

Workers' Compensation Temporary Disability Benefits

YOUR LEGAL RIGHTS

There are two categories of temporary disability benefits: **temporary total disability (TTD)** and **temporary partial disability (TPD, also known as “wage-loss TD”)**. Both are payments to compensate for lost wages while you are recovering from your injury or illness.

- **TTD** payments are made if you cannot work at all during your recovery.
- **TPD** payments are made if you can return to your work, but only for limited hours or limited duties at a lower wage. You may also be eligible if your doctor restricts the type of work you can do, and your employer does not provide full-time work (she only has part-time work) that fits into your restrictions.

NOTE: You do not pay income taxes on temporary disability benefits.

1. How can I calculate my temporary total disability (TTD) benefits?

Usually TTD benefits are equal to two-thirds of your prior gross (before tax) income. Your gross income includes overtime and the market value of board, lodging, and fuel.

These benefits are subject to minimum and maximum rates:

a. Minimum Rates –

Gross Wages before your injury

Between \$126 and \$189 per week

Less than \$126 per week

Minimum TTD Payments

\$126 per week

100% of your weekly wage

b. Maximum Rates --

Date of Injury

On or after 7/1/96

On or after 1/1/03

On or after 1/1/04

On or after 1/1/05

Maximum Weekly TTD Payment

\$490 (if you made at least \$735/week)

\$602 (if you made at least \$903/week)

\$728 (if you made at least \$1,092/week)

\$840 (if you made at least \$1,260/week)

- c. Pay Raise -** You may also receive more than two-thirds of your wages at the time of your injury if you were scheduled for a pay raise. In that case, you may receive two-thirds of the higher wage.

2. How can I calculate my temporary partial disability (TPD, or wage loss TD) benefits?

Usually TPD benefits are equal to two-thirds of your lost wages, subject to your maximum TD rate. Your lost wages are the difference between your average weekly wages and the amount you are earning by working part-time.

Example: If you are earning \$300 per week (before taxes), your normal TD rate is \$200 per week. If you are only able to work half time after your injury, you will be making \$150 per week. Temporary Partial Disability may provide you with up to two-thirds of the remaining \$150 that you would be earning had you not been injured, subject to your maximum TD rate. In this case, TPD benefits will provide you with an additional \$50 per week, so that your total income (gross earnings plus TPD benefits) will equal your TD rate of \$200 per week.

3. What happens if I was working more than one job at the time of injury?

Calculate your average weekly wage by adding your wages from all jobs. The rate will be equal to two-thirds of the wages from all jobs combined. Keep in mind that your gross income includes all jobs that are affected by your inability to work based on the advice of your treating doctor.

4. Who decides if I can receive TD?

Usually your treating doctor. If you disagree with your doctor's evaluation, you may request a change of treating doctor or get a second opinion from a Qualified Medical Examiner (QME) or an Agreed Medical Examiner (AME). Your claims administrator may also disagree with your treating doctor and request a second opinion from a QME or AME.

(For information about changing doctors or getting a medical-legal opinion from a QME or AME, please see our Fact Sheet titled "**Workers' Compensation: Medical Care.**")

5. When will TD payments begin?

The first payment must be made within 14 days after your employer learns that:

- a. you have a job-related injury and
- b. your doctor has stated that you are temporarily disabled.

Your claims administrator should send your TD payment together with an explanation of the payment calculation.

NOTE: No benefits will be paid for the first three days off work unless the injury lasts more than fourteen days or requires hospitalization.

6. What happens if I don't receive payment within 14 days?

If there is a delay, your claims administrator must send you a delay letter within fourteen days of your request for benefits explaining the reason for the delay, further information she needs to process your claim, and when you can expect a decision. A decision is usually required within 90 days from the date you reported your claim.



If there is a delay and you do not receive a delay letter within fourteen days of your request, your claims administrator is required to pay an additional 10% even if there was a reasonable excuse for the delay.

Call the insurance company and follow up with a written letter requesting your TD benefits.

7. What if my employer provides a different job with lower pay?

You may be eligible for temporary partial disability benefits of two-thirds of the wages lost due to your work restrictions (subject to the maximum rates in the chart above).

8. When do TD payments end?

You may continue receiving TD until you:

- return to work,
- your doctor says you can return to work (whether or not you actually go back),
- your doctor deems you permanent and stationary (i.e., you have reached “maximum improvement”)
- have received more than 104 compensable weeks of payments for a single disability within a period of two years from the date TD payments began (with exceptions for certain injuries), or
- you or the insurance company dispute the treating doctor’s evaluation and a QME (or AME if you are represented by an attorney) evaluates you and finds any of the above.

Your claims administrator is required to send you a letter stating the reasons for ending your TD payment.

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in California. Yet because laws and legal procedures are subject to frequent change and differing interpretations, the Legal Aid Society - Employment Law Center cannot ensure the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

For further information about your employment rights, please call:

The Workers’ Rights Clinic

415-864-8208 (SF Bay Area) or 866-864-8208 (Toll Free in CA)

The Workers’ Rights Clinic is a project of The Legal Aid Society - Employment Law Center, a non-profit organization focusing on the employment-related legal rights of low-income workers and providing free legal information on a wide range of employment-related problems.

