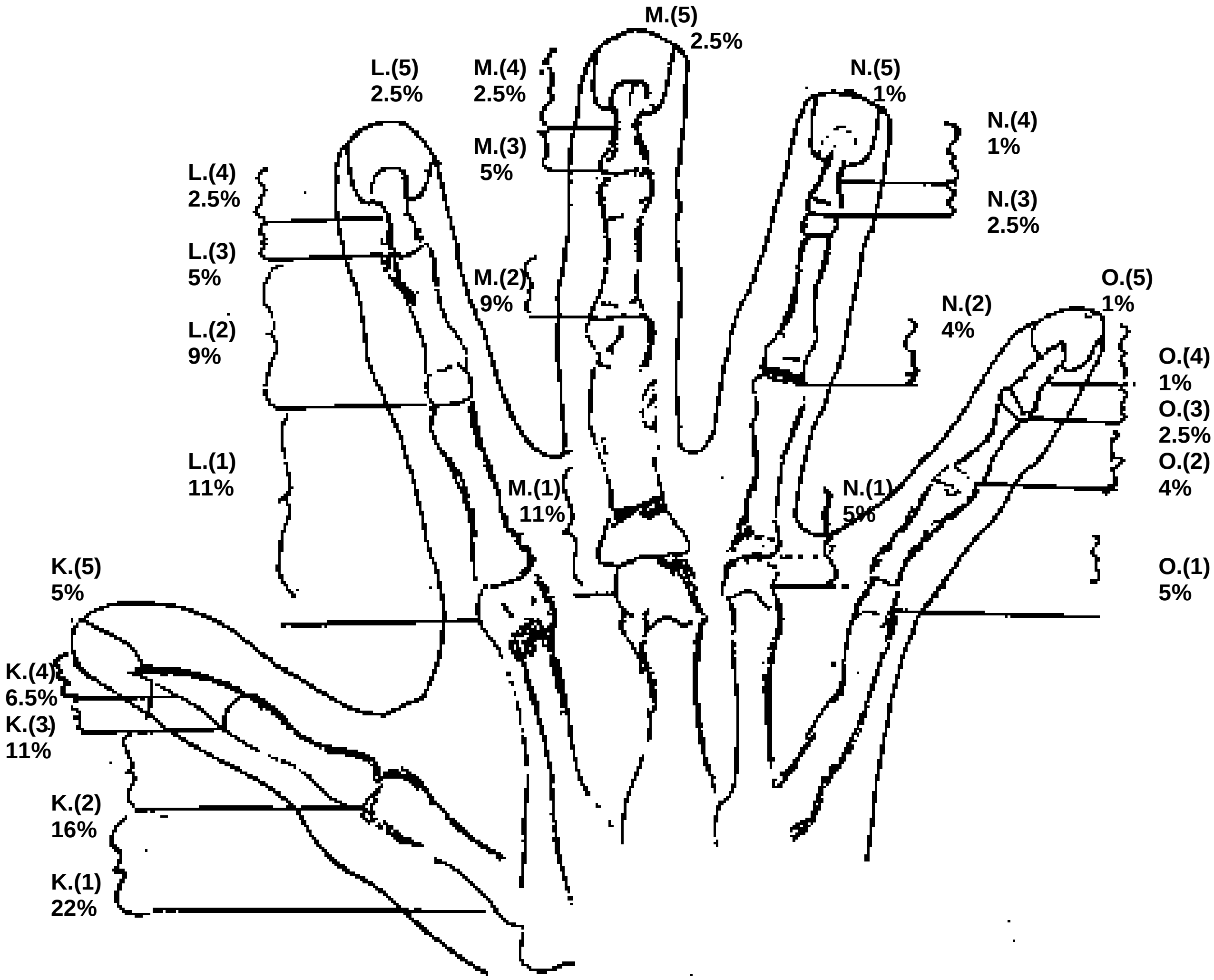
If an employee dies prior to commencement or completion of payment of PPD, payment of the remaining PPD may be payable to the employee's dependents or legal heirs (if no dependents) depending on the law on the date of injury. See Minnesota Statutes §176.021, Subd. 3 regarding vesting of these benefits.

PPD Ratings and Calculations Based on Date of Injury

Dates of Injury	Prior to January 1, 1984	January 1, 1984 - September 30, 1995	October 1, 1995 - September 30, 2000	October 1, 2000 - present
Ratings	To specific part of body.	To body as a whole using a PPD schedule	To body as a whole using a PPD schedule	To body as a whole using a PPD schedule
Amount Due	Rating % multiplied by specific # of weeks x weekly rate. If more than one body part, each rating increased by 15%.	Impairment Comp (IC): % x dollar amount. Economic Recovery Comp (ERC): % x # of weeks x weekly rate (must be at least 120% of IC).	Calculated same as IC.	Calculated same as IC (change in $ value of ranges in table).
Payable	Generally paid in a lump sum.	IC: generally paid in lump sum, 30 days after return to work. ERC: paid weekly at the initial TTD rate after TTD ceases.	After TTD ceases, paid at same interval and weekly rate as TTD.	After TTD ceases, paid at same interval and weekly rate as TTD. Employee can request payment in lump sum. The lump sum can be discounted by up to 5% of present value.

Points of Amputation

(hand injuries occurring on or after July 1, 1993)



Total amputation:	Percent	July 1, 1993 - September 30, 2000	October 1, 2000 – September 30, 2018	October 1, 2018 and after
Hand	**54%**	**$ 64,800.00**	**$ 89,100.00**	**$ 93,582.00**
Thumb	22%	$ 16,500.00	$ 20,900.00	$ 21,956.00
Index finger	11%	$ 8,250.00	$ 9,350.00	$ 9,823.00
Middle finger	11%	$ 8,250.00	$ 9,350.00	$ 9,823.00
Ring finger	5.5%	$ 4,125.00	$ 4,400.00	See below
Little finger	5.5%	$ 4,125.00	$ 4,400.00	See below
			August 9, 2010 and after	August 9, 2010 and after
Ring finger	5%		$ 3,750.00	$ 3,940.00
Little finger	5%		$ 3,750.00	$ 3,940.00

See next page for complete descriptions.

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K. Amputation of thumb
(1) at metacarpophalangeal joint or with resection of metacarpal bone, 22%
(2) through proximal phalanx, 16%
(3) at interphalangeal joint to middle of distal phalanx, 11%
(4) distal to middle of distal phalanx, 6.5%
(5) isolated soft tissue loss of the end of the digit greater than one centimeter, 5%

L. Amputation of index finger
(1) at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalanx, 11%
(2) at proximal interphalangeal joint or through middle phalanx, 9%
(3) at distal interphalangeal joint to middle of distal phalanx, 5%
(4) distal to middle of distal phalanx, 2.5%
(5) isolated soft tissue loss of the end of the digit greater than one centimeter, 2.5%

M. Amputation of middle finger
(1) at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalanx, 11%
(2) at proximal interphalangeal joint or through middle phalanx, 9%
(3) at distal interphalangeal joint to middle of distal phalanx, 5%
(4) distal to middle of distal phalanx, 2.5%
(5) isolated soft tissue loss of the end of the digit greater than one centimeter, 2.5%

N. N. Amputation of ring finger
(1) at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalanx, 5.5%; for dates of injury on or after August 9, 2010, at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalanx, 5%
(2) at proximal interphalangeal joint or through middle phalanx, 4%
(3) at distal interphalangeal joint to middle of distal phalanx, 2.5%
(4) distal to middle of distal phalanx, 1%
(5) isolated soft tissue loss of the end of the digit greater than one centimeter, 1%

O. O. Amputation of little finger
(1) at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalanx, 5.5%; for dates of injury on or after August 9, 2010, at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalanx, 5%
(2) at proximal interphalangeal joint or through middle phalanx, 4%
(3) at distal interphalangeal joint to middle of distal phalanx, 2.5%
(4) distal to middle of distal phalanx, 1%
(5) isolated soft tissue loss of the end of the digit greater than one centimeter, 1%