



NYS Guidelines for Determining Permanent Impairment and Loss of Wage Earning Capacity, December 2012

Summary of Changes

1. In section 9.1, Introduction to Non-schedule Awards, on page 44, the phrase “for those who are not currently working” has been removed from the first sentence.
2. In section 9.3 Loss of Wage Earning Capacity (Degree of Disability), on page 47, the language on working and nonworking claimants has been replaced with the following:

Legal Determination of Loss of Wage Earning Capacity: The Board must establish a reasonable loss of wage earning capacity based on the facts in the case. The LWEC is determined based on medical evidence and vocational factors. Medical evidence includes the nature and degree of the work-related permanent physical and/or mental impairment and its impact on the claimant’s functional abilities. The inquiry seeks to quantify how much earning power an injured worker has lost in light of his or her medical impairment, functional limitations, prior work history, education, skills, and aptitudes. There is no simple formula to determine loss of wage earning capacity. See Matter of Longley Jones Management Corp., 2012 NY Wrk Comp 60704882; Matter of Buffalo Auto Recovery, 2009 NY Wrk Comp 80703905.