



# Lost wage benefits



Employees who miss work due to an on-the-job injury or illness may receive payment for lost wages. This is known as an indemnity benefit.

## INDEMNITY BENEFITS

If you're injured or made ill at work, notify your employer, in writing, within 30 days. You should also file an **Employee Claim (Form C-3)** with the NYS Workers' Compensation Board (Board). Forms are found on the Board's website ([wcb.ny.gov](http://wcb.ny.gov)).

If you miss eight to 14 calendar days of work, you can receive lost wages for those days. If you lose more than 14 calendar days of work, you may get lost wages starting from the first day you missed work. Otherwise, you do not receive payment for the first seven calendar days of lost time.

Lost wage benefits, which are tax free, are based on your **average weekly wage (AWW)** for the 52 weeks before the date of injury or illness, and your degree of disability. Your AWW is based on your gross earnings, including overtime and other compensation, not your take-home pay. Your degree of disability is a percentage of how much you are disabled. To calculate your benefit, the Board uses two-thirds of your AWW and then adjusts it by your degree of disability:

**2/3 of your AWW multiplied by your % of disability = weekly benefit**

- **Example 1:** Your AWW was \$900 and you're totally (100%) disabled. You receive two-thirds of \$900, which is \$600 per week. You're 100% disabled, so you receive the full benefit.
- **Example 2:** Your AWW was \$900 and you're 50% disabled. Your benefit is \$300. To calculate it: 2/3 of \$900 = \$600  
\$600 multiplied by your 50% disability = \$300 benefit

The benefit amount is the same whether you're temporarily or permanently disabled. Workers' compensation lost wage benefits are subject to a maximum weekly amount (see below), which is based on your date of injury or illness. Your weekly benefit amount doesn't change if the maximum benefit changes.

The maximum weekly benefit is calculated every July 1. It's based on the entire State's average weekly wage, determined by the NYS Department of Labor. The workers' compensation maximum is two-thirds of New York State's average weekly wage. For example:

Date of Injury/Illness	maximum weekly amount	minimum weekly amount
July 1, 2021 - June 30, 2022	\$1,063.05	\$150
July 1, 2020 - June 30, 2021	\$966.78	\$150
July 1, 2019 - June 30, 2020	\$934.11	\$150
July 1, 2018 - June 30, 2019	\$904.74	\$150

*For earlier dates, see [wcb.ny.gov](http://wcb.ny.gov)*

Note: If the insurer disputes your claim, you won't be paid until the Board resolves the dispute. You may apply for disability benefits until the case is resolved. Call the Board at **(877) 632-4996** to learn more.

## DISABILITY CLASSIFICATIONS

Your disability may fall under one of the following classifications, based on medical evidence. Note: All injuries are first “temporary,” even those that are later found “permanent.”

- **Temporary Total Disability:** You temporarily lost all of your ability to work and earn wages. You're entitled to the full allowable lost wage benefit.
- **Temporary Partial Disability:** You temporarily lost some ability to work and earn full wages. Your benefit equals the percentage of your disability.
- **Permanent Total Disability:** You permanently lost all of your ability to work and earn wages. Benefits continue for life.
- **Permanent Partial Disability, Non-schedule Loss:** You lost some of your ability to work. You may receive up to 10 years of lost wage benefits. You may qualify for lifetime benefits under an extreme hardship if you are within one year of exhausting your lost wage benefits, and you have lost more than 75% of your wage earning capacity. Medical care is a lifetime benefit, even if the disability doesn't impact wages.
- **Permanent Partial Disability, Schedule Loss:** You lost some degree of use of your arm, hand or finger; leg, foot or toe; or your eyesight or hearing. The number of weeks of benefits for a Schedule Loss is set by law.
- **Disfigurement:** Your face, head or neck is permanently disfigured. You may receive up to \$20,000, depending upon the extent of injury.

**AFTER A DECISION:** An award must be paid to you within 10 days of the filing date of the decision. If the payment is late, a potential penalty of 20% of the amount of the award that was late is payable to you, the worker. However, claims can be appealed within 30 days of the filing date. If the appeal concerns payments, you will not be paid unless or until a Board panel directs payment.

**DURING REGULAR BENEFIT PAYMENTS:** Regular payments of compensation must be made within 25 days of the due date. If not, a penalty of 20% and an additional amount of \$300 is potentially payable to you, the worker.

The New York State Workers' Compensation Board protects the rights of employees and employers by ensuring the proper delivery of benefits and by promoting compliance with the law. To learn more about the Workers' Compensation Board, visit [wcb.ny.gov](http://wcb.ny.gov).

## SETTLING YOUR CLAIM

You and the insurer can agree to permanently close your claim in exchange for one lump-sum payment or an annuity. This is known as **Settling the Claim with a Section 32 Waiver**. In this agreement, you're waiving your right to future compensation in exchange for payment today. Agreeing to a Section 32 Waiver is a serious decision. Only you can decide if it is right for you. For more information, visit [wcb.ny.gov](http://wcb.ny.gov) or click the **YouTube** link at the bottom of the page to view an informational video.

## REDUCED EARNINGS BENEFITS

If you can return to work but your injury keeps you from earning the same wages you earned before the injury, you may be entitled to reduced earnings benefits. These benefits pay up to two-thirds of the difference between your pre-injury wages and your post-injury wages.

## DEATH BENEFITS

Death benefits are available for the families of workers whose death is caused by a work-related injury or illness. A death benefit is payable whether the worker dies right after an injury or later. The worker's spouse and children will share two-thirds of the employee's average weekly wage, up to the weekly maximum amount. Children receive the benefit until age 18, or until age 23 if they attend college full-time. Children who are blind or physically disabled will receive the benefit for life. The spouse receives the benefit for life or until remarriage. If the spouse remarries, he or she gets a final payment equal to two years of benefits.

If there is no spouse, minor children, or dependents, the worker's parents receive a \$50,000 payment. If divorced, they share the payment equally. If none of the survivors listed above exists, the deceased worker's estate receives a \$50,000 payment. The executor will complete the claim process. Funeral expenses are also payable, up to \$12,500 in metropolitan New York and up to \$10,500 in all other counties.

## SOCIAL SECURITY DISABILITY INSURANCE

People with a permanent disability or one that lasts at least 12 months may qualify for Social Security Disability benefits. Contact a Social Security Office to learn more. The Board has no role in the Social Security Disability Insurance process.

## LANGUAGE ASSISTANCE

The Board will translate documents into any language you need. It will also provide an interpreter for your hearing, at no cost to you. Please call **(877) 632-4996** to arrange translation or interpretation. If you are using virtual hearings, you also have the option of requesting an interpreter during the check-in process.