Georgia Workers' Comp Play Calling Chart - 2022

Statute of Limitations

Income / Disability Benefits

- **All-Issues Case**

All issues case is one where either:

1) No benefits (income/disability or medical) have been paid
2) Medical expenses have been paid but no income/disability benefits have been paid (i.e. "medical only" claim – paid where there are less than 7 days missed as a result of a compensable accident)
3) Income/disability benefits were initially paid but subsequently, employer validly controverted the occurrence of a compensable accident

Filing is within statute if filed within either:

1) 1 year from date of injury
2) 2 years from date of employer's last payment of income/disability benefits (includes salary paid in lieu of benefits), or
3) 1 year from last employer provided remedial (not diagnostic) medical care

- **Change in Condition Case**

Change case is one where either:

1) There has been an award, or
2) If the employer/insurer have accepted liability on the claim by paying benefits as reported to the Board on Forms WC-1 "B" or WC-2

Filing is within statute if filed either:

1) Within 2 years of the last actual payment of TTD benefits or TPD benefits, where action is for additional TTD or TPD benefits, or
2) Within 4 years of last payment of TTD or TPD benefits if action is for PPD benefits

Medical Benefits

- **Medical only claim**

Where only medical benefits have been paid without income benefits (i.e. "medical only" claim – paid when there are less than 7 days missed as a result of a compensable accident), medical claims must be made within 1 year from the date of the last employer provided remedial (not diagnostic) treatment

- **Where no income/disability benefits and no medical benefits have been paid**

Statute runs one year from date of injury

- **Change in condition case**

Change case is one where either:

1) There has been an award, or
2) If the employer/insurer have accepted liability on the claim by paying benefits as reported to the Board on Forms WC-1 "B" or WC-2

Medical Benefits Cap: In non-catastrophic injuries occurring on or after July 1, 2013, the employer coverage of medical expenses ends 400 weeks from the date of accident. Exceptions include prosthetics, spinal cord stimulators, durable medical equipment, orthotics, etc. (see OCGA § 34-9-200(a).
For catastrophic or non-cat claims with a date of accident earlier than July 1, 2013, employer remains potentially liable for payment of medical expenses for life unless provided otherwise by stipulated settlement or a new accident to the same body part

- **Medical bill submission**

SOL for submitting medical bill: Healthcare goods and services provider must submit charges within 1 year of date of service or date of being determined to be compensable, if claim or charge is controverted

Note: The statute of limitations may be tolled by mental incompetence, minority, mistake of law, fraud, or estoppel. Employee may circumvent statute of limitations if a "fictional new accident" is recognized.

Benefits

- Temporary Total Disability Benefits (TTD)

Pay when there is total impairment to earning capacity, i.e. unable to return to regular employment or unable to procure employment at different occupation suitable to impairment (based on economic, not physical, loss)

Computation

TTD (comp rate) = 2/3 times average weekly wage (up to max listed on limitations chart)

- Temporary Partial Disability Benefits (TPD)

Pay when there is partial impairment to earning capacity, i.e., able to return to employment, but able to earn only a portion of wages made prior to injury (based on economic, not physical, loss)

Computation

TPD = 2/3 times difference between pre-injury average weekly wage and post-injury average weekly wage (up to max listed on limitations chart)

- Permanent Partial Disability Benefits (PPD)

Pay when there is permanent loss of use of body parts or from the partial loss of use of the employee's body as a whole – based on physical, not economic, loss (paid after maximum medical improvement is reached and after employee is no longer entitled to receive TTD or TPD benefits)

Computation

Multiply the percentage of PPD rating times the maximum weeks allowed (see PPD chart block for max amounts) for a 100% PPD to the body part (or whole body) times the claimant's compensation rate i.e. 100% PPD to body as a whole = 300 weeks PPD, so a 20% PPD to body as a whole rating = 20% of 300 = 60 weeks x comp rate

Independent Medical Exam (IME)

Employer IME: IME requested by employer

- Employee must submit to exam at reasonable times and places
- Must give employee 10 days written notice
- Must be performed by a qualified doctor
- Employee travel mileage must accompany notice
- Case need not be accepted as compensable and employer is entitled to IME as long as employee seeks benefits, and employer is not limited as to number of IMEs

Claimant's IME: IME requested by employee (employee entitled to only one time IME at employer's expense)

- Employer required to make pre-payment if requested by IME physician (max allowable pre-pay charge of $1200 for first two hours)
- Employee must seek IME within 120 days of last receipt of any income benefits
- Must be at reasonable time and place or within 50 miles of employee's residence
- Must be performed by qualified doctor
- Must notify employer in advance in writing
- IME shall not repeat any diagnostic procedure performed since the accident unless any cost over $250 is paid for by someone other than employer

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Suspension and Conversion of Income Benefits

Temporary Total Disability Benefits (TTD)

- **Suspension of Benefits**

1) Suspend after employee returns to full duty work where average weekly wage is same or higher than before accident
2) Suspend after claimant returns to light work if average weekly wage is same or higher than before accident
3) Suspend if full duty release is obtained from authorized treating physician even if employee fails to return to work (10 days benefits must be paid from date of WC-2 filing unless employee has actually returned to work) and full duty release must be attached to WC-2
4) Suspend if light duty job description is approved by authorized treating physician and claimant fails to attempt work once WC-240 is properly served or if claimant fails to attempt job for less than 8 consecutive hours or one scheduled workday (whichever is greater)
5) Suspend after 400 weeks from date of accident (non-catastrophic cases only) post 6-30-92 accidents only

- **Conversion of Benefits**

Convert from TTD to TPD if:

1) Light duty release is obtained from authorized treating physician (ATP) and employee returns to light duty work at less money than pre-injury average weekly wage then TPD is owed (must complete WC-240 to return employee to light duty work available with employer which has been approved by ATP– must provide job description to employee or attorney at same time it is sent to ATP)
   - If employee works more than 8 consecutive hours or one scheduled workday (whichever is greater) but less than 15 days upon return, then you must immediately restart TTD and cannot re-suspend without State Board approval
   - If employee works more than 15 days, then burden shifts to employee to show he is entitled to have benefits restarted
2) If employee is released to light duty by ATP, then file WC-104 which allows conversion to TPD after employee has been released to light duty for 52 consecutive weeks or 78 aggregate weeks while still receiving TTD (must attach light duty release to WC-104 and mail copy to employee and employee's attorney)
3) If employee voluntarily returns to light duty with light duty release and makes less than pre-injury AWW then TPD is owed

Temporary Partial Disability Benefits (TPD)

- **Suspension of Benefits**

1) Suspend (via WC-2) after 350 weeks from date of accident (non-catastrophic cases only) post-6-30-92 accidents only
2) Suspend (via WC-2) if post-injury average weekly wage exceeds or meets pre-injury average weekly wage

State Board permission required for modification of income benefits

1) Refusal to cooperate with Board ordered care or IME
2) Failure to maintain address of record
3) Where aggravation of pre-exiting condition has ended
4) Where employer has obtained evidence of ability to work full duty, other than full duty release from authorized treating physician (i.e. surveillance video)

Controverting Medical Care

Controverting specific medical procedure or treatment after accepting compensability of overall claim

Employer is responsible for medical treatments and tests which are:

1) Prescribed by the authorized treating physician (ATP);
2) Related to the on the job injury; and
3) Reasonably required and appear likely to either effect a cure, give relief, restore to suitable employment, or establish relatedness or causation of medical condition to compensable accident
4) If submitted for payment within one year of date of service (or date of being determined compensable, if previously controverted)

If authorized doctor requests pre-authorization in writing, employer must, within 30 days, either controvert procedure or treatment by filing a WC-3, or pay for the treatment requested (absent written request for pre-authorization, presumably there is no time limitation to controvert specific treatment)

WC-205 filing: If medical provider requests advance authorization by sending employer/insurer a WC-205, you must respond within 5 business days of receipt or the testing or treatment stands pre-approved. If you send denial you must then, within 21 days of initial receipt of WC-205, either authorize the requested treatment or testing in writing or file a WC-3 controvert with State Board controverting the treatment or test

WC-PMT: filed by claimant to force you to show cause why treatment or testing was not approved within 5 days of being prescribed by ATP. Within 5 days of filing, conference call will be set with ALJ if not approved or controverted (see Board Rule 205(c)).

Defenses

- No Georgia Jurisdiction
- Notice – failure to provide timely notice of accident
- Willful misconduct
- Drug/Alcohol Intoxication
- Horseplay
- Fights – where employee is aggressor
- Assaults – when not stemming from work related duty or increased danger due to work environment
- Recreational / Social accident – company picnic/softball team
- Going to / Coming from – unless transportation is furnished by employer as an incident of employment
- Deviation from scope of employment – more than slight deviation if not returned to business purpose
- Did not arise out of and in the course of employment
- No employment relationship
- Idiopathic injury
- End of aggravation of pre-existing injury
- Psychological injury without physical injury
- Statute of limitations
- Rycroft Defense – intentional misrepresentation of pre-existing condition

Max Workers' Comp Rates

Date of Accident	Temporary Total	Temporary Partial
7/1/07 – 6/30/13	$500	$334
7/1/13 – 6/30/15	$525	$350
7/1/15 – 6/30/16	$550	$367
7/1/16 – 6/30/19	$575	$383
7/1/19 – present	$675	$450

PPD Schedule

Number of weeks allowed for 100% loss of body part:

Arm (225)	Ring finger (30)
Leg (225)	Little finger (25)
Hand (160)	Great toe (30)
Foot (135)	Any other toe (20)
Thumb (60)	Hearing in one ear (75)
Index finger (40)	Vision in one eye (150)
Middle finger (35)	Disability of body as a whole (300)