

Basic Claim Handling Manual

State of Alabama
Department of Industrial Relations
Workers' Compensation Division

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DISCLAIMER

This booklet is not intended to be a comprehensive explanation of the Alabama Workers' Compensation Law. We have, however, attempted to point out and explain some of the more common problems and questions that arise in handling Alabama Workers' Compensation claims.

This booklet is also not intended to give legal advice and is subject to change without notice. Legal advice, legal opinions, or legal representations should be solicited from a competent attorney licensed to practice law in your particular jurisdiction.

This booklet is the interpretation of the Alabama Worker's Compensation Law by the staff of the Alabama Workers' Compensation Division and is intended for informational purposes only.

Please feel free to reproduce.

INTRODUCTION

The Alabama Legislature passed the first Workers' Compensation Law in 1919, effective January 1, 1920. There have been many legislative changes and court decisions since then, but basically, the philosophy of the original Act has been retained.

The purpose of the Workers' Compensation Law is to provide prompt and necessary medical treatment, and wage replacement for workers who are injured or killed from an accident arising out of and in the course of their employment.

Workers' Compensation was designed as a substitute for common-law tort actions for personal injuries between master and servant.

The Alabama Workers' Compensation Act is found at §25-5-1, et. Seq. Code of Alabama, as amended, 1975.

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I. DEFINITIONS §25-5-1

1. **Compensation:** The money benefits to be paid because of injury or death. “Compensation” does not include medical.
2. **Child or Children:** Children entitled by law to inherit as children of the deceased.
3. **Dependent Child or Orphan:** An unmarried child under the age of 18 years or one over that age who is physically or mentally incapacitated.
4. **Employer:** Every person who employs another to perform a service for hire and pays wages directly to that person.
5. **Employee:** Every person in the service of another under any contract of hire, express or implied, oral or written, including aliens and minors, who are legally permitted to work under the laws of Alabama.
6. **Wages/Average Weekly Earnings:** The average weekly wage is based on the employee’s earnings which are subject to federal income taxation and reportable on the Federal W-2 tax form.
7. **Accident:** An unexpected or unforeseen event, happening suddenly and violently.
8. **Injuries by an Accident Arising Out of and in the Course of the Employment:** Workers’ Compensation does not cover workers except while engaged in or about the premises where their services are being performed or where their service requires their presence as a part of the service at the time of the accident and during the hour of service as workers.
9. **Injury:** Injury by accident arising out of and in the course of the employment, and not a disease in any form, except an occupational disease or when a disease results naturally and unavoidably from the accident. Injury shall include physical injury covered either by carpal tunnel syndrome or other cumulative trauma disorder and breakage or damage to eyeglasses, hearing aids, dentures, or other prosthetic devices when injury to them is caused by an on-the-job injury to the body. Injury does not include a mental disorder or mental injury unless caused by some physical injury to the body.
10. **Singular and Plural:** Whenever the singular is used, the plural shall be included.
11. **Gender:** When the masculine gender is used, the feminine and neuter shall be included.
12. **Loss of Hand or Foot:** Amputation between the elbow and wrist shall be considered the equivalent to the loss of a hand. The amputation between the knee and ankle shall be considered the equivalent of the loss of a foot.
13. **Provider:** Person or entity providing treatment, service or equipment, or facilities at which the employee receives treatment.
14. **Medical:** All services, treatment or equipment provided by a provider.

15. **Prevailing:** When cost for medical treatment exceeds the maximum rate for reimbursement, the “prevailing” rate applies.
16. **Participating and Nonparticipating Hospital:** Hospitals that have a negotiated rate of reimbursement are participating hospitals and those that have not negotiated a rate of reimbursement are nonparticipating hospitals.
17. **Hospital:** A hospital, ambulatory surgical center, outpatient rehabilitation center licensed by the State of Alabama and diagnostic facilities accredited by the Commission on Accreditation of Rehabilitation Facilities.
18. **The Court:** The circuit court that would have jurisdiction in an ordinary civil action and “the judge” means a judge of that Court.
19. **Utilization Review:** A determination of medical necessity. Not mandatory.
20. **Bill Screening:** The evaluation and adjudication of provider bills for appropriateness of reimbursement relative to medical necessity and prevailing rates of reimbursements, duplicate charges, unbundling of charges, etc. Not mandatory.
21. **Adjudication:** Review of claims to apply prevailing rules that adjust reimbursements for work required when multiple procedures are performed at the same time, when assistant surgeons are present, to eliminate duplicate billing and to adjust for the most commonly occurring method adopted for total reimbursement.
22. **Ombudsman:** An individual who helps injured or disabled employees, persons claiming death benefits, employers and other persons in protecting their rights and obtaining information available under the Workers’ Compensation Law.

II. COMPENSATION

WAITING PERIOD §25-5-59:

There is a three (3) day waiting period in the State of Alabama. Compensation is owed beginning on the fourth (4th) day of disability. When the injured employee is out twenty-one (21) days, the three (3) day waiting period is added to the first compensation payment due after the twenty-one (21) days. If the employee sustains an injury, and it is obvious loss time will exceed twenty-one (21) days, the three (3) day waiting period may be waived and compensation begun on the first day of disability.

To compute the three-day waiting period when the employee is paid in full for date of injury:

Date/Injury:	07/05/00
Date/Disability:	07/06/00
Waiting Period:	07/06, 07, 08/00
Begin Compensation:	07/09/00

To compute the three-day waiting period when the employee is not paid in full for date of injury:

Date/Injury:	07/05/00
Date/Disability:	07/05/00
Waiting Period:	07/05, 06, 07/00
Begin Compensation:	07/08/00

If the employee is injured on 07/05/00 and continues to work for a period of time (thru 07/14/00), the date of disability will be 07/15/00.

Date/Injury:	07/05/00
Date/Disability:	07/15/00
Waiting Period:	07/15, 16, 17/00
Begin Compensation:	07/18/00

The WC Form 2, Employer's First Report of Injury,

http://dir.alabama.gov/docs/forms/wc_froi_new_with_different_margins.pdf (printable document) http://dir.alabama.gov/docs/forms/wc_alabama_froi.doc (Fill-in document) should be filed within fifteen (15) days after the date of injury or date of notification if days lost from work exceed three (3) days.

COMPUTATION AND FILING

TEMPORARY TOTAL DISABILITY §25-5-57:

Payments of compensation are to be made at the intervals that the earnings were payable, as nearly as possible, unless the parties otherwise agree. Temporary total disability (TTD) begins with the first day the injured employee is not paid in full. Temporary total disability is computed by multiplying 66 2/3% (.6667) times the average weekly wage (AWW).

! If 66 2/3% of the average weekly wage is more than the maximum compensation rate, drop back to the maximum compensation rate in effect at time of injury.

NOTE: Example is based on a July 5, 2000 injury date and AWW of \$900.00:

$$\begin{array}{r} \text{AWW:} \qquad \qquad \qquad \$ 900.00 \\ 66 \frac{2}{3} \% \qquad \qquad \qquad \times \underline{.6667} \\ \qquad \qquad \qquad \qquad \qquad \qquad \$ 600.00 \end{array}$$

The Maximum Comp Rate of \$531.00 should be paid effective 07/01/00.

! If 66 2/3 % of the average weekly wage is less than the minimum compensation rate in effect at time of injury, then the minimum compensation rate is applicable.

NOTE: Example is based on a July 5, 2000 injury date and AWW of \$180.00:

$$\begin{array}{r} \text{AWW} \qquad \qquad \qquad \$ 180.00 \\ 66 \frac{2}{3}\% \qquad \qquad \qquad \times \underline{.6667} \\ \qquad \qquad \qquad \qquad \qquad \qquad \$ 120.00 \end{array}$$

The Minimum Comp Rate of \$146 should be paid effective 07/01/00.

! If the average weekly wage is less than the minimum in effect at the time of injury, then 100% of the average weekly wage is applicable.

NOTE: Example is based on a July 5, 2000 injury date and AWW of \$140.00:

$$\begin{array}{r} \text{AWW} \qquad \qquad \qquad \$ 140 \end{array}$$

The Comp Rate of \$140 should be paid.

File a WC Form 3 http://dir.alabama.gov/docs/forms/wc_supp_report.pdf to begin TTD and a WC Form 4 http://dir.alabama.gov/docs/forms/wc_claim_summ_form.pdf to suspend TTD or the Combination Supplementary & Claim Summary Form

TEMPORARY PARTIAL DISABILITY §25-5-57:

Temporary Partial Disability (TPD) is paid when an employee returns to work, with restrictions, to light duty or part-time. Temporary Partial Disability is paid at 66 2/3% of the difference in the employee's earnings at the time of injury and the earnings in his restricted capacity. This compensation is paid during the period of disability but not beyond 300 weeks, subject to the maximum only in effect on date of injury.

AWW on Date/Accident	\$ 900.00
AWW on Return/Work	<u>- 450.00</u>
Difference	\$ 450.00
66 2/3%	<u>x .6667</u>
TPD Compensation Due	\$ 300.02

A WC Form 3, Section A is filed when temporary partial disability is begun and a WC Form 4 is filed when payments are suspended.

When temporary partial disability is paid and there has been no period of temporary total disability, the three (3) day waiting period is figured the same as temporary total disability, subject to the maximum compensation rate.

Exception: If the employee is working part-days, then the part-day is considered as one day of the waiting period.

PERMANENT PARTIAL DISABILITY §25-5-57:

Permanent partial disability (PPD), scheduled or unscheduled injury, is subject to a maximum of \$220.00 per week. The following example is based on a scheduled injury using a 10% permanent partial disability rating to the leg:

Number of weeks from schedule for loss of leg	200 weeks
10% PPD rating	<u>x .10</u>
Weeks due for PPD	20
Maximum PPD rate	<u>x 220.00</u>
Permanent Partial Disability Due	\$4,400.00

The following examples are based on an unscheduled injury using a 10% permanent partial disability rating to the body as a whole:

10% PPD rating to body/whole	300 weeks
Less number of weeks of TTD paid	<u>- 30</u>
Weeks remaining to be paid	270 weeks
Start with the AWW	\$ 900.00
10% PPD rating	<u>x .10</u>
	\$ 90.00
66 2/3%	<u>x .6667</u>
PPD weekly compensation rate	\$ 60.00
Multiply weeks remaining	<u>X 270</u> weeks
Permanent Partial Disability Due	\$16,200.00

Permanent partial disability can be paid either weekly or in a lump sum. If a lump sum is agreed upon by both parties, *remember that only future payments can be discounted.*

A WC Form 3, Supplementary Report, Section A and a WC Form 4, Summary Report should be filed for each period of permanent partial disability.

PERMANENT TOTAL DISABILITY §25-5-57:

Permanent Total Disability (PTD) does not mean total helplessness. Permanent Total benefits have no limitations on the amount or length of time of payment. If an injured employee is determined to be a permanent total, whereby, he is unable to obtain suitable or gainful employment as a result of the injury, he is entitled to PTD benefits for the remainder of his life, or until he is gainfully employed through vocational rehabilitation.

Permanent Total Disability means the inability to:

1. Perform one's trade
2. Obtain other reasonable gainful employment
3. Perform gainful employment with reasonable accommodations, or
4. Be retrained for reasonably gainful employment.

Permanent Total Disability is computed at 66 2/3 % of the average weekly wage, not to exceed the maximum in effect at the time of injury. Benefits are paid for duration of disability (lifetime benefits) but can be altered by vocational rehabilitation.

A WC Form 3, Supplementary Report, Section A and a WC Form 4, Summary Report, should be filed.

DEATH §25-5-60:

Where death results proximately from the accident within three years, compensation is payable to dependents entitled thereto without administration or to a guardian or other person as the Court may direct, for the use and benefit of the person entitled thereto.

Death benefits are based on the employee's average earnings at the time of the accident, subject to the maximum and minimum in effect at the time of accident. If the employee leaves one dependent, the dependent is entitled to 50% of the employee's average weekly wage, subject to maximum and minimum. If the employee leaves two or more dependents, the dependents are entitled to 66 2/3% of the employee's average weekly wage, subject to maximum and minimum in effect at time of injury resulting in death. Precedence of dependents is listed in §25-5-62 and the amount/percentage is determined by the Court. Death benefits are payable for 500 weeks, subject to limitations such as remarriage of the widow, etc., as defined in §25-5-61.

DEATH FOLLOWING DISABILITY

If death follows a period of disability, the period of disability will be deducted from the 500-week period due the dependent(s). If an employee dies of causes not related to the injury, while receiving permanent partial disability/permanent total disability, the remaining compensation due is payable to his dependents if the degree of disability has been agreed upon by the parties or if a court has determined the degree of disability. Compensation payable to dependents shall not exceed the amount due, had the death resulted from the injury. In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which is to be borne by the party demanding the autopsy. The 1992 Amendment provided for a \$7,500.00 death benefit for an employee who has no dependents at the time of his death. Burial expenses up to \$3,000.00 are payable to all employees whose death is the result of an accident or illness arising out of and in the scope of employment.

As with other types of disability, a WC Form 3, Supplementary Report, Section A, reporting the initiation of payment and a WC Form 4, Summary Report, showing the suspension of payments, should be filed.

PENALTY FOR OVERDUE COMPENSATION PAYMENTS

If any installment of compensation payable is not paid without good cause within 30 days after it becomes due, there shall be added to the unpaid installment an amount equal to 15% thereof, which shall be paid in addition to the installment amount.

VOCATIONAL DISABILITY

If an injured worker returns to work at a wage equal to or greater than his pre-injury wage, and if he has sustained a permanent partial disability, he is not entitled to any vocational disability.

The permanent partial disability is paid on the physical impairment rating only. However, if he loses his job through no fault of his own within 300 weeks from the date of injury, or if returned to a job paying less than his pre-injury wage, he may petition for his vocational disability.

If the injured worker returns to work and the wage is less than his pre-injury wage, he is entitled to a vocational disability and is not paid permanent partial disability based on a physical impairment rating.

III. MEDICAL §25-5-77

Under Alabama Workers' Compensation Law, an employee who sustains a compensable injury by accident or occupational disease, is entitled to lifetime medical benefits for the work-related injury. Medical treatment must be medically necessary and appropriate for the treatment of the injury or illness and must be provided by an authorized physician. Medical services provided by an unauthorized physician are not covered and will not be reimbursed. If an employer/agent fails to direct the injured worker to a specific physician or medical facility, the injured worker may be entitled to see the physician of his choice. The employer/agent would still retain the right to approve all referrals.

DISPUTED MEDICAL CLAIMS

If a claim for medical services rendered is disputed, notify the provider that the claim is in dispute and advise them of the nature of the dispute. This is crucial because medical providers can file a formal complaint with the Director of Industrial Relations. §25-5-77(i) states, “Any party, including a health care provider, is entitled to a review by an ombudsman of medical services provided or for which authorization of payment is sought if any party or health care provider has any of the following:

1. Been denied payment or had the charge reduced for medical services rendered.
2. Been denied authorization for payment of services requested or performed when authorization is required.
3. Been ordered by the Director to refund payments received for the provision of medical services.
4. A party to a medical dispute that remains unresolved after a review of medical services as provided by this section may petition the court for relief.
5. In any review under this subsection of medical services provided by a physician, any party to a dispute may request the ombudsman consult with an independent medical expert from a list of at least three names provided by the Workers’ compensation Medical Services Board in a medical speciality appropriate to the issues raised in the dispute and shall secure a written opinion from the independent medical expert. In rendering a decision or recommendation, the ombudsman shall give full consideration to the opinion of the independent medical expert, but shall not be bound by that opinion.

EMPLOYEE REFUSAL OF MEDICAL SERVICES

If an injured employee refuses to comply with reasonable request for examination, refuses to accept physical rehabilitation which the employer elects to furnish, or refuses to comply with the treatment plan or regimen ordered by the treating physician, the employee’s right to compensation shall be suspended and no compensation shall be payable for the period of the refusal or non-compliance.

FEE SCHEDULE

The Workers' Compensation Fee Schedule limits an employer's liability to the fees listed in the schedule. Employers can negotiate with providers for lower rates than those in the fee schedule. The *Physician's Fee Schedule* is reviewed and updated each year by the Workers' Compensation Medical Services Board and may be increased/decreased.

MEDICAL SUBROGATION

An employer shall be allowed to subrogate medical and vocational benefit expenses recovered in a third-party suit.

MILEAGE COSTS

Mileage costs to and from medical and rehabilitation providers shall be paid at the rate as provided by law for official state travel. Effective January 1, 2007, the rate for mileage is 48.5 cents per mile - the rate paid to state employees - subject to change. Mileage rates are:

August 1, 1992	\$ 0.25
October 1, 1999	\$ 0.31
January 1, 2000	\$ 0.325
January 1, 2001	\$ 0.345
January 1, 2002	\$ 0.365
January 1, 2003	\$ 0.36
January 1, 2004	\$ 0.375
January 1, 2005	\$ 0.405
September 1, 2005	\$ 0.485
January 1, 2006	\$ 0.445
January 1, 2007	\$ 0.485

PHYSICIAN

The term "physician" shall include medical doctor, doctor of osteopathy and chiropractor.

VOCATIONAL REHABILITATION

If the employer so elects, the employee shall submit to and undergo vocational rehabilitation at the employer's expense. If an employee who is unable in the opinion of the treating physician to return to his/her former employment, requests vocational rehabilitation and both a vocational rehabilitation specialist and a treating physician express their opinion in writing that in their judgment, vocational rehabilitation is reasonably calculated to restore the employee to gainful employment and is in the best interest of the employee, the cost shall be borne by the employer. The costs, where rehabilitation requires residence at or near a facility or institution away from the employee's customary residence, shall include reasonable charges for the employee's necessary board, lodging and travel.

IV. MISCELLANEOUS

Fraud: In 1994, the Legislature of Alabama passed Act 94-653 which made workers' compensation fraud a Class C felony. The Act states:

“Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining compensation as defined in Section 25-5-2(1), Code of Alabama, 1975, as amended, for himself or herself or any other person is guilty of a Class C felony.”

“Any person” has been interpreted to mean not only the employee, but a medical provider, attorney, employer, or any other person who may have an interest in the case. This Act will not eliminate fraud but it will be a deterrent for some employees. The penalty, if convicted of a Class C felony, is one to ten years imprisonment and up to a \$5,000 fine. After an investigation is completed by the employer or agent, the case will be reported to the District Attorney in the county where the fraud occurred, or to the Attorney General's office. If you suspect a claim to be fraudulent, you may call the Workers' Compensation Fraud Hotline at **1-800-WC FAKED** or **1-800-923-2533**. Workers' Compensation fraud posters are available through the Alabama Workers' Compensation Division.

Ombudsman Program: The Ombudsman Program was established to assist injured or disabled employees, persons claiming death benefits, employers, and other persons in protesting their rights and obtaining information available under the Workers' Compensation Law.

Ombudsman may conduct benefit review conferences only with the agreement of both the employer and employee. A benefit review conference is a nonadversarial, informal dispute resolution process. Under this program the ombudsman is to:

1. Explain, orally and in writing, the rights of the respective parties and the procedures necessary to protect those rights;
2. Discuss the facts of the claim, review information to evaluate the claim, and delineate the issues; and
3. Mediate and resolve disputed issues.

A dispute may be resolved in whole or in part at the benefit review conference. An agreement shall be effective on the date it is signed, unless one of the parties submits the agreement to the court for approval. An agreement shall be binding on all parties, unless within 60 days after the agreement is signed or approved the court on finding of fraud, newly discovered evidence or other good cause, shall relieve all parties of the effect of the agreement.

Mediation has several advantages:

1. Time - it is scheduled based on the availability of both parties.
2. Cost - the mediator is not paid by either party and the cost of going to court may be avoided.
3. Flexibility - the mediator is free to work within established parameters.
4. Provides a continuing good relationship, a "win/win" between all parties involved.

The Ombudsman toll free number is 1-800-528-5166.

Compensation Rates for Alabama

The compensation rates are as follows and please remember if the average weekly wage is less than the minimum, then 100% of the average weekly wage is applicable.

<u>Effective Date</u>	<u>Maximum</u>	<u>Minimum</u>
7/1/92	400	110
7/1/93	419	115
7/1/94	427	118
7/1/95	443	122
7/1/96	458	126
7/1/97	474	130
7/1/98	493	136
7/1/99	510	140
7/1/00	531	146
7/1/01	549	151
7/1/02	569	156
7/1/03	569	161
7/1/04	607	167
7/1/05	629	173
7/1/06	651	179

Quick Reference Sheet for New Adjusters

Within 15 days after the occurrence of the injuries and knowledge thereof by the employer, a First Report of Injury must be sent to the State of Alabama.

In all cases, upon making the first payment of compensation, a Supplementary Report must be filed within 10 days to the State of Alabama.

If the first installment of compensation is not paid within 30 days after knowledge of a claim for compensation, a report shall be filed with the State of Alabama, within 10 days of the expiration of the 30-day period, setting out the reason for such nonpayment.

In all cases, upon cessation or termination of payment of compensation, a Claim Summary Form shall be filed with the State of Alabama within 10 days showing the type of compensation paid and the amount. This form can only have on type of compensation being paid such as TTD, TPD, PTD, or PPD.

Compensation shall begin with the fourth day after disability, and if the disability from the injury exists for a period as much as 21 days, compensation for the first three days after the injury shall be added to and payable with the first installment due the employee after the expiration of the 21 days. If any installment of compensation payable is not paid without good cause within 30 days after it becomes due, there shall be added to the unpaid installment an amount equal to 15 percent thereof, which shall be paid at the same time as, but in addition to, the installment.

With 10 days after the settlement of any case, other than a settlement approved by the Court or an ombudsman, a Claim Summary Form shall be filed, giving the details of such settlement. Court settlement and Ombudsman settlement do not have to have a Claim Summary filed as the Circuit Court and Ombudsman furnish these to the State of Alabama.

All workers' compensation reports may be destroyed after 12 years.

If the average weekly wage is less than the minimum, then 100% of the average weekly wage is applicable.

On a Supplementary Form (Line #6), the Date disability began this period, is always the day that compensation is begun or the first day of the three day waiting period.

On a Claim Summary Form (Line #11), the Date last day comp paid, is always the last day that you pay the employee and the RTW is ALWAYS the next day (even if it is Saturday or Sunday) as the State of Alabama figures their compensation on a seven-day week.

The State of Alabama does not recognize salary in lieu of compensation and the appropriate forms must be filed with the State of Alabama. This is due to the fact that Workers' Compensation weekly indemnity benefits are not taxable.

The statute of limitation for accidents is two years from the date of accident or the last date that compensation was paid. For occupational diseases the statute is two years, extended from one year by the 1992 reform act. There is no statute of limitations for medical benefits.

A WC Form 3, Supplementary Report, Section A, reporting the initiation of payment and a WC Form 4, Summary Report, showing the Suspension of payments, must be filed on each period or type of disability. In other words, only one type of compensation can be opened or closed on a Supplementary Report or a summary Report, whether TTD, PPD, TPD, or PTD.

Do not accumulate (or add together) different periods of disability. Report each period of disability (TTD, TPD, PPD, or PTD) separately by sending in a Section A on the Supplementary Form Initiating payment and reporting the cessation of payment with a Summary Form.

Date last day compensation paid is ALWAYS the last day that compensation was owed and paid.

Return to work (RTW) date is ALWAYS one day after the last day compensation paid, whether the employee returned to work that date or not as compensation in Alabama is figured on a seven day work week.

Estate payment is a one time payment made when an employee dies as a result of a work related injury and leaves no dependents. The amount of this payment is \$7,500.

The maximum for funeral expense is \$3,000.

Remember there is only one waiting period per claim. Compensation for the waiting period is due and payable when the claim reaches twenty-one (21) days.