

Overview of the Income Benefit Structure in the Texas Workers' Compensation System

Texas Department of Insurance,
Division of Workers' Compensation



Workers' compensation will provide benefits if:

- The injury or occupational disease occurred in the course and scope of employment; and
- The employer has workers' compensation coverage.

What is Disability?

- The inability, because of compensable injury, to obtain and/or retain employment at wages equivalent to the pre-injury wage.

Average Weekly Wage

- Determines the amount of income benefits
- Based on the total wages earned in the 13 weeks prior to the injury
- Also includes fringe benefits, such as health insurance
- Reported by employer via wage statement

Temporary Income Benefits (TIBs)

- Paid during the period of temporary disability while the employee is recovering from an on-the-job injury.
- TIBs are paid weekly and equal 70 percent of the difference between employee's average weekly wage and the weekly wage after the injury.
- An injured employee becomes eligible for TIBs on the eighth day of disability.
- Benefits are not paid for the first week of lost wages unless disability lasts for two weeks or more.

Temporary Income Benefits (TIBs)

- Entitlement to TIBs ends at the earlier of:
 - the date the employee returns to work at wages equivalent to pre-injury wages, or
 - the date the employee reaches maximum medical improvement (MMI).
- Maximum Medical Improvement (MMI) is reached:
 - when the employee is certified by a doctor as being not likely to have further material recovery from the injury (clinical),;
 - at the expiration of 104 weeks from the date income benefits began to accrue, if the employee has not previously reached clinical MMI (statutory); or
 - as determined by DWC when the employee has had, or has been approved for, spinal surgery within 12 weeks of the expiration of 104 weeks and has not been previously determined to be at clinical MMI.

Impairment Income Benefits (IIBs)

- Paid to injured employees for permanent impairment as a result of an on-the-job injury.
- Employees may receive IIBs once TIBs have ended; however, employees may receive IIBs (unlike TIBs) while back at work.
- IIBs are paid weekly and are equal 70 percent of the employee's average weekly wage.
- An injured employee becomes eligible for IIBs the day after the employee reaches maximum medical improvement (MMI).

Impairment Income Benefits (IIBs)

- IIBs are calculated based on the injured employee's impairment rating, which is assigned by a doctor using the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, 4th edition.
- Employees receive three weeks of IIBs for every percentage point of impairment assigned.
 - For example, if an injured employee has an impairment rating of 6 percent, the employee would receive 18 weeks of impairment income benefits.

Supplemental Income Benefits (SIBs)

- Paid to certain injured employees for ongoing disability after IIBs have been exhausted.
- SIBs are paid on a monthly basis and equal 80 percent of the difference between 80 percent of the employee's average weekly wage and the weekly wage after the injury.
- Injured employees must meet SIBs eligibility requirements on a quarterly basis
 - the first quarter the DWC makes the SIBs eligibility determination
 - all subsequent quarters, the injured employee must apply to the insurance carrier for eligibility, but may dispute to DWC if denied

Supplemental Income Benefits (SIBs)

- An injured employee may receive SIBs if:
 - the employee has an impairment rating of 15 percent or more; **and**
 - the employee has not returned to work because of the impairment, or has returned to work but is earning less than 80 percent of his pre-injury average weekly wage because of the impairment; **and**
 - the employee did not take a lump sum payment of impairment income benefits; **and**
 - the employee has met specific work search requirements based on Texas Workforce Commission standards OR is actively participating in a vocational rehabilitation program.

Important notes about the limits on income benefits in Texas:

- Weekly benefits of all types are capped (historically, based on the State Average Weekly Wage).
- By law, all eligibility to receive income benefits (except LIBs and Death Benefits) ends 401 weeks (approximately 8 years) from the date of injury.
- If the employee has an occupational illness, eligibility ends 401 weeks from the date the employee first became eligible to receive income benefits.

Lifetime Income Benefits (LIBs)

- These benefits are paid for the life of the injured employee for specific catastrophic injuries as set out in Section 408.161 of the Texas Labor Code.
 - total and permanent loss of sight in both eyes;
 - loss of use of both feet or hands or loss of use of one foot and one hand;
 - an injury to the spine that results in permanent and complete paralysis of both arms, both legs, or one arm and one leg;
 - a physically traumatic injury to the brain resulting in incurable insanity or imbecility; or
 - third degree burns that cover at least 40 percent of the body and require grafting, or third degree burns covering the majority of either both hands or one hand and the face.

Lifetime Income Benefits (LIBs)

- LIBs are paid weekly, monthly or by annuity and equal 75 percent of the employee's average weekly wage, with a 3 percent cost of living increase each year.
- An injured employee becomes eligible for LIBs whenever a work-related injury or illness causes the employee to meet the conditions specified in Section 408.161 of the Texas Labor Code.

Death Benefits

- Death benefits replace a portion of lost family income for the eligible family members of employees killed on the job.
- A family member may get death benefits if:
 - the family member is the spouse, dependent child or grandchild, or another eligible family member of an employee killed on the job
 - if no other eligible beneficiaries, then benefits may be paid to non-dependent parents.

Death Benefits

- The length of time a family member may receive death benefits depends on the family member's relationship to the employee (see Section 408.183 of the Texas Labor Code for eligibility requirements).
- Death benefits equal 75 percent of the deceased employee's average weekly wage.
- If no beneficiaries, payments are made into the Subsequent Injury Fund (SIF) – maximum of 364 weeks of death benefits paid into the SIF.

Burial Benefits

- Burial benefits pay up to \$6,000 of the deceased employee's funeral expenses.
- Burial benefits are paid to the person who paid the funeral expenses.