

# Labor Proposal

## Cost of Living Adjustment to PPD Schedule – 1984 to Present

**Proposal:** Amend MN Stat 176.101, Subd. 2a

### **176.101 COMPENSATION SCHEDULE.**

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 table in section 176.101, subdivision 2a (b), applies for injuries occurring on or after October 1, 2022. Beginning October 1, 2023, and each subsequent October 1, the dollar amount for each corresponding rating in the table contained in section 176.101, subd. 2a (b), shall be increased by the same percent increase in the statewide average weekly wage most recently computed under section 176.645, but without the annual cap provided by that section. If there is no increase, or if there is a decrease, in the statewide average weekly wage, the dollar amounts shall not change for that year. The commissioner shall publish each year an updated table on the department's website annually by October 1.

(b) The percentage determined pursuant to the rules promulgated under section 176.105 must be multiplied by the corresponding amount in the following table, as adjusted according to paragraph (a) at the time permanent partial disability is payable according to paragraph (c):

Impairment Rating (percent)	Amount
less than 5.5	\$ <del>78,800</del> 187,150
5.5 to less than 10.5	<del>84,000</del> 199,500
10.5 to less than 15.5	<del>89,300</del> 212,087
15.5 to less than 20.5	<del>94,500</del> 224,437
20.5 to less than 25.5	<del>99,800</del> 237,025
25.5 to less than 30.5	<del>105,000</del> 249,375
30.5 to less than 35.5	<del>115,500</del> 274,312
35.5 to less than 40.5	<del>126,000</del> 299,250
40.5 to less than 45.5	<del>136,500</del> 324,187
45.5 to less than 50.5	<del>147,000</del> 349,125
50.5 to less than 55.5	<del>173,300</del> 408,468
55.5 to less than 60.5	<del>199,500</del> 473,812
60.5 to less than 65.5	<del>225,800</del> 536,275
65.5 to less than 70.5	<del>252,000</del> 598,500
70.5 to less than 75.5	<del>278,300</del> 660,962
75.5 to less than 80.5	<del>330,800</del> 785,650

80.5 to less than 85.5	<del>383,300</del> 910,337
85.5 to less than 90.5	<del>435,800</del> 1,035,025
90.5 to less than 95.5	<del>488,300</del> 1,159,712
95.5 up to and including 100	<del>540,800</del> 1,284,400

An employee may not receive compensation for more than a 100 percent disability of the whole body, even if the employee sustains disability to two or more body parts.

~~(c)(b)~~ Permanent partial disability....

**Rationale:**

On February 10, 2021 and October 13, 2021, the Minnesota Department of Labor and Industry presented to the Workers' Compensation Advisory Council the results of its extensive analysis of the effective monetary compensation provided to injured workers for permanent partial disability benefits (compensation for impairment or loss of function to a body part) from 1984 to 2021.<sup>1</sup>

The Department concluded that this benefit, which had been largely fixed between 1984 and 2021 contributed to a 9.6% decrease to the overall workers' compensation cost per \$100 of payroll. The Department indicated that if the PPD benefit had been indexed to the statewide average weekly wage since 1984, the index schedule would have exerted a neutral effect on the Workers' Compensation System per \$100 of payroll over those years.<sup>2</sup> **(The effect of a failure to index this benefit over these years resulted in a monetary reduction in compensation for PPD in real dollar figures between 50 and 70%.)**<sup>3</sup>

Impairment rating	In the dollars of the time (unadjusted) [1]			In constant 1983 dollars [2]			In constant 2022 dollars [2]		
	1983 benefit	2022 benefit	Change	1983 benefit	2022 benefit	Change	1983 benefit	2022 benefit	Change
5%	\$3,750	\$3,940	+5.1%	\$3,750	\$1,490	-60.3%	\$9,920	\$3,940	-60.3%
10%	\$7,500	\$8,400	+12.0%	\$7,500	\$3,170	-57.7%	\$19,850	\$8,400	-57.7%
20%	\$15,000	\$19,960	+33.1%	\$15,000	\$7,540	-49.7%	\$39,690	\$19,960	-49.7%
40%	\$36,000	\$50,400	+40.0%	\$36,000	\$19,050	-47.1%	\$95,260	\$50,400	-47.1%

1. These benefits were calculated using the formula in effect at the time, assuming no change in 2022.
2. The benefit amounts in 1983 and 2022 constant dollars were calculated using the Consumer Price Index for Urban Consumers (CPI-U) (Twin Cities), which will have increased by a projected 165% between 1983 and 2022.

<sup>1</sup> **The nonindexing of PPD benefits and alternatives for raising them**, WCAC 10/13/21, David Berry Research and Statistics.

<sup>2</sup> Id. At page 15.

<sup>3</sup> Id. At page 7.

The Department concluded that restoring PPD benefits to where they would be if indexed for wages since 1983<sup>4</sup> would raise cost, but that this would occur by means of ending (or reducing) previous annual cost savings relative to payroll that accrued since 1984, as a result of non-indexing. Stated another way, the 9.6% savings which occurred would be offset by the one-time 10.6% increase in correcting the failure to index. After the first year, however, the continued indexing of the permanent partial disability schedule by utilization of the statewide average weekly wage increases would be cost-neutral as a percentage of cost per \$100 of payroll.<sup>5</sup>

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<sup>4</sup> Id At page 6. As shown on slide 6, on 10/1/22 as opposed to 10/1/84, the SAWW was 405% as high and the PPD benefit schedule was 120% as high, so the PPD schedule would have to increase by  $405\%/120\% - 100\% = 238\%$  on 10/1/22 to be where it would if it had been indexed to the SAWW since 10/1/83.

<sup>5</sup> Id. At page 6 and 15.