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DELAWARE BUREAU OF WORKERS' COMPENSATION CLAIMS BASIC BENEFITS AND KEY ISSUES AT A GLANCE

BASIC BENEFITS

1. Temporary Total Disability Benefits: Payable on the fourth day of incapacity. If disability extends beyond seven days, then benefits are payable back to day one. Compensation Rate is a percentage of the employee's average weekly wage, and each year the state sets a maximum and minimum rate. Current maximum rate is \$665.57 and the minimum rate is \$221.86. There is no set maximum period of time an individual can remain on total disability.
2. Partial Disability Benefits: Payable when the employee sustains a partial loss of earnings due to the work injury. Partials are paid as two-thirds of the wage loss, and for a maximum of 300 weeks.
3. Permanency: Permanent injuries are assigned a maximum number of weeks of total disability benefits. The employee is then evaluated under the AMA Guides and assigned a percentage of impairment. That percentage is applied to the statutory maximum award for that body part, and the resultant figure is the employee's permanency award.
4. Medical: No controlled treatment. No panel providers. Reasonable and related medical expense are payable over the life of the claim. A finding that the employee is at MMI does not stop the obligation to pay for related treatment. There is a fee schedule, and a utilization review process.
5. Disfigurement: Available for permanent visible disfigurement. Not limited to the head, face and neck.

KEY ISSUES

1. Commutation: The parties can resolve all, or a portion of a workers' compensation claim by entering into a commutation. The agreement must be reduced to writing and approved by the Industrial Accident Board.
2. Subrogation: The employer has a lien in the amount of benefits paid against the third party recovery by the employee. The lien recovery will be reduced by a pro rata share of fees and costs. Uninsured and underinsured motorist benefits are not subject to the lien, even if the employer paid for the policy.
3. (Termination) Petitions for Review: The employer can file a Petition for Review to Terminate Wage Loss Benefits when an employee is released to any level of work, even sedentary duty. There is no requirement to prove full recovery.
4. Benefits cannot be stopped unilaterally. There must be a signed agreement or Board order.
5. The employer is not required to file an answer to a claim for benefits, and therefore there are no repercussions for a late answer.