

Constangy's Workers' Compensation practice has a team made up of some of the most experienced and aggressive practitioners in the business – attorneys who know the ins and outs of all aspects of workers' compensation, we help our clients deal with claims quickly, cost-effectively, and with an eye toward your broader business goals. We take an approach that precisely identifies compensability issues at the accident and injury levels to limit the exposure to that based on objective relevant medical evidence. Our workers' compensation clients benefit from the broad resources of a leading labor and employment law firm and our understanding of ancillary concerns.

Meet our Florida team



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Average Weekly Wage (AWW)

The AWW is the employee's average weekly wage 13 weeks prior to the date of injury. It is the basis for all monetary benefits being paid to the injured worker.

Gross Total Pay (13 weeks) / 13 weeks = AWW

Compensation Rate
 $0.6667 \times \text{AWW}$ (up to a maximum in effect on the date of injury)

Year	Maximum Compensation Rate
2022	\$1,099
2021	\$1,011
2020	\$971
2019	\$939
2018	\$917
2017	\$886
2016	\$863
2015	\$842
2014	\$827
2013	\$816
2012	\$803
2011	\$782
2010	\$772

Temporary Total Disability Benefits (TTD)

Benefits owed to the claimant when they cannot return to work due to the work injury.

TTD benefits are 2/3 of the claimant's AWW and are paid biweekly. (For some sever injuries like paralysis or blindness, the benefit rate is higher at 80%)

TTD Formula

$\text{AWW} \times 0.6667 = \text{TTD}$

TTD benefits will continue until the earliest of three events:

- A doctor says the claimant can go back to work.
- A doctor places the claimant at medical maximum improvement (MMI).
- The claimant has reached the maximum amount of time for temporary disability benefits. A 260 - week limit. *Westphal v. City of St. Petersburg*, 194 So.3d 311 (Fla. 2016)

Temporary Partial Disability Benefits (TPD)

If the claimant returns to work making less than their average weekly wage because of the injury, they are then entitled to biweekly TPD benefits.

To determine TPD benefits, take 80% of your pre-injury AWW. Then, subtract the wages the claimant has earned with restrictions. Finally, take 80% of that figure.

TPD Formula

$\text{AWW} \times 80\% - (\text{wages earned}) \times 80\% = \text{TPD}$ benefits.

Impairment Benefits

Once the claimant has reached the date of maximum medical improvement, impairment benefits are due and payable within 14 days after the carrier has knowledge of the impairment. Income impairment benefits are paid biweekly at a rate of 75 percent of the claimant's average weekly temporary total disability benefit.

However, impairment benefits shall be reduced by 50 percent for each week in which the claimant has earned income equal to or in excess of their average weekly wage. A claimant's entitlement to impairment income benefits begin the day after the claimant reaches maximum medical improvement or the expiration of temporary benefits, whichever occurs earlier, and continues until the earlier of:

- 1) The expiration of a period computed at the rate determined for each percentage point of impairment; or
- 2) The death of the employee.

Impairment Income Benefit Rate

The length of benefits is determined by the chart below and are paid for the corresponding length of time for each percentage of impairment rating.

Impairment Rating	Weeks of Benefits
1% to 10%	2 weeks
11% to 15%	3 weeks
16% to 20%	4 weeks
21% to 99%	6 weeks

Example

The claimant is assigned a 16% impairment rating. The claimant will be entitled to 39 weeks of benefits. (20 weeks for the first 10% of impairment rating + 15 weeks for the 11%-15% rating + 4 weeks for the 16% impairment rating.)

Time Requirements

The carrier must pay the first installment of compensation for benefits owed or deny compensability no later than the 14th calendar day after the employer receives the notification of the injury, when disability is immediate and continuous for 8 calendar days or more after the injury. If the first 7 days after disability are nonconsecutive or delayed, the first installment of compensation is due on the 6th day after the first 8 calendar days of disability. The carrier shall thereafter pay compensation in biweekly installments or as otherwise provided in § 440.15

Penalties and Interest

A carrier will owe a 20 percent penalty to the claimant if it does not make payment within 7 days after any installment of disability benefits becomes due. A carrier has 14 days after a claimant reached MMI to pay permanent impairment benefits.

A carrier will also owe 12 percent interest payments on any monetary benefits not timely paid. This 12 percent interest is on a yearly basis and will be prorated for the amount of days payment is overdue.

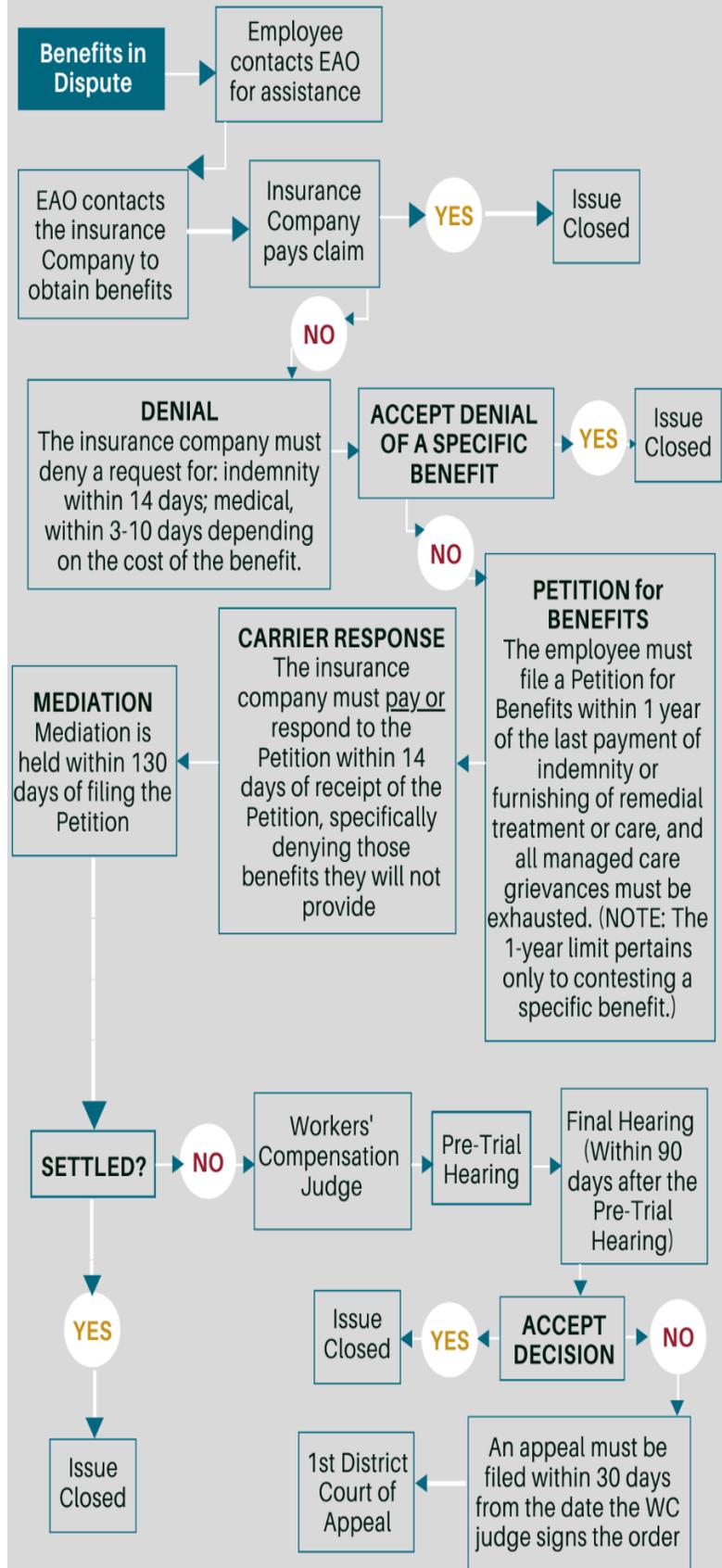
Investigation

If the carrier is uncertain of its obligation to provide all benefits or compensation, the carrier shall immediately and in good faith commence investigation of the employee's entitlement to benefits and shall admit or deny compensability within 120 days after the initial provision of compensation or benefits as required under subsection (2) or § 440.192(8).

Additionally, the carrier shall initiate payment and continue the provision of all benefits and compensation as if the claim has been accepted as compensable, without prejudice and without admitting liability. Upon commencement of payment the carrier shall provide written notice to the employee that it has elected to pay the claim pending further investigation, and that it will advise the employee of claim acceptance or denial within 120 days.

A carrier that fails to deny compensability within 120 days after the initial provision of benefits or payment of compensation, waives the right to deny compensability. The 120 day rule applies to the accident and the individual injuries and diagnoses. It is critical that employers and carriers recognize every time a 120 day clock starts throughout the course of a claim.

FLOW OF BENEFIT DISPUTE RESOLUTION



Florida Division of Workers' Compensation. (2019, September). *Workers' Compensation System Guide*. <https://www.myfloridacfo.com/division/wc/pdf/WC-System-Guide.pdf>