

**The New York State Workers' Compensation Law was created to provide injured workers with lost wage benefits and necessary medical care.**



However, without knowing how to navigate through the system, workers may lose valuable rights and may lose out on collecting all they are entitled to receive.

All workers must know how to report a claim, file a claim, and document their disability in order to collect benefits.

**TOTAL DISABILITY:**

If you are totally disabled, then your Workers' Compensation benefit is 2/3 of your average weekly wage before the accident/disablement subject to the maximum benefit rate in existence on the date of accident. If you are permanently totally disabled, you can receive wage replacement for life and the award is not subject to the caps. However, the Workers' Compensation Board will only find you permanently totally disabled if you cannot do **any** work of any kind, even part-time or limited duty work.

**DEATH BENEFITS:**

If a worker sustains a fatal injury at work or dies as a result of a work-related occupational disease, then benefits are payable to the surviving spouse and children subject to the rates of compensation on the date of death. The surviving spouse can receive benefits for life or until remarriage. Funeral expenses will be paid up to \$6,000. Children can receive benefits to the age of 18, or 23 if enrolled in school. Children who were dependent upon the deceased for support due to a mental or physical disability can receive benefits after the age of 23. If the worker is not survived by a spouse or child, a \$50,000 award is payable to the deceased's estate.

**BENEFITS**

**LOST TIME:**

If you are unable to work because of a work-related injury or illness, you may receive Workers' Compensation benefits as a partial replacement for your lost wages. The maximum that workers can receive is 2/3 of their Average Weekly Wage subject to the maximum benefit rate for the date of accident/disablement.

**SALARY REIMBURSEMENT:** If you use any of your accrued sick or vacation time while you are out of work for a work-related illness or injury, your employer may request reimbursement and your time will be restored accordingly.

**NECESSARY MEDICAL TREATMENT:** As of December 1, 2010, all medical treatment for injuries to the middle and lower

**BENEFIT RATES**

- Date of accident after 7/1/14\***  
maximum weekly benefit . . . . . \$808.65
- Date of accident from 7/1/13 to 6/30/14**  
maximum weekly benefit . . . . . \$803.21
- Date of accident from 7/1/12 to 6/30/13**  
maximum weekly benefit . . . . . \$792.07
- Date of accident from 7/1/11 to 6/30/12**  
maximum weekly benefit . . . . . \$772.96
- Date of accident from 7/1/10 to 6/30/11**  
maximum rate . . . . . \$739.83
- Date of accident from 7/1/09 to 6/30/10**  
maximum rate . . . . . \$600.00
- Date of accident from 7/1/08 to 6/30/09**  
maximum rate . . . . . \$550.00
- Date of accident from 7/1/07 to 6/30/08**  
maximum weekly benefit . . . . . \$500.00

Minimum weekly benefit is \$150  
\*The maximum weekly benefit will change every July 1 to 2/3 of the state average weekly wage.

back, neck, shoulder, knees and bilateral carpal tunnel syndrome are subject to the Board's Medical Treatment Guidelines. Medical providers must comply with these guidelines in their request for treatment of injured workers. The guidelines contain several courses of treatment that are pre-authorized. However, if a medical provider requests treatment not covered by the guidelines, a variance may be requested. More medical guidelines are anticipated in the future.

**INCIDENTAL EXPENSES:** If injured workers incur any expenses (ie: transportation, prescriptions) as a direct result of the accident, a claim for reimbursement may be made.

**TYPE OF CLAIMS**

**ACCIDENTAL INJURIES:**

The Workers' Compensation Law covers accidents that happen while you are at work. Accidents can include things like lifting, tripping and falling, or cutting your finger. They can involve auto collisions or injuries occurring at a construction site. An accident is an unexpected event causing a specific physical or mental consequence. What defines an accident is determined from the common sense viewpoint of the average person.

**OCCUPATIONAL DISEASES, ILLNESSES AND REPETITIVE STRESS INJURIES:**

An occupational disease is an illness resulting from the nature of the work you do. It is due to causes and conditions that are normally and constantly present on the job and are characteristic of your particular occupation. There must be a recognizable link between your illness and some distinctive feature of your job common to all other workers who do the same type of work you do.

Examples of occupational diseases include Caissons Disease to tunnel workers and Mesothelioma to power plant workers.

Workers in every industry are vulnerable to suffering repetitive stress injuries (RSI). These are injuries caused by repetitive tasks, forceful exertions, vibrations, mechanical compression or sustained or awkward positions. RSI typically involves musculoskeletal pain, affecting ligaments, tendons, spinal discs, nerves and muscles.

**Examples of RSI are:**

- Carpal tunnel syndrome to computer operators
- Raver's Wrist to supermarket workers who use bar code scanners
- Bursitis of the knee, shoulder or elbow to construction workers who are repeatedly forced to work in cramped spaces



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**WORKERS' COMPENSATION ROADMAP**



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# AWARDS FOR PERMANENT INJURIES

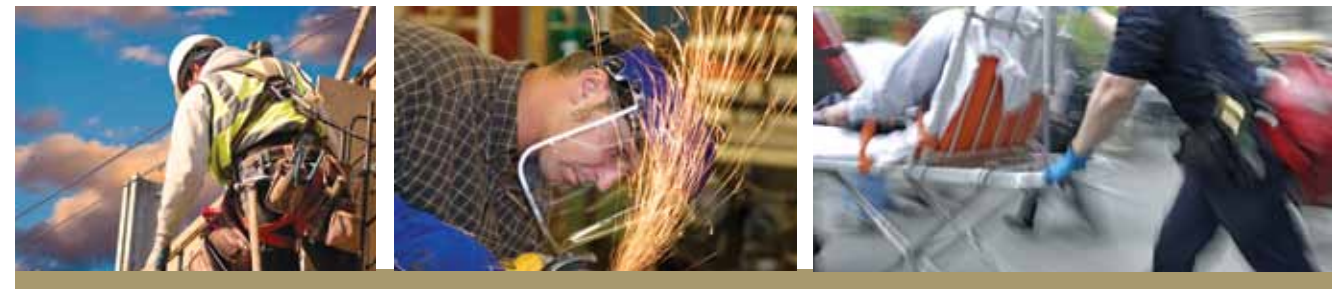
Whether you have a permanent injury subject to the Disability Duration Guidelines or your case fits into the Schedule Award category depends upon the part of your body injured and the particular facts of your case.

## SCHEDULE LOSS OF USE

If you have a permanent injury to your fingers, toes, hands, legs, feet or arms, or have loss of vision or hearing, you may be entitled to a monetary award, even if you do not lose time from work. These awards are called "Schedule Awards." Prior payments of awards are deducted from the awards and the injured worker receives the balance. There are also awards up to \$20,000 for facial disfigurement (scars about the face and head above the clavicle).

SCHEDULE LOSSES • NEW YORK WORKERS' COMPENSATION LAW							
	10%	25%	33 1/3%	50%	66 2/3%	75%	100%
Arm	31 1/3	78	104	155	208	234	312
Hand	24 3/5	61	81 1/3	122	162 2/3	183	244
Leg	28 2/5	72	96	144	192	216	288
Foot	20 1/2	51 1/4	68 1/3	102 1/2	136 2/3	153 3/4	205
Thumb	7 1/2	18 3/4	25	37 1/2	50	56 1/4	75
1st Finger	4 3/5	11 1/2	15 1/3	23	30 2/3	34 1/2	46
2nd Finger	3	7 1/2	10	15	20	22 1/2	30
3rd Finger	2 1/2	6 1/4	8 1/3	12 1/2	16 2/3	18 3/4	25
4th Finger	1 1/2	3 3/4	5	7 1/2	10	11 1/4	15
Great Toe	3 3/5	9 1/2	12 2/3	19	25 1/3	28 1/2	38
Other Toes	1 3/5	4	5 1/3	8	10 2/3	12	16
Eye	16	40	53 1/3	80	106 2/3	120	160
Hearing							
One Ear	6	15	20	30	40	45	60
Both Ears	15	37 1/2	50	75	100	112 1/2	150

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## DISABILITY DURATION GUIDELINES

For all permanent injuries with a date of accident or disablement after March 13, 2007, the injured worker may be classified with a permanent partial disability subject to limitations on awards (caps). The Board has issued Disability Duration guidelines and Loss of Wage Earning Capacity guidelines. These guidelines will be used to determine the length of benefits an injured worker may receive for a permanent partial disability based on the medical limitations and an evaluation of the injured worker's education, age, transferable skills and the ability to read, write and communicate in English. Most permanent back, neck and torso injuries fall within the Disability Duration Guidelines.

### PERMANENT PARTIAL DISABILITY CAPS:

Prior to March 13, 2007, injured workers could receive lifetime Workers' Compensation benefits for a permanent partial disability. As of March 13, 2007, benefits for permanent partial disabilities are subject to the following caps based upon the worker's loss of earning capacity:

LOSS OF EARNING CAPACITY	WEEKS OF BENEFITS	LOSS OF EARNING CAPACITY	WEEKS OF BENEFITS
100%	Lifetime	61-70%	375 weeks
96-99%	525 weeks	51-60%	350 weeks
91-95%	500 weeks	41-50%	300 weeks
86-90%	475 weeks	31-40%	275 weeks
81-85%	450 weeks	16-30%	250 weeks
76-80%	425 weeks	1-15%	225 weeks
71-75%	400 weeks		

If the Workers' Compensation Board finds that you have a partial disability, this means that you have the ability to do some work, even if you cannot work in your previous occupation.

If you do not look for work within your medical restrictions, you may put at risk your ability to receive lost wage benefits. Even if you cannot find a light duty job, just looking for work may help protect your Workers' Compensation benefits.

## TIME LIMITATIONS

### NOTICE FOR ACCIDENTAL INJURIES:

If you are injured at work, you must notify your employer within 30 days of the accident. It is best to give written notice as soon as possible since this is what the law requires. However, many people give oral notification and this is usually acceptable as long as it is documented. Be sure to keep an accurate record of the name of the supervisor or boss you notified and the date notification was given.

### FILING A CLAIM WITH THE BOARD:

An injured worker has two years from the date of accident to file a claim (C3 form) with the Workers' Compensation Board. For occupational disease, the same two-year limitation applies, but the time to file runs from the date of disablement or when you knew or should have known that your disease was due to the nature of your employment, whichever is the later date.

## HOW TO CONTACT US

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## MEDICAL REPORTS

You are required to submit medical evidence every 90 days while you are disabled from work. This report should include:

- a history of the accident or occupational disease
- a diagnosis
- the degree of disability
- an opinion regarding causal relationship followed by your doctor's signature.

### PROCEDURE AT THE BOARD:

**HEARINGS:** The law provides a procedure for hearings to be scheduled before an Administrative Law Judge to resolve issues between you and the carrier. The law also grants the right of both sides to be represented by an attorney. When you retain counsel, the Law Judge will determine the amount of the attorney's fee. This fee will then be deducted from your award.

### ADMINISTRATIVE DECISIONS:

The Workers' Compensation Board may issue an Administrative Decision instead of giving you a hearing. This decision often contains important findings and conclusions about your case. You and the insurance carrier have 30 days to object to the Board's decision if you disagree with its terms. If the decision is not objected to, it becomes a binding decision. If you are not represented by an attorney, you may find it difficult to respond in a timely fashion as you may have trouble understanding the terms and conditions of the proposed decision that are often confusing and too legalistic for the untrained person.

