

Calculating Wage

Wisconsin Division of Worker's Compensation

Last Revised January 2025

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Basics of Calculating Wage

Section 102.11, Wis. Stats.

Two-Part Comparison

The Average Weekly Wage (AWW) will be set at the greater of either:

Hourly Rate x Hours Worked

OR

Gross Earnings ÷ Weeks Worked

The following are notes on each of these four variables.

Hourly Rate

The hourly rate used should be the hourly rate that the claimant was earning at the time of injury. Any set rates of pay (paid weekly, monthly, salary) should be broken down to an hourly rate. If the claimant was earning a shift differential (aka shift premium) at the time of injury, this should also be included in the hourly rate. The hourly rate must be at least minimum wage, which is \$7.25 per hour for the majority of employees.

Hours Worked

Hours worked should be the number of hours the employee is regularly scheduled to work for the week. Full-time workers are assumed to be working 40 hours per week. Overtime or double time hours should only be included here if the claimant is regularly scheduled to work those hours every week. If the work is scheduled on an alternating week basis (for example, 36 hours one week and 48 hours the next week), the regular hours and overtime hours worked each week would be averaged separately, so the AWW would be based on 38 regular hours and 4 overtime hours. For part-time employees, please see page 4 for more information.

Gross Earnings

The gross earnings is the total gross taxable amount that the claimant earned in the 52-weeks immediately prior to the week of injury. Earnings from the week of injury should not be included unless the injury fell on a Friday or Saturday. Bonuses, incentive pay, and overtime earnings are all taxable earnings and should be included in gross earnings. Earnings from weeks where the claimant has disability earnings, FMLA, or TTD/TPD from a previous claim should not be included in gross earnings. Non-taxable earnings (travel reimbursements, per diem, etc.) should not be included. If an employee has worked less than 6 weeks, gross earnings cannot be used to determine AWW.

Weeks Worked

Weeks worked should be the total number of weeks worked in the 52-week period prior to the week of injury. Weeks start on Sunday and end on Saturday. A week should be counted if any part of a week was worked (except the week of injury.) Hours paid in lieu of work (vacation, holiday, personal time, etc.) should be included as "worked." If there are weeks where the claimant has disability earnings, FMLA, or TTD/TPD from a previous claim, those weeks should not be included.

Part-Time Employment

An employee is considered to be working part-time if they are regularly scheduled to work 35 hours or less per week. Depending on the situation, TTD benefits for injured workers who fall into the category of part-time employees will be calculated in one of two ways.

- TTD benefits may be calculated using the same formula as for a full time employee, or
- If the injured worker meets the conditions explained below and chooses to affirmatively state that they are restricting their work availability to part time employment, their AWW and TTD benefits will be calculated differently. This is known as the self-restriction option.

Self-Restriction to Part Time on the Labor Market

Applying the self-restriction option to a claim limits the AWW and TTD rate for part-time employees. If the self-restriction option is applied to a claim, the wage is based on the employee's actual earnings or their regular schedule multiplied by the hourly rate, whichever is higher. Self-restriction also requires payment of TTD at 100% of the AWW rather than 66.67%.

When an employee self-restricts their availability to work to part-time employment only, their average weekly wage will be based on the higher of the two following options:

- Their actual average earnings, or
- The average weekly hours worked multiplied by the hourly rate of pay.

If an employee self-restricts, their TTD must be paid at 100% of the AWW as calculated above rather than at 66.67% of their AWW.

However, only the TTD rate is paid at 100% of the AWW. The PPD rate is based on the injured worker's full-time expanded weekly wage. The expanded weekly wage is multiplied by 66.67%; if the result is below the maximum PPD rate for the date of injury, the PPD rate will be the result of that calculation. If the result is at or above the maximum PPD rate, any PPD the injured worker may sustain will be paid at the maximum rate.

The self-restriction option is not available to all part-time employees. It only applies in certain specific situations.

The self-restriction option can be applied if **both** of the following two conditions are met:

1. The employee does not have another job, and
2. They worked at the place of injury longer than 12 months.

The self-restriction option can still be applied if:

1. The employee worked at the place of injury longer than 12 months, and
2. A self-restriction form, signed and dated by the employee, or a copy of the job application specifying an hour or shift preference has been submitted to the WCD.

Employees with another job that pays taxable earnings are not eligible for the self-restriction option.

To apply the self-restriction option, please use either Form [WKC-12698](#) or Form [WKC-13A1](#) from the WCD website, as explained below:

- When the employee has worked at the place of injury less than 12 months and does not have another job, have the employee fill out the self-restriction statement (WKC-12698) that may be downloaded from the WCD website. The form must be signed and dated after the injury.
- If the claimant is 15 years old or younger, the self-restriction statement is not needed, but form WKC-13A1 should indicate that the employee restricts if they do.

Additions to Cash Wage

Tips

Be sure the employer reports total tips separately from total gross earnings. Then divide the total tips by the number of weeks worked while earning tips to get the weekly tip average. The average tips per week will then be divided by average weekly hours worked to get the tip rate. The tip rate is added to the hourly rate when calculating wage and the total must equal no less than minimum wage. The weekly tip average is added to the gross earnings average.

Other Additions to Cash Wage

It is important to know if any of the following living arrangements offered by the employer is continued during the disability. Those items continued by the employer through the disability period, and for which reimbursement is not expected, do not need to be added to the TTD wage for the period received. However, they are included in the PPD and death benefit rates. If discontinued during the disability period, the value must be refigured into the TTD rate.

- **Room and Board**

The standard value for “meals” and “room” is set in Wis. Admin. Codes DWD 80.29 and DWD 272. The value of all other items is set by common marketplace value to the employee. Meals received at a discount are not used as additions to cash wage. See [ERD-9247-P](#) (Spanish [ERD-9247-S-P](#)) for Wisconsin Maximum Allowances for Board and Lodging.

- **House or Apartment**

The employer determines the value. Be sure to check if the housing is shared (e.g. if shared with one other person, use half the value if the employer gives you the total value.)

Miscellaneous Situations

Seasonal Employment

Seasonal employment is that which can be done only at certain times of the year and does not cover a period of more than 14 weeks. Seasonal employment is usually associated with the canning industry, but also applies to apple and cherry pickers, ice harvesters, cranberry harvesters, and Christmas tree cutters when no regular workweek is established. Since a normal workweek is difficult to establish because of variations in weather and crop conditions, a 44-hour week is used as a reasonable average. Actual average wage is not considered, nor is premium pay used. Employees in these industries who work year-round or beyond the seasonal period have their wages established as in ordinary cases. This does not apply to the usual summer job situation or holiday retail. Refer to Sections 102.11(1)(b) and (d), Statutes.

Piecework Earners

Piecework earners are workers who are paid based on their production quantity, not an hourly rate. To calculate their wage, an hourly rate must be created for them. To do so, take their gross earnings from the 52-weeks prior to injury and divide by the total number of hours worked. Exclude any overtime earnings or hours in this calculation.

Commission-Only Earners and Truckers Paid by the Mile

Employees who are paid based on commission only or truckers paid by the mile do not have a set rate of pay. For full-time employees, their AWW would be calculated based on their gross earnings divided by the number of weeks worked. If the claimant has worked fewer than 6 weeks (i.e. their AWW cannot be based on the gross), use a similar employee's wages to calculate the claimant's AWW. For part-time employees, create an hourly rate by dividing their gross earnings in the 52-week period prior to injury by the hours worked.

Sheltered Employees

Some employers have a sub-minimum wage license that allows them to pay less than the minimum hourly rate. This rate is paid to workers whose skills are such that they cannot compete in the labor market, so they work in sheltered employment for rehabilitation purposes. Since the employers are licensed to pay sub minimum hourly rates for these employees, the actual hourly rate (rather than the minimum hourly rate) may be used for purposes of determining the compensation rate.

Calculating Wage for School (K-12) Employees

In addition to specific wage information for injured school employees, two other pieces of information are needed:

1. If the employee was contracted or hired to work the school year, a summer school session, or the entire calendar year, and
2. If the employee's position was salaried (exempt from overtime) or hourly (eligible for overtime).

The employee's payment arrangement with the school system is not needed. When eliciting information from a school representative, it is critical that your questions are asked in such a way that the school does not provide misleading information. How or how often the employee is paid (e.g., teaches the school year but paid over an 11/12-month period) is totally inconsequential and often gets in the way of accurately setting wage for worker's compensation benefits. Remember, the wage rate is calculated on the time period when the wages are earned, not when or how they are paid.

School Professionals

School professionals are employees who hold positions which meet state and federal laws to be classified under the "professional exemption." As such, these employees are not eligible for overtime, regardless of how many hours they work. Generally, these employees are hired under a contract to work for a specified time such as either the school year or a calendar year. The contract may include provisions for additional earnings over the base amount for extra activities or responsibilities. The professional exemption includes teachers, counselors, librarians, and some professional support personnel. Typically, these are full-time positions. Wisconsin law does not permit this classification to be used if the employee earns less than \$750 per month.

To set the wage for a school professional (i.e. one with a professional exemption):

1. Find out the dollar amount of the contract and the number of weeks the contract covers. Many school contracts are given in days rather than weeks. It is reasonably accurate to divide the number of days in the contract by five to calculate the number of weeks worked. Partial weeks count as whole weeks.
2. Divide the contract amount by the number of weeks and report that amount on the WKC-13A1 as the weekly rate.
 - a. For full-time employees, report 40 hours scheduled.
3. Next, get the total gross earnings paid to the employee for the 52 weeks prior to the week of injury, or date of hire if the employee has worked fewer than 52 weeks. This amount will include earnings for extra activities or responsibilities paid to the employee over and above the base contract amount.
4. Divide that amount by the number of weeks worked for that sum, regardless of when the payment was received.
5. Report on the WKC-13A1 as gross earnings and weeks worked.

Earnings from other separate contracts/checks, such as coaching or summer school, should not be included in earnings for the regular school year. If injured on a summer school contract or a separate coaching contract, only those earnings from the separate contract are included, not the regular school year earnings.

The basic rule is if the employee receives one check for multiple responsibilities, use all earnings to calculate gross. If paid by separate checks for different responsibilities, such as a teacher who is injured as a coach and receives a separate check for the coaching, set the wage using only the coach earnings.

Para-Professionals and Other Hourly Employees

Para-professionals and other hourly school employees hold positions which require that overtime (time-and-a-half) be paid for work over 40 hours per week and these employees are classified as "non-exempt." These positions will use a base hourly rate as the basis of pay. Examples of the non-exempt classification include education/teacher/instructional assistants, library assistants, clerical personnel, food service workers, and custodians. Although almost exclusively part-time, school bus drivers and crossing guards would also be included in this category.

As with any hourly employee, the hourly rate at the time of injury and the number of hours normally scheduled are needed. Next, get the gross earnings paid to the employee for the 52 weeks prior to the week of injury, or date of hire if the employee worked less than 52 weeks. Divide that amount by the number of weeks worked for that sum, regardless of when the payment was received. While some custodians work the calendar year, most other hourly workers do not. Report on the WKC-13A1 as gross earnings and weeks worked.

School Administrators

School administrators are exempt from overtime under either an executive or a professional exemption. Generally, they have a contract with a base amount and may have additional earning opportunities that would increase the actual gross earnings. The contract may be for weeks or months which must be determined so that an accurate weekly rate can be calculated. Review the method of calculating wage in the School Professional section, as it is the same for school administrators. Wisconsin law does not permit this classification to be used if earning less than \$700 per month.

Substitute Teachers

Substitute teachers are typically paid on a daily rate. The number of hours the employee was scheduled to work on the day of injury is needed. Divide the daily rate of pay by the number of hours scheduled to work to determine the hourly rate. Use the gross earnings for the number of weeks worked, as calculated above.

Volunteers, Paid On-call Members of Fire Departments, Rescue Squads, and Diving Teams

When the injured worker who has sustained a work-related injury or illness is a member of a volunteer fire company or a fire department organized under Ch. 213, Wis. Stats., or a legally organized rescue squad or diving team, the AWW is determined under the provision of DWD 80.30 Administrative Code. See s.102.07(7)(a) Wis. Stats.

DWD 80.30 establishes the average weekly earnings to be the maximum in effect on the date of the injury except where a specific showing may be made in individual cases where the maximum is not proper.

If the maximum rate is thought to be not proper for a volunteer and/or paid on-call member of a fire department, rescue squad or diving team, the AWW is then based on the equivalent earnings for a full-time position with the nearest full-time (career) fire department. When selecting a position with equivalent earnings, factors to be considered include, but are not limited to, the injured worker's:

- Years of service,
- Level of experience and/or responsibility,
- Certification, and
- Training for the position.

Frequently Asked Questions

1. *If a volunteer or paid on-call member was paid by the department when injured, why is that wage not used to determine the average weekly earnings?*

If the injured worker comes under the provisions of s.102.07(1)(a), the wage is set using DWD 80.30, not s.102.11. The training or paid on-call wage is not representative of the injured worker's value to the public for the service performed. Thus, the AWW will be set at the maximum rate for the year of injury unless/until rebutted with the equivalent wage for a full-time position from the nearest (career) fire department.

2. *Isn't setting the wage for a volunteer or paid on-call firefighter or EMT by using an equivalent full-time (career) firefighter's earnings unrealistic, given the earnings actually received?*

The long-standing public policy in Wisconsin is summed up in *Sorenson v. City of Elroy* (W.C. Claim No. 83-49944, LIRC Jan. 27, 1988): "as previously stated, Ind. 80.30 also allows a respondent to rebut the presumption of maximum earnings, but only to the extent that there is a disparity between the maximum earnings figure and the 'usual going earnings' paid to full-time firefighters . . . [the volunteer] may end up receiving compensation which bears no relation to his actual earning record or capacity. The legislature intended this result as a protection for volunteer firefighters and as an incentive for them to perform this important work." Although the above case referred specifically to a firefighter, the Department's position concerning EMTs and others who fall under the provisions of s. 102.07(1)(c) is the same with regard to legislative intent, i.e., protection and incentive. Also see *City of Elroy v. LIRC*, 152 Wis. 2d 320, (Ct. App. 1989).

3. *If the injured worker is an EMT rather than a firefighter, why would the nearest fire department be used rather than a private ambulance service?*

A private ambulance service is not the equivalent of a rescue squad. Typically, a volunteer rescue squad performs duties far beyond those of an ambulance service and the personnel have been trained for those duties. These rescue duties are far more similar to those performed either by full-time EMTs or firefighter/EMTs with career fire departments. Also note that volunteer rescue squads have a wide variety of organizational names. They need not be named a "rescue squad" to come under the provisions of s. 102.07(1)(c).

4. *How is "nearest" full-time (career) fire department determined?*

Functionally, that question is best answered by the fire department or rescue squad to which the injured worker belongs, as the "nearest" full-time (career) fire department will be called for mutual support when needed. (Note: Currently, there are 36 public, full-time (career) fire departments in Wisconsin from which to determine "nearest." The Department does not use private, federal, state, tribal or military fire departments or brigades to determine equivalent earnings.)

Regular Schedule for Full-Time (Class 1 or Career) Fire Departments

As of October 2013

Appleton	56	Kenosha	56	Oshkosh	56
Beloit	52.92	La Crosse	56	Racine	56
Brookfield	56	Madison	48	Rhineland	56
Caledonia	56	Manitowoc	56	South Shore	56
Chippewa Falls	56	Marinette	56	Stevens Point	56
Cudahy	56	Marshfield	56	Superior	56
Eau Claire	56	Merrill	56	Waukesha	52.3
Fond Du Lac	56	Milwaukee	56	Wausau	56
Franklin	56	Neenah-Menasha	56	Wauwatosa	56
Green Bay	53	New Berlin	56	West Allis	56
Greenfield	56	North Shore	56	Wisconsin Rapids	48
Janesville	56	Oak Creek	56		

Calculating Wage for Business Owners

To establish the AWW for sole proprietors, spouse owned businesses, and business partners, use the reported net earnings for the year prior to the year in which the injury occurred. Presume that the claimant has worked all 52 weeks of that prior year unless there is documentation to the contrary. Do not use the gross income reported, as their expenses still need to be deducted to determine their taxable earnings. The net earnings are typically found on either the Schedule C or the Schedule K-1.

The adjuster should request from the claimant the schedule appropriate to the business and tax year and use information from the schedule to set the AWW. The minimum AWW allowed is \$290.00 (based on the current minimum wage of \$7.25 per hour x 40 hours). If the schedule shows net earnings less than \$15,080, raise the AWW to the minimum wage of \$290.00.

The claimant will/should know which schedule they used to report net earnings. However, the summary below is provided to assist in discussions with the claimant or accountant.

Sole Proprietor

Request a copy of the Schedule C or Schedule C-EZ. One form or the other would have been submitted with the Form 1040. For the Schedule C, use the net profit or loss reported on line 31. For the Schedule C-EZ, use the net profit reported on line 3.

Spouse Owned Business

If two spouses jointly own and operate a business and share in the profits and losses, they are partners in a partnership, even if there is no formal partnership agreement. As such, they may not use Schedule C or C-EZ. Instead, they may file a Form 1065. Each spouse will show his or her share of the partnership income or loss on Schedule K-1. Request a copy of the claimant's Schedule K-1 for the tax year prior to the year of the injury. Use the amount shown on line 1 (ordinary business income). If no amount is shown on line 1, presume there was a loss of earnings and set the AWW at \$290.00.

If Spouse A is the formal business owner and Spouse B is neither a formal business owner nor a formal employee, but is injured while helping out at the business, Spouse B's AWW is calculated at 50% of the net earnings that Spouse A filed. This is derived from Wisconsin's 50/50 marital property laws regarding income.

S Corporations

Request a copy of the Schedule K-1 for the insured. A partnership is the relationship between two or more persons who join to carry on a trade or business, with each person contributing money, property, labor, or skill and each expecting to share in the profits and losses of the business whether or not a formal partnership agreement is made. A joint undertaking merely to share expenses is not a partnership. Mere co-ownership of property that is maintained and leased or rented is not a partnership. However, if the co-owners provide services to the tenants, a partnership exists.

TTD and PPD Rates

TTD Rate

The TTD rate will be set at 2/3 of the AWW up to the maximum rate for the year of injury. Please reference the Maximum Wage and Rate Chart ([WKC-9572-P](#)), available from the WCD website, to view the maximum rates.

If the claimant is employed part-time and self-restricts (see page 4 for more information on Self-Restriction), the TTD rate will be 100% of the restricted AWW.

PPD Rate

If the claimant is under 27 years of age at the time of injury, the PPD rate will be automatically set to the maximum rate for the year of injury. Otherwise, the PPD rate will be set at 2/3 of the AWW up to the maximum rate for set for the year of injury. Please reference the Maximum Wage and Rate Chart (WKC-9572-P), available from the WCD website, to view the maximum rates.

If the claimant is part-time and self-restricts, the PPD rate is NOT affected. The restriction only applies to temporary disability benefits, not permanent disability benefits. The PPD rate will be calculated based on the non-restricted AWW.

Escalated TTD Rates

If there is a renewed period of TTD or TPD benefits two years after the date of injury and the employee has returned to work for 10 days since the date of their injury, an escalated TTD rate is used to calculate new benefits. The escalation will be in the same proportion as the increase in maximum rates from the year of injury to the current year of renewed benefits.

Example:

Claimant was injured in 2012. At that time, their wage was verified as:

AWW: \$512.40

TTD: \$341.60

In 2012, the maximum TTD rate was \$854.00.

The claimant's TTD rate set in 2012 was 40% of the maximum TTD rate in 2012.

$\$341.60 / \$854.00 = 40\%$

If the claimant had a renewed period of TTD in 2024, the escalated TTD rate used is 40% of the 2024 maximum TTD rate. The 2024 maximum TTD rate was \$1,296.00, which makes the escalated TTD rate \$518.40.

$\$1,296.00 \times 40\% = \mathbf{\$518.40}$

Temporary Partial Disability

If an injured worker is still under a doctor's care but has been temporarily released to light duty work which the employer can accommodate, they may be eligible for Temporary Partial Disability (TPD) benefits. TPD benefits are payable when the employer is paying less than the pre-injury AWW either because the employee is working fewer hours than they were before the injury or because the light duty job pays a lower rate than the employee's pre-injury AWW. Once the employee's doctor has released them from care, they are no longer eligible for TPD benefits.

When an employee is working light duty and is eligible for TPD benefits, it is imperative to keep in weekly contact with the employer to get each week's actual wage paid to the employee. If the employee is earning their regular AWW while on light duty, no TPD benefits are due.

The Excel spreadsheet, [Form WKC 7359](#), found on the WCD website, is a tool to calculate the injured worker's weekly TPD benefits.

Below is an explanation of each of the columns on the [Form WKC 7359](#) spreadsheet.

Column	Column Name	What to Do – What This Column Means
1	Week Ending	Enter the Sunday date following the week of TPD.
2	Hours Emp. Worked	How many hours the injured worker worked for pay during this week.
3	At Hourly Rate	Hourly rate the employer paid
4	Wages Earned	Multiply the number in column 2 (Hours Employee Worked) by the number in column 3 (At Hourly Rate) and enter it here. This is the employee's gross pay for the week.
5	Weekly Wage at Time of Injury	The injured worker's average weekly wage (AWW) on the day they were hurt. Use the number the WCD's wage analyst has calculated; if you don't have that calculation yet, please enter the injured worker's hourly rate times the number of hours in a regular work week. After you have entered the AWW in column 5 and hit either "enter" or "tab," the values in columns 6 and 7 will populate.
6	Wage Loss	The number in column 4 (Wages Earned) is subtracted from the number in column 5 (Weekly Wage at Time of Injury) and entered here.
7	% of Wage Loss	The spreadsheet calculates the number for column 7 for you; it is the percentage of the injured worker's reduction in pay for this week.

Column	Column Name	What to Do – What This Column Means
8	TTD Rate	Enter the TTD rate that the WCD has calculated. If you don't have that calculation yet, please multiply the number in column 5 (Weekly Wage at Time of Injury) times .6667 and enter that number here. (Use the escalated TTD rate if there is a renewed period of disability more than 2 years after the date of injury.)
9	TPD Rate	Multiply the number in column 8 (TTD Rate) by the number in column 7 (% of Wage Loss) to arrive at the payable TPD rate.

If the AWW is based on the gross or a non-expanded hourly wage, the TPD wage will be the same as the AWW.

If the AWW is based on an expanded hourly wage (expanded to 40 hours), then the TPD wage will be set to the non-expanded wage. If the claimant keeps a regular schedule, TPD wage would be the greater of the hourly rate x the schedule or gross/weeks. If they don't keep a schedule, TPD wage is the gross/weeks.

If you have a question on what the TPD wage is set to, please contact a wage analyst. For all other questions regarding TPD payments, please contact our main line to speak with a dispute resolution specialist.

Example:

Claimant's wage information:

- Hourly rate: \$10.00
- Gross: \$8,000.00
- Weeks worked: 37

The claimant works more than 35 hours a week, so they are considered a full-time employee. Full time workers are assumed to work 40 hours per week. The calculation for the claimant's AWW is 40 hours x \$10/hour = \$400.

They are released to light duty of no more than 20 hours a week. The claimant works 12 hours the first week, 15 hours the second week, and 20 hours the third week.

Week 1

Week ending	10/13/24
Hours worked	12
Hourly rate	\$10.00
Wages earned	\$120.00
Weekly wage at time of injury	\$400.00
Wage loss	\$280.00
% of wage loss (280/400)	70%
TTD rate (400 x .6667)	\$266.68
TPD rate (266.68 x .7)	\$186.68

Week 2

Week ending	10/20/24
Hours worked	15
Hourly rate	\$10.00
Wages earned	\$150.00
Weekly wage at time of injury	\$400.00
Wage loss	\$250.00
% of wage loss (250/400)	62.5%
TTD rate (400 x .6667)	\$266.68
TPD rate (266.68 x .625)	\$156.25

Week 3

Week ending	10/27/24
Hours worked	20
Hourly rate	\$10.00
Wages earned	\$200.00
Weekly wage at time of injury	\$400.00
Wage loss	\$200.00
% of wage loss (200/400)	50%
TTD rate (400 x .6667)	\$266.68
TPD rate (266.68 x .5)	\$133.34

WI Statute 102.11: Earnings, Method of Computation

(1) The average weekly earnings for temporary disability, permanent total disability, or death benefits for injury in each calendar year on or after January 1, 1982, shall be not less than \$30 nor more than the wage rate that results in a maximum compensation rate of 110 percent of the state's average weekly earnings as determined under s.108.05 as of June 30 of the previous year. ¹ The average weekly earnings for permanent partial disability shall be not less than \$30 and, for permanent partial disability for injuries occurring on or after January 1, 2023 and before March 24, 2024, not more than \$645, resulting in a maximum compensation rate of \$430, and, for permanent partial disability for injuries occurring on or after March 24, 2024, and before January 1, 2025, not more than \$657, resulting in a maximum compensation rate of \$438; and for permanent partial disability for injuries occurring on or after January 1, 2025, not more than \$669, resulting in a maximum compensation rate of \$446. Between such limits the average weekly earnings shall be determined as follows: ^{52 53}

- (a) **1.** Daily earnings shall mean the daily earnings of the employee at the time of the injury in the employment in which the employee was then engaged. In determining daily earnings under this subdivision, any hours worked beyond the normal full-time working day as established by the employer, whether compensated at the employee's regular rate of pay or at an increased rate of pay, shall not be considered.
- 2.**
- a.** In this subdivision, "part time for the day" means Saturday half days and any other day during which an employee works less than the normal full-time working hours established by the employer.
 - b.** If at the time of the injury the employee is working part time for the day, the employee's daily earnings shall be arrived at by dividing the amount received, or to be received by the employee for such part-time service for the day, by the number of hours and fractional hours of the part-time service, and multiplying the result by the number of hours of the normal full-time working day established by the employer for the employment involved.
- 3.** The average weekly earnings shall be arrived at by multiplying the employee's hourly earnings by the hours in the normal full-time workweek as established by the employer, or by multiplying the employee's daily earnings by the number of days and fractional days in the normal full-time workweek as established by the employer, at the time of the injury in the business operation of the employer for the particular employment in which the employee was engaged at the time of the employee's injury, whichever is greater.

4. It is presumed, unless rebutted by reasonably clear and complete documentation, that the normal full-time workweek established by the employer is 24 hours for a flight attendant, 56 hours for a firefighter, and not less than 40 hours for any other employee. If the employer has established a multi-week schedule with regular hours alternating between weeks, the normal full-time workweek is the average number of hours worked per week under the multi-week schedule.⁵⁴

(ap)⁵⁵ **1.** Except as provided in subd. 2., in the case of an employee who works less than full time, average weekly earnings shall be calculated by whichever of the following is greater:

a. The actual average weekly earnings of the employee for the 52 calendar weeks before his or her injury, except that calendar weeks within which no work was performed shall not be considered.

b. The employee's hourly earnings on the date of injury multiplied by the average number of hours worked in that employment for the 52 calendar weeks before his or her injury, except that calendar weeks within which no work was performed shall not be considered.

2. An employee may, subject to subd. 3., demonstrate that he or she is eligible for temporary disability benefits based on full-time work rather than part-time work as provided in subd. 1. a. by providing evidence of qualifying taxable earnings with an employer other than the employer liable for the employee's injury or demonstrating that the employee has worked less than full time for less than 12 months before the date of the employee's injury. If the employee so demonstrates, the employee's average weekly wage shall be calculated using the normal full-time workweek established by the employer under par. (a).

3. An employer may rebut the employee's evidence of eligibility for temporary disability benefits based on full-time work under subd. 2. by providing evidence that the employee chose to work less than full time. Such evidence of a choice to restrict employment to less than full time may include a written statement signed by the employee or an employment application that indicates an hour or shift preference.

(b) In case of seasonal employment, average weekly earnings shall be arrived at by the method prescribed in par. (a), except that the number of hours of the normal full-time working day and the number of days of the normal full-time workweek shall be the hours and the days in similar service in the same or similar non-seasonal employment. Seasonal employment shall mean employment that can be conducted only during certain times of the year, and in no event shall employment be considered seasonal if it extends during a period of more than fourteen weeks within a calendar year.

(c) In the case of a person performing service without fixed earnings, or when normal full-time days or weeks are not maintained by the employer in the employment in which the employee worked when injured, or where, for other reason, earnings cannot be determined under the methods prescribed by par. (a) or (b), the earnings of the injured person shall, for the purpose of calculating compensation payable under this chapter, be taken to be the usual going earnings paid for similar services on a normal full-time basis in the same or similar employment in which earnings can be determined under the methods set out in par. (a) or (b).

(d) Except in situations where par. (b) applies, average weekly earnings shall in no case be less than actual average weekly earnings of the employee for the 52 calendar weeks before his or her injury within which the employee has been employed in the business, in the kind of employment and for the employer for whom the employee worked when injured.⁵⁶ Calendar weeks within which no work was performed shall not be considered under this paragraph. This paragraph applies only if the employee has worked within a total of at least 6 calendar weeks during the 52 calendar weeks before his or her injury in the business, in the kind of employment and for the employer for whom the employee worked when injured. For purposes of this section, earnings for part-time services performed for a labor organization pursuant to a collective bargaining agreement between the employer and that labor organization shall be considered as part of the total earnings in the preceding 52 calendar weeks, whether payment is made by the labor organization or the employer.

(e) Where any things of value are received in addition to monetary earnings as a part of the wage contract, they shall be deemed a part of earnings and computed at the value thereof to the employee.

(f) The weekly temporary disability benefits for a part-time employee who restricts his or her availability in the labor market to part-time work and is not employed elsewhere may not exceed the average weekly wages of the part-time employment.⁵⁷

(g) If an employee is under 27 years of age, the employee's average weekly earnings on which to compute the benefits accruing for permanent disability or death shall be determined on the basis of the earnings that the employee, if not disabled, probably would earn after attaining the age of 27 years. Unless otherwise established, the projected earnings determined under this paragraph shall be taken as equivalent to the amount upon which maximum weekly indemnity is payable.

(2) The average annual earnings when referred to in this chapter shall consist of 50 times the employee's average weekly earnings. Subject to the maximum limitation, average annual earnings shall in no case be taken at less than the actual earnings of the employee in the year immediately preceding the employee's injury in the kind of employment in which the employee worked at the time of injury.

(3) The weekly wage loss referred to in this chapter, shall be the percentage of the average weekly earnings of the injured employee computed under this section that fairly represents the proportionate extent of the impairment of the employee's earning capacity in the employment in which the employee was working at the time of the injury, and other suitable employments. Weekly wage loss shall be fixed as of the time of the injury but shall be determined in view of the nature and extent of the injury.

⁵² Permanent partial disability maximum weekly rates are \$438 for injuries on and after March 24, 2024, and \$446 effective January 1, 2025. 2023 Wis. Act 213, effective March 24, 2024.

⁵³ 2001 Wis. Act 37, effective January 1, 2002, created and renumbered these subsections to clarify that the employer's normal full-time scheduled workweek rather than the days and hours actually worked by the employee is used to calculate the average weekly wage.

⁵⁴ 2001 Wis. Act 37, effective January 1, 2002, created rebuttable presumptions that the normal fulltime workweek for flight attendants is 24 hours, 56 hours for firefighters, not less than 40 hours for other employees and the average number of hours worked per week for multi-week schedules with regular hours alternating between weeks.

⁵⁵ 2021 Wis. Act 232, effective April 10, 2022, changed the manner for the determination of wage for part-time employees and repealed s. 102.11 (1) (am) to eliminate expansion to a 24-hour workweek for parttime employees who are part of a class. The amendments to s. 102.11 (1) contained in 2021 Wis. Act, effective April 10, 2022, do not apply to the calculation of the average weekly wage for a part-time employee based on an injury occurring before the effective date. For injuries occurring before April 10, 2022, the average weekly wage for a part-time employee is calculated using s. 102.11 (1) and ss. DWD 80.02 (2) and 80.51 (4) in effect on the date of injury. To see the text of s. 102.11 (1)(am), 2019 Stats., please refer to the "Other Statutes" section of this publication.

⁵⁶ This returns to using the preceding 52 weeks to determine the average weekly wage rather than the four calendar quarters used from 1985 through 1997.

⁵⁷ This amendment provides for the calculation of compensation for temporary disability for part-time employees under s. 102.11 (1) (ap). 2021 Wis. Act 232, effective April 10, 2022.

Wisconsin Statute Cheat Sheet

Topic	Reference	Notes
Rate of pay at time of injury	102.11(1)(a)1	For hourly, use rate at time of injury plus shift differential if in effect. Break down all set rates of pay (daily, weekly, monthly, salary) to an hourly rate.
Employee gross earnings	102.11(1)(d)	<p>From the job of injury only, use the taxable income earned in the 52 weeks (or less, if employed less) prior to the date of injury. Include overtime, holiday/vacation/sick pay, commissions, and bonuses.</p> <p>Do not include unemployment or worker's comp benefits, short or long-term disability, partial pay under FMLA leave, or untaxed earnings (reimbursements and per diem.)</p>
Self-restriction	102.11(1)(f)	<p>Self-restriction is essentially the claimant saying "Yes, I only want this one part-time job. I do not want a full-time job, so you do not have to base my wage on 40 hours."</p> <p>TTD benefits will be based on actual earnings and will not be based on hours that were expanded to 40.</p> <p>Claimant cannot restrict if they have another job at the time of injury.</p>
Work less than 6 weeks	102.11(1)(d)	If claimant has worked less than 6 weeks, gross earnings cannot be used to determine the average weekly wage. Only use the hourly rate x schedule to determine average weekly wage.
No fixed rate and less than 6 weeks work – use "same or similar" employment	102.11(1)(c)	If an employee does not have a set rate of pay (ex: truckers paid-by-the-mile, employees solely paid on commission) and has worked less than 6 weeks (can't use gross to determine AWW), use wages from a similar employee from same employer to determine AWW.
Firefighters, EMTs, and emergency rescue workers	DWD 80.30	Set wages to max OR submit full-time wages of the nearest full-time career fire department.
Definition of "Seasonal Employment"	102.11(1)(b)	Employment that can be conducted only during certain times of the year and cannot extend more than 14 weeks. Only specific types of agricultural work are deemed seasonal: canning, cherry picking, Christmas tree harvesting, etc.

Topic	Reference	Notes
Escalation of TTD rate	102.43(7)	The TTD rate for renewed periods of TTD two years after the date of injury is escalated in proportion to the increase in the maximum TTD rate from the year of injury.
Additions to cash wage	102.11(1)(e) DWD 272	Value of lodging and free meals is established in DWD 272. AWW is calculated with value of lodging and/or free meals added into the cash wage if either or both were discontinued during disability period. PPD rate is calculated with them included.
PPD at max if under 27 years old	102.11(1)(g)	If claimant is under 27 years of age, PPD rate will be maximum for year of injury regardless of the AWW calculation.