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Basics of Wage

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Overview

- Wisconsin statutes relating to wage
- Calculating wages
- Temporary total disability (TTD) and permanent partial disability (PPD)
- Part-time employees
- Wage Variants



Where Do Our Wage Rules Come From?

- Almost all wage “rules” are derived from Wisconsin statute 102.11.
- Wage Information Supplement (WKC-13A1) is the required form that asks for the information needed to calculate the wage based on these rules.
- To avoid a surcharge, WKC-13A1 must be filed within 60 days of the first WKC-13. If an “expect by” date is given, this deadline can be pushed back 90 days.



SECTION 1. PAY INFORMATION

If The Claimant Is Paid Solely By Commission, Mileage, Or Some Other Method, Where Scheduled Hours Are Not Used, Skip Question 1 In Section 1 And Go On To Answer Any Of Questions 2 Through 6 That May Apply.

1. Hourly Rate Weekly Rate Monthly Rate

Note: One Of The Following May Also Apply.

2. Pay Included Tips:

 Base Hourly Rate:

 Average Tips Per Week:

3. Paid By Piece Rate:

 Enter The Total Hours Worked And Wages Earned In The 52 Week
 Period Prior To The Injury (Excluding Overtime Hours).

 Hours:

 Wages:

4. Wages Included Differential:

 If The Claimant's Hourly Wages Included Differential Per Hour At The
 Time Of Day When The Injury Occurred, Enter Differential Per Hour:

5. Exceptional Basis Of Pay:

A. Exceptional Basis Of Pay For Special Types Of Employment:

B. Basis of Pay/Wage Comments:

6. Seasonal Employee:

 If The Claimant's Occupation Is Seasonal,

 Enter Number Of Weeks In The Season (Whole Number):

SECTION 2. GROSS WAGES

1. Gross Taxable Wages In A 52 Week Period Prior To Week Of Injury:

 Exclude Week Of Injury And Tips.

 Include Annual Commission, Overtime, And Bonuses.

2. Number Of Weeks Worked In 52 Week Period Prior To Week Of Injury:

 Exclude Week Of Injury In The Number Of Weeks.

3. Date of Hire (mm/dd/yyyy):



SECTION 3. ADDITIONS TO CASH WAGE

1. Free Meals: Enter Number Of Meals Per Week.
2. Daily Room: Enter Number Of Days Per Week.
3. Other Additions To Cash Wage:
- A. Enter Description Of Item (e.g. Fuel, Electricity, etc.):
- B. Enter Weekly Value Amount:
4. Did Claimant Continue To Receive Additions To Cash Wage During The Healing Period? Yes No
-

SECTION 4. SCHEDULED HOURS AND OVERTIME INFORMATION

1. Normal Full Time Hours Scheduled By The Employer For This Type Of Work:
2. If Employer Scheduled Claimant To Work On A Regular Alternating Weekly Basis,
Enter The Number Of Hours For The Regular Alternating Full Time Schedule:
- Alternating Schedule Week One:
- Alternating Schedule Week Two:
3. Time And A Half Pay:
If The Employer Paid Time And A Half,
Enter The Number Of Hours Worked Before Time And A Half Was Paid:
4. Double Time Pay:
If The Employer Paid Double Time,
Enter The Number Of Hours Worked Before Double Time Was Paid:
5. Was Claimant Scheduled To Work Full Time In This Job Each Week? Yes No
If Yes, Part Of Class Information Completed In Section 5 Will NOT Be Saved.
If No, Complete Part Of Class Information In Section 5 Below.
-



SECTION 5. PART TIME EMPLOYEES

- 1. Does the claimant have employment outside of the employer at which the injury occurred? Yes No
 - 2. Did the claimant work less than full time for less than 12 months prior to the injury? Yes No
 - 3. Claimant's average weekly hours worked in in the 52 weeks prior to the injury:
 - 4. Does the claimant limit themselves to part-time work? Yes No
-

SECTION 6. INSURER CONTACT INFORMATION

- 1. Insurer Contact Name:
 - 2. Insurer Contact Phone:
 - 3. Insurer Contact Email:
-



Calculating Average Weekly Wage

Average Weekly Wage will be based on the greater of:

Hourly Rate	x	Hours per Week
	OR	
Gross Earnings	÷	Weeks Worked



Hourly Rate

- Hourly Rate entered should be the rate the employee was earning **at the time of injury**.
- Break down any set rates of pay (weekly, monthly, salary) to an hourly rate.
- Include shift differential (additional amounts employer pays for working nights and weekends) in hourly rate if employee was earning it at time of injury.
- Hourly rate must be at least minimum wage.
 - \$7.25 per hour or \$2.33 per hour with tips



Hours Per Week

- Number of hours the employee is regularly scheduled each week.
- Full-time workers are assumed to be working 40 hours per week.
- For employees working more or less than 40 hours per week, expect a request for hours worked in the 13 weeks prior to the injury.



Gross Earnings

- Total gross taxable earnings the claimant earned in the 52-week period immediately prior to the week of injury.
- Do not include earnings from week of injury unless claimant was injured on a Friday or Saturday - then it can be included.
- Include any bonuses.



Gross Earnings (cont.)

Do not include in gross earnings:

- Any weeks where the claimant has disability earnings, FMLA, Temporary Total Disability (TTD), or Temporary Partial Disability (TPD) from a previous claim;
- Tips (added in separately); or
- Non-taxable earnings (reimbursements, per diem, etc.)



Weeks Worked

- Total number of weeks worked in the 52 weeks 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, such as vacation, holiday, or personal time, should be included as “worked.”



Less Than Six Weeks

- If an employee has worked less than six (6) weeks, gross earnings cannot be used to determine average weekly wage (AWW).
- AWW will only be based on the Hourly Rate x Hours per Week.



Overtime

- Overtime should be paid at time and a half to employees if they have worked more than 40 hours in one week.
- Overtime should only be included in 'Hours Per Week' if employee regularly works that schedule.
- If random amounts of overtime are worked each week, overtime would NOT be included in 'Hours Per Week,' but all overtime earnings would still be included in 'Gross Earnings.'



Overtime (cont.)

The 'Hourly Rate x Hours Worked' equation turns into:

(Hourly Rate x Regular Hours Worked)

+

(OT Rate x OT Hours Worked)

(OT Rate = Hourly Rate x 1.5)



Alternating Schedule

- If the claimant works an alternating schedule every two weeks (with no overtime either week), the hours per week entered would be the average of the two weeks.
- If the claimant works an alternating schedule with overtime, the regular hours would be averaged separately from the overtime hours.



TTD and PPD Rates

- Temporary Total Disability (TTD) and Permanent Partial Disability (PPD) rates will be set at 2/3 of the AWW until it gets to the max rate.
- If the claimant is younger than 27 years old, PPD will automatically be set to max rate.



Maximum TTD and PPD Rates

Category	Current
Average Weekly Wage	\$1,870.50
Temporary Total Disability	\$1,247.00
Permanent Partial Disability	\$430.00

Current historical wage and rate chart:

<https://dwd.wisconsin.gov/dwd/publications/wc/wkc-9572-p.pdf?v3>



Escalation

If there is a renewed period of TTD or TPD two or more years after the original period of disability ended, the TTD rate used will be escalated in proportion to the current max rate.

Example:

	TTD	Max TTD	Percent
2014	\$446	\$892	50%
2023	\$623.50	\$1247	50%

- In 2014, claimant's TTD rate was \$446, or 50% of the 2014 maximum TTD rate of \$892.
- In 2023, claimant resumed TTD for the same claim. His TTD rate was escalated to 50% of 2022 maximum TTD rate of \$1247, or \$623.50.



Wage Investigation

- About 30% of WKC-13A1s (roughly 8,000 claims per year) filed will be put into “Wage Investigation.”
- Of that 30%, about half will stay the same.
- Don’t panic: we will let you know if we need more information.
- Once a claim is in Wage Investigation, only we can take it out of investigation. Submitting more WKC-13A1s will not change that.



Request for Week-by-Week Wages

WC CLAIM NO: 0000-000000
INJURY DATE: 01/01/08
EMPLOYEE: SIMPLES-SAMPLER, TESTER SAMPLE
EMPLOYER: SAMPLE EMPLOYER
INSURER NO:

IF YOU CALL OR WRITE US
PLEASE USE WC CLAIM NO.

We received wage information that indicates the average weekly wage used for computing the TTD/PPD rate(s) may be incorrect. Please submit the following information for verification of the correct average weekly wage:

- A week-by-week listing of gross taxable earnings for the 52-week period starting immediately prior to the week in which the injury occurred. Include earnings for overtime, bonuses, incentive or performance pay, commissions and all other taxable earnings excluding tips.
- If the employee received tips, send a week-by-week list of the tips reported.
- If the employee worked for this employer less than 52 weeks prior to the week of injury, list earnings from the date of hire.

If you do not reply to this request for wage information within 30 days we may assess a surcharge of \$100 in accordance with s.102.35(1), Wis. Stats.

If you have questions or need help please contact us by calling (800) 206-1340 and then ask for a wage analyst.

Thank you for your assistance in assuring correct compensation payments.



Why Would We Request This?

- The number of weeks worked entered on the WKC-13A1 is impossible based on Date of Hire and Date of Injury.
- The quarterly gross earnings the employer reported to UI is significantly different than what was reported on the WKC-13A1.
- Something just doesn't look right:
 - Gross is very high or low
 - Weeks are very high or low
 - No tips reported for a job that typically gets tips
 - Earnings fluctuate across quarters in UI database



Questions?



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Part-time Employees

Everyone Gets Paid Full-time...

- 102.11(1)(a)3: “The average weekly earnings shall be arrived at by multiplying the employee's hourly earnings by the hours in the normal full-time work week as established by the employer.”
- Labor & Industry Review Commission (LIRC): **Prior to 4/10/22**, “The general rule is that part-time hours are expanded to full-time hours for that employment for purposes of determining the statutory average weekly wage.”



...Except

- Employees who self-restrict to part-time work on the labor market
- **As of 4/10/22:** Wage expansion for part-time employees is limited to part-time employees who are
 - Employed by another employer, or
 - Who have been employed part-time less than 12 months before the injury. (Repeal of s. 102.11 (1)(am) and (f)1 and creation of s. 102.11(1)(ap))



Self-restriction

- Way to reduce expanded hours to average actual earnings or to regularly scheduled hours
- Documentation from employer confirming job is only for part-time work
- Voluntary for employee to fill out
- Preference for part time work on employment application
- Only applies to temporary disability benefits (**not** PPD)



Self-restriction (cont.)

- Employees who restrict themselves to part-time work on the **labor market** are eligible to have restricted claims
- Must voluntarily restrict to part-time work at the time of injury
- Must be signed by employee (or legal guardian)
- Restricted rate is paid at 100% of regular work schedule or average actual earnings, whichever is higher
- Can only be applied by a wage analyst



TEST INSURER 2
C/O TEST INSURER 2
123 JENNIFER ST
MADISON WI 53703

WC CLAIM NO: 9999-999999
INJURY DATE: 01/01/98
EMPLOYEE: SIMPLES-SAMPLER, TESTER SAMPLE
EMPLOYER: SAMPLE EMPLOYER
INSURER NO:

IF YOU CALL OR WRITE US
PLEASE USE WC CLAIM NO.

You advised us that you are paying worker's compensation benefits at 100% of the employee's actual wage. This is correct if at the time of the injury the employee restricted his or her availability to part-time work and was not employed elsewhere.

However, you did not include the required self-restriction statement from the employee. Please send us a self-restriction statement immediately.

If we do not receive a reply within 30 days, we will assume that the employee did not self-restrict, and we will increase the weekly rate to either two-thirds of the wages for 24 hours of work (if the employee was part of a class at the time of injury) or two-thirds of the wages for full-time work (usually 40 hours).



EMPLOYEE NAME:

EMPLOYEE S.S. #*:

DATE OF INJURY:

This form is needed to properly compute the wage for your Worker's Compensation benefits. Please answer the following questions, sign, date and return to your insurance carrier or self-insured employer.

1. At the time of your injury, did you limit your availability in the labor market to part-time work or to work only with the employer where you were injured ?
 Yes No

If yes, explain your limitation:

2. At the time of your injury, were you also employed by another employer or self-employed?
 Yes No

If Yes, please provide us with the name and address of your other employer below:

Employer Name:

Employer Address:

Signed _____ Phone Number: (_____) _____
Area Code

Dated _____



Self-restriction Eligibility

- Cannot have two jobs
- If no regular schedule, must have worked at least six (6) full weeks
- TTD rate cannot exceed what it would be if hours were expanded to full time
 - Recent part-time workers, or those who keep high number of hours, may not be eligible
 - If you receive an error that an employee cannot restrict, this is usually why
- Self-restriction does not affect the PPD rate. PPD will be calculated based on a non-restricted AWW.



Self-restriction Eligibility (cont.)

Cannot accept self-restriction forms that:

- Reference the injury as a reason
 - “Doctor said I couldn’t work full time”
- Reference not being able to find full time work
 - “Employer only had part-time work available”
- Aren’t signed by the employee (or legal guardian)
- Are coercive or misleading
 - Must give an option to select yes or no
 - Cannot imply stoppage of benefits if not filled out



Questions?



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Wage Variants

Exceptional Basis of Pay

- Specific careers may have particular rules that calculate their average weekly wage (AWW) differently from other jobs.
- On the WKC-13A1, select the “Exceptional Basis of Pay” option from the drop-down box in Section 1, Number 5.



All the “Exceptional” Categories

Coach – Only	Newspaper Carrier - PT	School Bus Driver - PT
Commission Only – FT	Other	School Crossing Guard - PT
Commission Only – PT	Paid By The Mile - FT	Sheltered Employee - PT
Flight Attendant - PT	Paid by The Mile - PT	Sole Proprietor (Business Owner)
K-12 Cafeteria Worker – PT	Prisoner	Taxicab Driver
K-12 Teacher and Coach	Pro & Semi-Pro Athlete	Trucker - Owned Truck
K-12 Teacher Only	Pulp Cutter	Volunteer Fire Fighter/ EMT



Teachers/School Workers

- The typical school year lasts 38 weeks. The number of weeks entered on the WKC-13A1 is the weeks worked.
- Teachers can opt to have their contract paid during the school year (38 weeks) or throughout the whole year (52 weeks), so paychecks might not reflect total earnings for the weeks worked.
- AWW is based on annual salary and percentage of contract fulfilled.



Business Owners

- AWW based on Net Profit reported on their taxes for the tax year prior to year of injury.
- Typically reported on either Schedule C or Schedule K-1. We will ask you to provide a copy of this.
- Minimum wage (AWW: \$290) is the lowest we will set their AWW.
- If owners refuse to furnish the proper tax documents, wage will be set to minimum wage.



Commission-Only or Paid by the Mile

- These workers have no set rate of pay – they are paid on commission or by the mile.
- If they are full time, AWW is based on their gross/weeks worked. Hourly rate x hours would not be considered.
- If they have worked fewer than six (6) weeks (i.e., cannot use gross), send similar wages of a like employee
- If they are part-time, hourly rate is calculated by dividing gross earnings by hours worked.



Volunteer/Paid On-Call Firefighters

- AWW set to the maximum rate for the year of injury, or we will accept full-time wages from the nearest full-time/career fire department.
- When submitting WKC-13A, note which fire department you contacted to obtain the full-time wages.
- Refer to Calculating Wage binder for more detailed information on why we handle volunteer rescue worker wages this way.



Other Exceptional Categories

- Piecework
- Seasonal Employment
- Tips
- Room and Board

https://dpm.wi.gov/Documents/BCER/Compensation/PocketTravelGuide_2_2022.pdf



Questions?

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