

WISCONSIN



DWD

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# Delay Penalties: How to Avoid Them

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# Types of Delay Penalties

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- Delay penalty for late payment of Temporary Disability benefits
- Delay penalty for late payment of Permanent Partial Disability (PPD) benefits



# Delay: Temporary Disability (TD)

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- The Division may assess a 10% delay penalty if the employer or their insurer inexcusably delays in making the first TD payment
- Delay inquiry is sent if:
  - TD payment is made more than 14 days after employee leaves work as a result of an injury, and
  - Amount due is \$500 or greater



# Inexcusable Delay: Temporary Disability

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- First TD payment is made more than 30 days after the date the employee leaves work as a result of an injury
- Can incur penalty for delay of any length of time in making any other payment that is due an injured employee



# Guidelines for Excusing TD Delay

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- Employee did not notify employer of injury, or
- Insurance investigation (**only if under six weeks**), or
- Employer pays sickness, accident insurance, and/or salary until compensability is determined, or
- Employer's first claim or first delay (**Note**: we may query our records).



# Temporary Disability and Investigations

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## IMPORTANT NOTE:

- WCD granting you extra time to **investigate** a claim **will not** excuse a delay penalty.
- The extended time given for investigating the claim may avoid the assessment of a surcharge for late reporting.

(102.35(1) Wis. Stats)



# Delay: Permanent Partial Disability (PPD)

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“If compensation is due for permanent disability following an injury or if death benefits are payable, payments shall be made to the employee or dependent on a **monthly** basis.”

**NOTE:** Be consistent about making the monthly payments to avoid a delay penalty. Remember, this is the injured worker’s income.

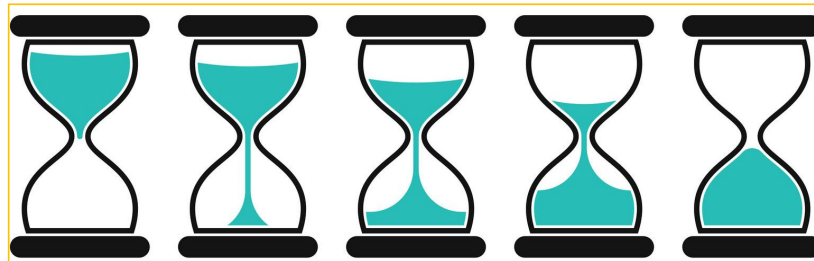


# PPD and Statutory Minimums

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PPD due for an injury based upon statutory minimums shall begin on the earliest of these dates:

- Within 30 days after the end of the employee's healing period, or
- On the date compensation for TD ends





## Delay: PPD (cont.)

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### **102.32(6)(c):**

For an injury that results in PPD, but the extent of PPD cannot be determined without a medical report, PPD shall begin within 30 days after receipt of a medical report that provides a basis for a PPD rating.

**NOTE:** You still need to pay the due and accrued PPD from the date TD ended, and there may be several intermittent periods of disability.



## Delay: PPD (cont.)

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### **102.32(6)(e):**

PPD for an injury, including payments based on minimum PPD ratings by rule, shall continue on a monthly basis and shall accrue and be payable between intermittent periods of TD.

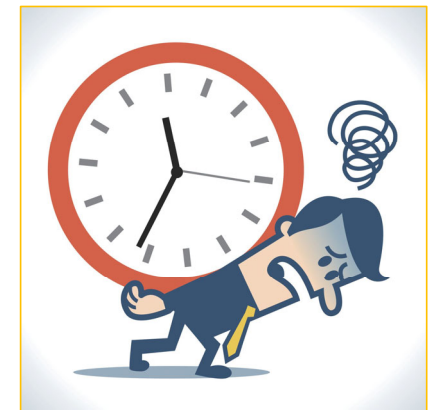
**NOTE:** PPD is due and payable on a claim whenever you have a 30-day period of disability when no TD is being paid.



# Intermittent Periods of Disability

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- An injured worker had a meniscectomy and was out June 1 through July 12.
- On July 12, went back to work and worked several weeks. Knee kept getting worse.
- On September 28, injured worker had a total knee replacement.
- Returned to work February 25.
- When does PPD start to accrue?



# PPD and Independent Medical Exams

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If you dispute the rating in the treating doctor's final medical report and you want to get an IME, you must:

- Schedule the IME within 30 days of receiving the treating doctor's final medical report.

If you have not received the IME report within 90 days after requesting the IME, to avoid a delay penalty, you must:

- Pay the due and accrued PPD based on the **treating doctor's** final medical report.



# Delay: Amputations

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- Be sure to review the operative and emergency room notes to determine the amount of statutory PPD that you can issue until you receive a final medical report.
- Do not wait for Division worksheet!



# Delay: Other Tips and Strategies

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You can prevent most delay inquiries by:

- Paying right away what you can determine.
- Not making token payments.
- Letting us know when you pay or change any types of payments (update WKC-13).
- Contacting the DWD/WCD/DRS if you have any questions.





Questions?

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