

Award Process

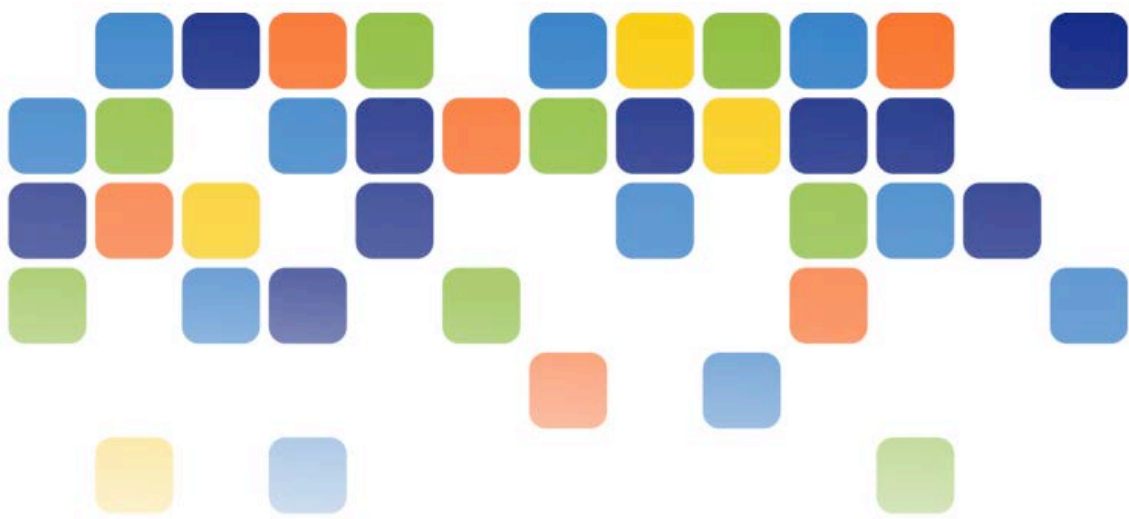
Presented By:

Debbie Rhodes
Annette Spearman

Team Leaders - Claims Services Department

Agenda

- **Average Weekly Wage**
- **Wage Chart**
- **Temporary Partial Wage Calculations**
- **Award Agreement & Termination Agreement**
- **Changes to Forms**
- **Rejection of Agreements**



Average Weekly Wage

Definition of Average Weekly Wage VA Code §65.2-101

- **“Average weekly wage”:**
- **The earnings of the injured employee in the employment in which he was working at the time of the injury during the period of 52 weeks immediately preceding the date of injury, divided by 52; but if the injured employee lost more than seven consecutive calendar days during such period, although not in the same week, then the earnings for the remainder of the 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted.**

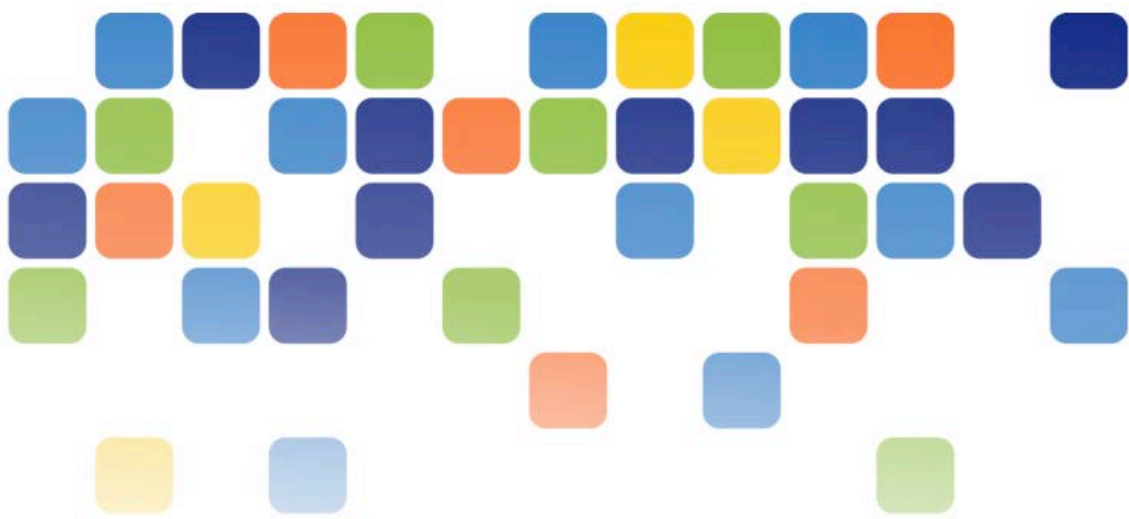
Average Weekly Wage

AWW = Average Weekly Wage

- **VWC Wage Chart Form # 7A** is the preferred method for submitting wage information to the Commission.
- Use the **GROSS** earnings for the 52 weeks preceding the date of injury.
- List any **perquisites** (amounts paid to the employee for meals, lodging, uniforms, etc.) in the spaces provided on the bottom section of the form and do not include in the Gross earnings listed above.

Average Weekly Wage

- If an injured worker lost **more than 7 consecutive** calendar days, although not in the same week, these periods should be noted on the Chart using an **asterisk (*)** in the Week No. column and are **NOT** to be counted in the calculations.
- If injured employee has worked **less than 12 months**, the earnings for the time worked should be used or the earnings for a similar employee may be used if the employee has worked **LESS than 60 days**.



Wage Chart

Wage Chart Example

Employee		Address		
Name of Employee	John P. Hurtworker		Date of Accident	07/10/2004
Employer		Address		
Name of Employer	Virginia Workers' Compensation Commission		Employee's Social Security Number	XXX-XX-XXXX

Date of Injury:
7/10/04

Date range you
can use: 7/10/03
to 7/09/04

This example:

- Instructions:**
- Indicate gross weekly earnings for the 52 weekly periods immediately preceding the date of accident.
 - If injured employee has worked less than 12 months, the earnings for the time worked should be used. The earnings for a similar employees may be used if the employee has worked less than 60 days.
 - Note that these earnings are GROSS earnings and include overtime and tips, before any deductions are made for taxes or Social Security. If there were any perquisites, please list the TOTAL value separately at the bottom of the chart.

Week No.	Week Ending Date	Days Worked	Gross amount paid, including overtime	Week No.	Week Ending Date	Days Worked	Gross amount paid, including overtime	Week No.	Week Ending Date	Days Worked	Gross amount paid, including overtime
1	07/18/03	5	200.00	19	11/21/03	6	240.00	37	03/26/04	6	240.00
2	07/25/03	6	240.00	20	11/28/03	5	200.00	38	04/02/04	5	200.00
3	08/01/03	5	200.00	21	12/05/03	5	200.00	39	04/09/04	5	200.00
4	08/08/03	5	200.00	22	12/12/03	5	200.00	40	04/16/04	5	200.00
5	08/15/03	5	200.00	23	12/19/03	5	200.00	41	04/23/04	5	200.00
6	08/22/03	6	240.00	24	12/26/03	5	200.00	42	04/30/04	5	200.00
7	08/29/03	5	200.00	25	01/02/04	4	160.00	43	05/07/04	5	200.00
8	09/05/03	5	200.00	26	01/09/04	5	200.00	44	05/14/04	5	200.00
9	09/12/03	5	200.00	27	01/16/04	5	200.00	45	05/21/04	4	160.00
10	09/19/03	5	200.00	28	01/23/04	5	200.00	46	05/28/04	6	280.00
11	09/26/03	5	200.00	29	01/30/04	5	200.00	47	06/04/04	5	220.00
12	10/03/03	5	200.00	30	02/06/04	5	200.00	48	06/11/04	5	220.00
13	10/10/03	5	200.00	31	02/13/04	4	160.00	49	06/18/04	5	220.00
14	10/17/03	6	288.00	32	02/20/04	6	296.00	50	06/25/04	5	220.00
15	10/24/03	6	294.00	33	02/27/04	5	200.00	51	07/02/04	5	220.00
16	10/31/03	5	200.00	34	03/05/04	5	200.00	52	07/09/04	4	176.00
17	11/07/03	5	200.00	35	03/12/04	5	200.00	Totals			\$10,874.00
18	11/14/03	5	200.00	36	03/19/04	5	200.00				

- STEPS:**
- Add up all applicable weeks
 - Add any perquisites to total (if any)
 - Divide by the number of weeks used

$$\begin{aligned}
 &\$10,874.00 \\
 &+ \\
 &\$500.00 \\
 &\text{Total:} \\
 &\$11,374.00 \\
 &\div \quad 52 \text{ weeks} \\
 &= \$218.73 \text{ is the AWW}
 \end{aligned}$$

Value of perquisites for entire year: Total gross earning \$ 10,874.00 Total weeks worked 52

Bonuses \$ 500.00	Electricity \$ _____	Total value of perquisites \$ 500.00
Meals/Lodging \$ _____	Water \$ _____	
Meals Only \$ _____	Telephone \$ _____	Total earnings & perquisites \$ 11,374.00
Temporary Lodging \$ _____	Uniforms \$ _____	
House Rent \$ _____	Laundry \$ _____	
Tip Income \$ _____		

VWC use only:

AWW: _____

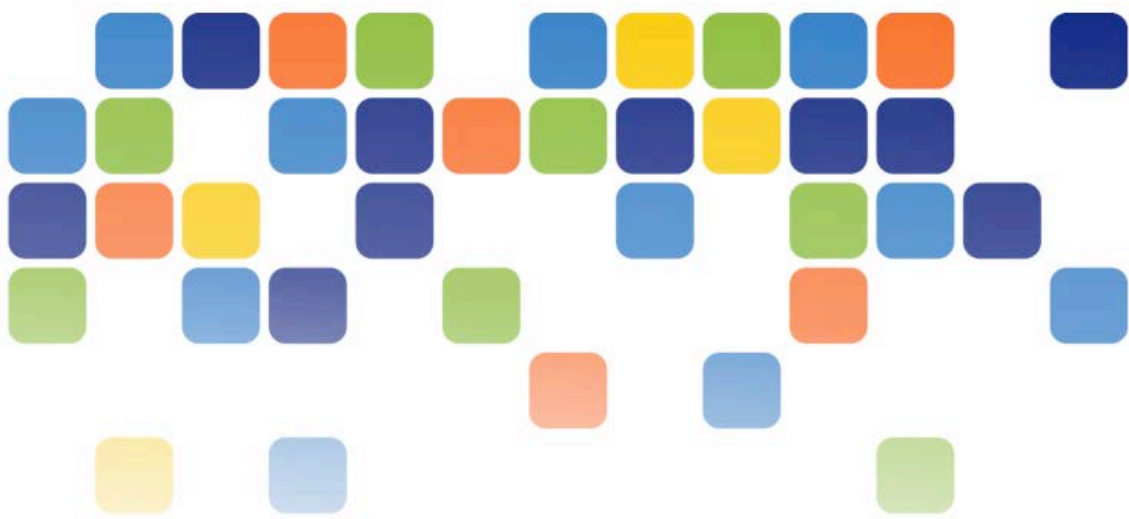
CR: _____

Wage Chart

1. For teachers with a **10** month contract, we divide the total gross wages by 42 weeks. A **12** month contract would be 52 weeks.
2. Remember to include the year under the "Week Ending Date" section of the Wage Chart:

Week No.	Week Ending Date	Days Worked	Gross amount paid, including overtime
1	07/18/03	5	200.00
2	07/25/03	6	240.00

***If at any time you wish to amend the Injured Worker's pre-injury average weekly wage to a LOWER amount, the Commission will require a Wage Chart and corrected Award Agreements.**



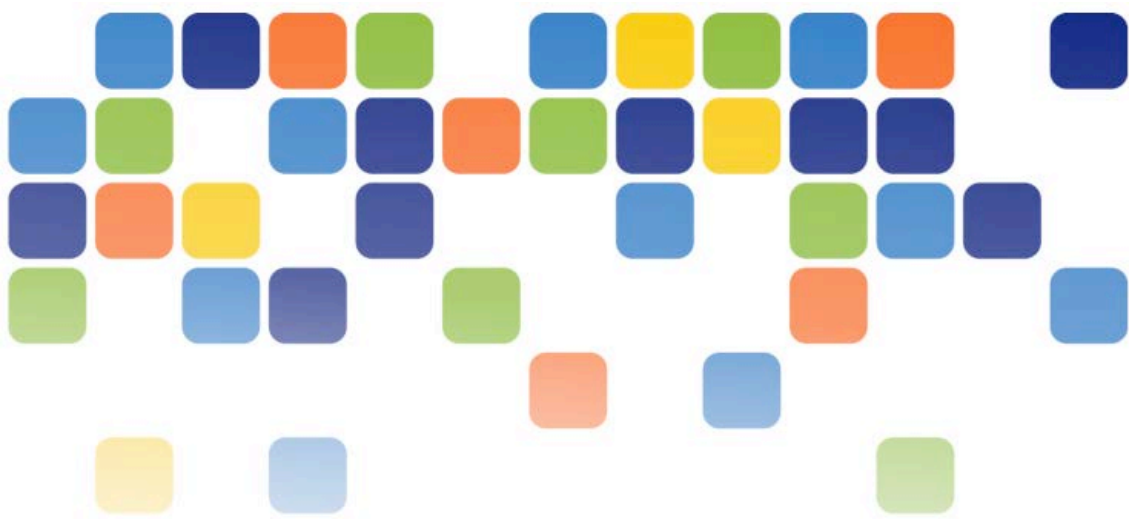
Temporary Partial Wage Calculations

How to Calculate Temporary Benefits (TP)

1. All figures are to be converted into weekly figures (7 days).
2. Calculate the average earned by the Injured Worker for the specified time frame
3. Determine the number of days the Injured Worker worked
4. Take the average earned divided by the number of days the Injured Worker worked (this will be the daily rate)
5. Then convert that amount into a weekly rate by multiplying by 7 (for 7 days in a week). This will be your post-injury wage
6. Then take the AWW minus the post-injury wage and multiply by .66667 and this will give you the TP compensation rate.

Temporary Partial Calculation Example

1. The Average the Injured Worker Earned:
\$238.55
2. The number of days the Injured Worker Worked: 4
3. Convert to a weekly rate: \$238.55 divided by 4 = \$59.64 (daily rate)
4. Convert the daily rate of \$59.64 into the weekly rate by multiplying \$59.64 x 7 = \$417.48 (post-injury wage)
5. Then take the AWW of \$652.56 minus the post-injury wage of \$417.48 = \$235.08 then multiply by .66667 = \$156.72 (TP compensation rate)




Award Agreement & Termination Agreement

Award Agreement

Award Agreement
(Agreement to Pay Benefits)

Virginia Workers' Compensation Commission
1000 DMV Drive Richmond Virginia 23220
1-877-664-2566

SEE INSTRUCTIONS ON REVERSE SIDE



www.vwc.state.va.us

Jurisdiction Claim #: _____
Claim Administrator #: _____

Injured Worker's Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Home Phone: _____ Work Phone: _____ () - _____

Employer's Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Employer's Phone: _____

Body Parts/Injuries Accepted: _____

Date of Injury: _____ **Pre-Injury Average Weekly Wage:** _____

Payment of Compensation Check one: Initial period Additional period Corrected period
(Check all that apply)

A. Temporary Total at the compensation rate of \$ _____ per week. This period of disability began on _____ (m/d/yyyy).

B. Temporary Partial: Please select option 1 or 2 below and complete.

1 - Will be paid at the compensation rate of \$ _____ per week. This period of disability began on _____ (m/d/yyyy)

2 - Was paid an averaged weekly compensation rate of \$ _____ per week from _____ through _____ and will continue to be paid at a compensation rate of \$ _____ per week beginning on _____ (m/d/yyyy)

C. Permanent Partial at the compensation rate of \$ _____ per week. This period of disability began on _____ (m/d/yyyy) for _____% loss of use, loss, or disfigurement of the _____. **Note: Medical report(s) or amputation chart must be attached.**

Do the parties agree to have this award paid in a lump sum with the 4% discount deducted? Yes No

D. Permanent Total the compensation rate of \$ _____ per week. This period of disability began on _____ (m/d/yyyy).

E. Medical Only. The parties agree to an award for payment of medical benefits that are reasonable, necessary, authorized and causally related to the compensable injury.

THIS AGREEMENT IS SUBJECT TO ADJUSTMENT AND APPROVAL BY THE COMMISSION PURSUANT TO THE VIRGINIA WORKERS' COMPENSATION ACT

Signatures REQUIRED

By signing below, we certify that the facts relating to this accident are correct as presented on this form and agree that the Injured Worker shall receive compensation or benefits indicated until suspended in accordance with the provisions of the Virginia Workers' Compensation Act.

Signature of Injured Worker

Print Name

Date (m/d/yyyy)

Signature on behalf of the Employer/Insurer

Print Name

Date (m/d/yyyy)

Print Name and Address of Claim Administrator

Phone Number

Print Name and Address of Injured Worker's Attorney

Phone Number

This form is required by the Virginia Workers' Compensation Commission

VWC Form #4
Rev. 10/08

Agreement Forms, Purpose & Pitfalls

Award Agreement

- Establishes the terms of agreement between the parties of a claim for dates of disability, payment of wage loss, lifetime medical benefits, permanent partial disability benefits and/or permanent total disability benefits.
- Note: A “Fatal Award Agreement (VWC form #35)” must be submitted along with supporting documentation for an Award of Fatal benefits.
- The parties to a claim must sign the form and initial all changes

Agreement Forms, Purpose & Pitfalls (cont.)

Terms of the Award Agreement establishes

- The nature of injury/body parts
- The average weekly wage
- Compensation rate (Max & Min comp rate applicable)
- Periods of disability
- Percentage of loss, loss of use or disfigurement of body part(s)
- Agreement of lifetime causally related medical benefits

Agreement Forms, Purpose & Pitfalls (cont.)

Award Agreement

Permanent Partial Disability §65.2-503

Medical report indicating maximum medical improvement (MMI) is required, along with percentage/rating for loss of use.

The completed Amputation Chart (VWC Form #7) with a clear line at the point of amputation is required for loss of benefits.

If seeking disfigurement benefits, clear color photographs or personal viewing is necessary for the Commission to determine the proper rating.

Agreement Forms, Purpose & Pitfalls (cont.)

Award Agreement-Permanent Partial Disability pitfalls

- Medical documentation indicating the permanent partial disability rating not provided
- Member/digit does not indicate left/right or indicates the wrong member/digit
- Percentage does not coincide with medical evidence
- Beginning date incorrect

Agreement Forms, Purpose & Pitfalls (cont.)

Award Agreement common pitfalls

Incomplete forms – form does not include nature of injury, average weekly wage, compensation rate, beginning date of disability and signatures

All the items listed are necessary even if wages are paid in lieu of compensation

▪ **First Week** – as defined in §65.2-509 is the first seven days of incapacity and is not payable until lost time exceeds more than 21 days. This also includes broken periods of disability. According to Rule 9, any portion of a day where there is any wage loss counts as one day for purpose of establishing the seven day waiting period.

▪ **Changes not initialed by both parties**

Agreement Forms, Purpose & Pitfalls (cont.)

Award Agreement common pitfalls

- **Compensation rate is not calculated correctly or maximum and minimum compensation rate is not applied**


Compensation Rate
Temporary Total (TT) average weekly wage (AWW) X .66667
TP compensation rate
(Temporary Partial (TP) average weekly wage (AWW) minus (-) post injury wage) X .66667

Termination of Wage Loss Award

Termination of Wage Loss Award

Virginia Workers' Compensation Commission
1000 DMV Drive Richmond Virginia 23220
1-877-664-2566

SEE INSTRUCTIONS ON REVERSE SIDE



Jurisdiction Claim #: _____

Claim Administrator #: _____

www.workcomp.virginia.gov

Injured Worker's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Home Phone: _____ Work Phone: _____

Date of Injury: _____

Employer's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Employer's Phone: _____

Pre-Injury Average Weekly Wage: _____

Payment of Compensation pursuant to the open award is terminated for the reason indicated below. (Choose A or B)

A. The Injured Worker **returned to work** on _____ (m/d/yyyy) at a wage equal to or greater than the pre-injury average weekly wage.

B. The Injured Worker **was able to return to pre-injury work** on _____ (m/d/yyyy). (Documentation supporting release must be attached.)

THIS AGREEMENT IS SUBJECT TO VERIFICATION BY THE COMMISSION PURSUANT TO THE VIRGINIA WORKERS' COMPENSATION ACT

Signatures REQUIRED

Signing this form indicates the parties agree that the injured worker returned to work at the pre-injury wage or is able to return to pre-injury work.

Signature of Injured Worker	Print Name	Date (m/d/yyyy)
Signature of Claim Administrator	Print Name	Date (m/d/yyyy)
Print Name and Address of Claim Administrator		Phone Number
Print Name and Address of Injured Worker's Attorney		Phone Number

This form is required by the Virginia Workers' Compensation Commission

VWC Form #46
Rev. 10/08

Termination Form, Purpose & Pitfalls

Termination of Wage Loss Award

- Establishes the terms of an agreement between the parties of the claim agreeing to

Line A - date that the injured worker returned to work at a wage equal to or greater than the pre-injury average weekly wage

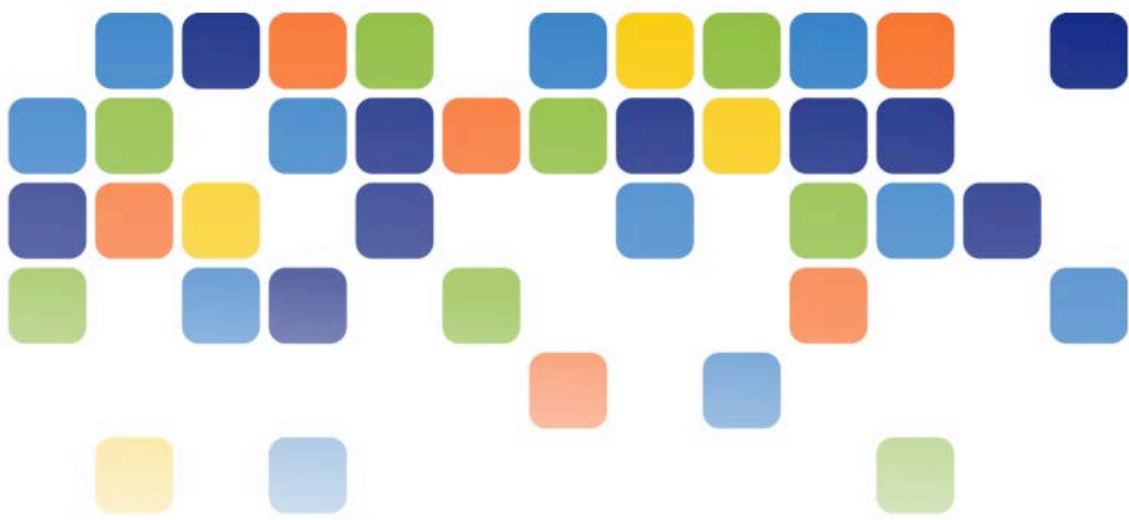
or

Line B - date that the injured worker “was able” to return to work at pre-injury average weekly wage due to medical release

Termination Form, Purpose & Pitfalls (cont.)

Termination of Wage Loss Award pitfalls

- **Form incomplete** (i.e. did not include date returned/able to return to work and signatures)
- **Changes to date not initialed**



Changes to Forms

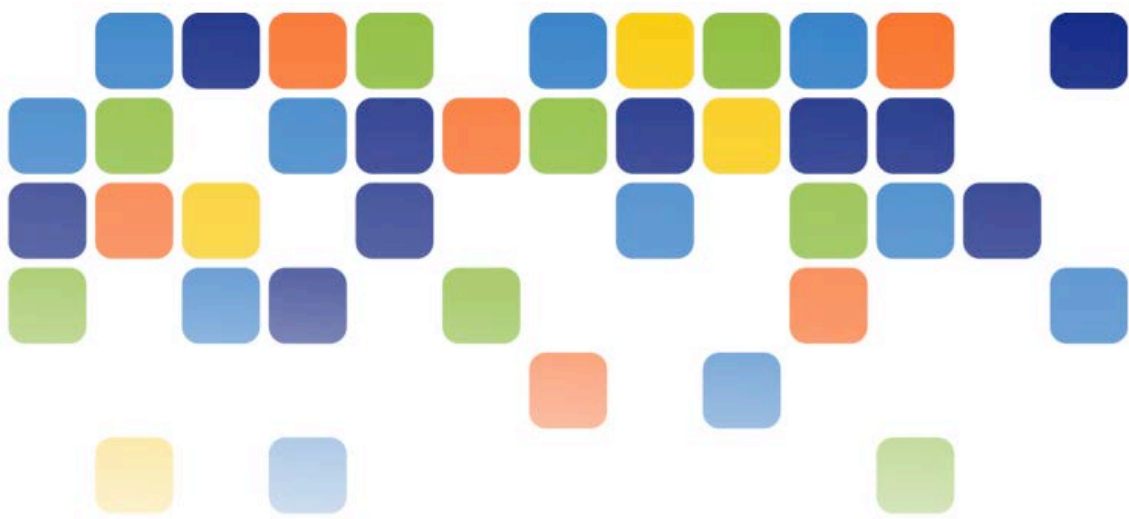


Changes to Forms

If the forms reflect changes have been made to the compensation information and the Claim Administrator signed the form **AFTER** the Injured Worker, we cannot accept the form without verifying the changes were seen, and agreed upon. This will require facilitation to request a written response by fax, mail or webfile approving the changes.

Changes to Form (cont.)

- **Common changes where we require both parties initial the change signifying their agreement:**
 - **Date of Injury**
 - **Nature of Injury/Body Parts accepted**
 - **Pre-Injury Average Weekly Wage**
 - **Compensation Rate**
 - **Compensation beginning date**
 - **Return or was able to return to work date**



Rejection of Agreements

Rejection of Agreements

The Commission will **reject** in writing any Award Agreement form that has the following information missing on the form:

- Beginning date of compensation
- Compensation rate
- Pre-injury average weekly wage
- Date of injury

***Note:** If no nature of injury (body parts) is listed on the form, the Award Order will reflect “All causally related body parts”.

Rejection of Agreements

- **Temporary Partial Section of Award Agreement:**

*** 2 options are listed (1 or 2)**

B **Temporary Partial:** Please select option 1 or 2 below and complete.

1 - Will be paid at the compensation rate of \$_____ per week. This period of disability began on _____ (m/d/yyyy)

2 - Was paid an averaged weekly compensation rate of \$_____ per week from _____ through _____ and will continue to be paid at a compensation rate of \$_____ per week beginning on _____ (m/d/yyyy)

Rejection of Agreements

- **Example of Temporary Partial benefit that is commonly rejected:**

B **Temporary Partial:** Please select option 1 or 2 below and complete.

1 - Will be paid at the compensation rate of \$ _____ per week. This period of disability began on _____ (m/d/yyyy)

2 - Was paid an averaged weekly compensation rate of \$ 150.55 per week from 5/2/12 through 6/13/12 and will continue to be paid at a compensation rate of \$ 150.55 per week beginning on 5/2/12 (m/d/yyyy)

Do **NOT** duplicate the periods by adding the compensation beginning date of 5/2/12 again. If there is **no consecutive** period, then leave the last two blanks empty. *You will also need to submit a Termination of Wage Loss Award form to end the period effective 6/13/12.

Rejection of Agreements

- Another Example of Temporary Partial benefit that is commonly rejected:

B. Temporary Partial: Please select option 1 or 2 below and complete.

1 - Will be paid at the compensation rate of \$ _____ per week. This period of disability began on _____ (m/d/yyyy)

2 - Was paid an averaged weekly compensation rate of \$ 30.81 per week from 03/23/2013 through 03/23/2013 and will continue to be paid at a compensation rate of \$ 32.43 per week beginning on 04/21/2013 (m/d/yyyy)

Since periods are **NOT consecutive**, we would require a Termination of Wage Loss Award for the period ending on 3/23/13.

Third Party Subrogation

- **Third Party Subrogation claims entitle the employer/insurer to a credit against the liability for additional payments and medical expenses pursuant to § 65.2-313. As required in §65.2-311 the employer/insurer is also responsible for a pro rata share of the attorney's fees and expenses.**

Third Party Subrogation/Info Required

- Upon submission of the following information the Commission will issue an Order indicating the reimbursement percentage:
- Date of the third party settlement
- Total amount of the third party settlement
- Total amount of the insurer's lien
- Total amount the insurer recovered from the lien
- Total amount of the third party settlement attorney fees
- Total amount of the third party settlement costs

In Conclusion

- **This concludes our presentation on:**
 - Average Weekly Wage Issues
 - Award Agreement forms
 - Termination of Wage Loss Award forms
 - Third Party Subrogation Claims/Orders

Questions?

Index Cards or bulletin board by registration desk

OR

Contact the Customer Contact Center:

- questions@workcomp.virginia.gov
- Toll free - 877-664-2566