

Maximum/Minimum Compensation

Effective July 1, 2020.....	\$1,137.00/\$284.25
Effective July 1, 2019.....	\$1,102.00/\$275.50
Effective July 1, 2018.....	\$1,082.00 /\$270.50
Effective July 1, 2017.....	\$1,043.00 /\$260.75
Effective July 1, 2016.....	\$996.00 / \$249.00
Effective July 1, 2015.....	\$975.00 / \$243.75
Effective July 1, 2014	\$967.00 / \$241.75

Permanent Partial Disability Benefits (§65.2-503)

Arm	200 weeks
Hand	150 weeks
Foot	125 weeks
Leg	175 weeks
Eye (vision)	100 weeks
Hearing (one ear).....	50 weeks
Severely marked disfigurement.....	60 weeks
Thumb	60 weeks
First Finger (index finger)	35 weeks
Second Finger.....	30 weeks
Third Finger	20 weeks
Fourth Finger	15 weeks
Great Toe.....	30 weeks
Any other Toe	10 weeks

COLA

Effective October 1, 2020.....	2.3%
Effective October 1, 2019.....	1.85%
Effective October 1, 2018.....	2.15%
Effective October 1, 2017.....	2.05%
Effective October 1, 2016.....	55%

Important Time Frames

- Employer's First Report of Accident or Injury: 10 days from knowledge of injury §65.2-900.
- Waiting Period: 7 days §65.2-509.
- Waiting Period Recoverable after Disability Exceeds 21 days §65.2-509.
- Notice to Employer: 30 days §65.2-600(D).

Statutes of Limitation

- File Initial Claim (§65.2-601): 2 years
- Change in Condition (§65.2-708): 2 years
- Change in Condition (permanency claims) (§65.2-708): 3 years
- TTD or TPD after PPD award ends (§65.2-501): 1 year
Unless actual change in condition (§65.2-708): 2 years

Termination of Awards

After entry of an Award by the Commission, the employer must take appropriate steps to terminate the Award. Initially, the employer should typically send a Termination of Wage Loss Award form (Form 46) to the claimant for signature. If the claimant will not sign, the employer should immediately file an Employer's Application. Rule 1.4 should be consulted to ensure benefits are properly paid. The employer should move to terminate/suspend an Award when:

- a. The employer wants to request modification (and possibly a credit for overpayments made) of an outstanding Award because it does not reflect the claimant's correct average weekly wage.
- b. The claimant returns to pre-injury work.
- c. The claimant returns to light duty work.
- d. The claimant fails to report a change of address to the Commission as required by §65.2-711 (file to suspend benefits under the outstanding Award).
- e. The claimant is released to return to pre-injury work.
- f. The claimant fails to report a change as required by §65.2-712. These changes include incarceration, changes in earnings, remarriage, or changes in full-time student status.
- g. The claimant refuses selective employment (employer procured) within his or her physical capabilities.
- h. Medical records indicate that the claimant's continuing disability is unrelated to the work accident.
- i. The claimant unjustifiably refuses to cooperate with vocational rehabilitation efforts.
- j. The claimant fails to report to an employer-requested medical examination, or otherwise refuses to cooperate with medical treatment.

Appeal Periods

- Appeal to Full Commission (§65.2-705): 30 days
- Appeal to Court of Appeals (§65.2-706): 30 days

Mileage Reimbursement: .56 cents per mile

Notice

The employer can avoid payment of claim if failure by claimant to report accident within 30 days without reasonable excuse and prejudice to employer.

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Indemnity Benefits

- *Temporary Total Disability (§65.2-500)*
When incapacity from work is total, the employer shall pay 2/3 of average weekly wage (AWW). 500 week limitation §65.2-518.
- *Temporary Partial Disability (§65.2-502)*
When incapacity from work is partial, the employer shall pay 2/3 of the difference between the AWW before the injury and amount the claimant is able to earn after the injury. 500 week limitation §65.2-518.
- *Permanent Total Disability (§65.2-503)*
Awarded for loss of two scheduled members in the same accident, injury resulting in total paralysis, or brain injury rendering the employee permanently unemployable in gainful employment. Lifetime award without 500 week limitation.
- *Permanent Partial Disability (§65.2-503)*
Awarded for scheduled losses for the period specified at 2/3 of the AWW. Payable after completion of temporary total disability benefits or simultaneously with temporary partial disability benefits. These payments are subject to the 500 week limitation. Not payable contemporaneous with temporary total disability benefits. Back is not ratable.

Average Weekly Wage

The injured employee's actual wages during the 52 week period preceding the date of injury, divided by 52. If the injured employee worked less than 52 weeks, divide the total earned by the number of weeks worked. Periods of greater than seven consecutive days with no earnings should be excluded. Claimant is entitled to combine wages from similar employment held as of date of accident. §65.2-101.

Compensable “Diseases”

Occupational diseases are those arising out of and in the course of employment, but not an ordinary disease of life to which the general public is exposed. §65.2-400.

Ordinary diseases of life are diseases to which the general public is exposed. §65.2-401.

Compensable “Injuries”

Sudden identifiable injury by accident arising out of and in the course of employment. Virginia has adopted the “actual risk test” which requires that the employment expose the worker to an added-risk associated with employment.

Panel of Physicians

An employee must be offered a panel of physicians once notification of the injury is received or as soon as possible after the injury. This panel must have the names of at least three (3) physicians from different practice groups §65.2-603.

Medical Records

All health care providers attending an injured employee upon request of the injured employee, employer, insurer, or certified rehabilitation provider, or any representative thereof, shall furnish copies of the employee's medical reports §65.2-604. HIPPA does not apply to workers' compensation cases.

Medical Benefits

An employer must furnish medical treatment, causally related to the compensable accident, provided by the injured employee's treating physician, and authorized referrals, for as long as necessary.

Medical Examinations

So long as an employee claims compensation, the employer may request that the employee attend examinations by duly qualified physicians at reasonable times and places. The employee's refusal to comply with such examinations will result in suspension of indemnity and permanent partial disability benefits until such refusal is cured. §65.2-502; 607.

Death Benefits

If death results from the accident within nine years, the employer/carrier is responsible for compensation at 66 2/3 % of the deceased employee's average weekly wage for a period not exceeding 500 weeks for total dependents or 400 weeks for partial dependents. Burial expenses not exceeding \$10,000.00 and transportation of body expenses not exceeding \$1,000.00 are available. §65.2-512.

Willful Misconduct

The employer can avoid payment of the claim if the injury resulted from the employee's willful misconduct (e.g., violation of safety rule, statute, drug impairment, self-inflicted injuries, etc.) §65.2-306.

VIRGINIA WORKERS' COMPENSATION COMMISSION

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