

Questions and Answers
on
IOWA
EMPLOYMENT SECURITY LAW

Prepared and Published By
Iowa Federation of Labor, AFL-CIO



"Working Together For All Iowans"

In Conjunction with
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What is the unemployment insurance program?

The Iowa unemployment insurance program provides qualified workers temporary income to help them through short periods of unemployment. Employers pay a special tax, which goes into a fund that is used exclusively to pay unemployment claims. This program is administered by the Iowa Department of Workforce Development.

If a worker meets the statutory requirements for unemployment insurance, it is the worker's RIGHT to receive benefits. A worker, however, must meet a number of conditions to qualify for and receive benefits. This booklet is intended to give you a brief overview of important features of the unemployment insurance program.

What are the basic eligibility requirements?

You must be a citizen or permanent legal alien lawfully authorized to work who is either totally or partially unemployed through no fault of your own. You must have worked and earned a certain amount of wages in work covered by unemployment insurance in the last fifteen to eighteen months. You must have total base-period earnings of at least 1.25 times the wages you earned in your highest base-period quarter. You must have a minimum amount of wages in the high and low quarters of your base period.

For Program Year 7/02/2017-7/1/2018:

High-Quarter Minimum = \$1,570.00

Low-Quarter Minimum = \$780.00

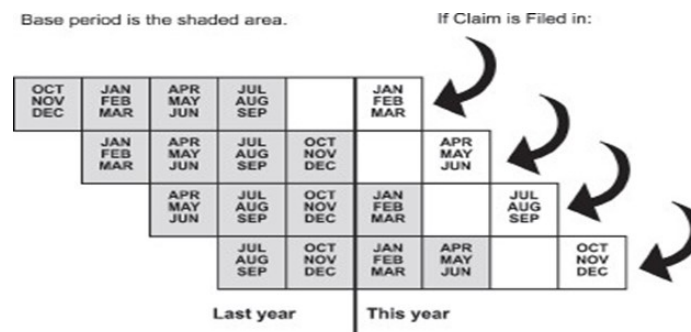
The minimum and maximum amounts change each year for new claims filed after the first Sunday in July. A weekly benefit amount schedule is available upon request at your nearest IowaWORKS Center.

You also must be "able, available, and actively seeking work" for each week for which you will receive benefits. And, you must have lost your job through no fault of your own.

What is the "base period?"

The base period is a four-quarter (one-year) period of time from which your weekly benefit amount (WBA) and maximum benefit amount (MBA) are determined. The amount of wages you earn in the base period determines the amount of unemployment benefits you receive. The base period is the first four of the last five completed calendar quarters at the time you file your initial claim for benefits. The quarter in which you file your claim and the preceding quarter are called the lag quarters and normally **are not** used to determine your benefits.

Example: If you file a new claim in **April, May, or June** (second quarter), your **base period** would be the preceding January 1 through December 31.



Are there tips I should know before applying for unemployment benefits?

Yes. You should keep the following points in mind:

- You may file an initial claim in one of the following manners: in person at an IowaWORKS Center; or online at <http://www.iowaworkforce.org>.
- Be sure to apply no later than the first Friday of your unemployment or you will lose the first week.
- The Workforce Development Center cannot refuse to take your application for benefits.
- You must provide two forms of identification. One should be an original or replacement social security card issued by the Social Security Administration. You must also provide your most recent employer's name, address, and telephone number.
- Once you open a claim, your benefit level will be the same for a one-year period.
- If you are laid off, make sure you tell the Workforce Development Center representative that you are laid off and that you were not fired, nor did you quit. Your checks will come sooner if you make it clear that you were laid off.
- There is no waiting period.
- If you have a definite callback date within four weeks or less, make sure that you tell the Workforce Development Center representative. In such a case, you will not have to look for work.

What are the maximum benefits for which I may be eligible?

In Iowa, your weekly benefit amount (WBA) is determined by your gross wages from all covered employers in the high quarter (HQ) of your base period and by the number of dependents you claim. The minimum and maximum WBAs change each year for new claims filed after the first Sunday in July. A WBA schedule is available upon request at your nearest IowaWORKS Center. Your WBA is calculated by the following:

If you have (for program year 7/02/2017 through 7/1/2018):

- **0 dependents**, your WBA is 1/23 of your HQ with a **maximum of \$455**;
- **1 dependent**, your WBA is 1/22 of your HQ with a **maximum of \$473**;
- **2 dependents**, your WBA is 1/21 of your HQ with a **maximum of \$490**;
- **3 dependents**, your WBA is 1/20 of your HQ with a **maximum of \$516**;
- **4+ dependents**, your WBA is 1/19 of your HQ with a **maximum of \$559**.

Example: If your HQ earnings are \$10,406 and you have one dependent, your WBA is \$473 ($\$10,406/22 = \473).

The **maximum benefit amount** (MBA) during your benefit year is **26 times** your weekly benefit amount (WBA) or one-third of your total base-period wages, **whichever is less**. All unemployment insurance benefits are fully taxable on your federal and state income taxes. You have the option of having federal and/or state taxes withheld from your benefit payments.

Who are the dependents?

You are not considered a dependent. Generally, dependents are the same individuals you can lawfully claim as dependents for federal and state income tax purposes. Note, (1) if your spouse has gross earnings of more than \$120.00 per week, you cannot claim your spouse as a dependent and (2) you cannot claim as a dependent an individual who someone else has claimed on a current unemployment claim.

What should I expect after filing my claim for benefits?

The procedure after you apply is as follows:

- Your most recent employer and all former base-period employers can challenge your benefits at any time within a ten-day period from receiving notice of your claim.
- Claims are automatically protested if you indicate on your application for benefits that you were fired or quit or job. However, this does not necessarily mean that your employer will protest your claim for benefits.
- If challenged, you will receive a pink slip (notice of a fact-finding interview). You should contact your Union office immediately for help. Do not take care of it alone.
- When you get the list of employers and wage credits, check it over carefully to see that it is correct. If it is not right, be sure to notify your Union office.

What if I have exhausted my benefits?

You may be eligible for additional benefits if you have been paid wages for insured work during your base period in an amount at least one and one-half times the wages paid to you during that quarter of your base period in which your wages were highest.

What about extended benefits?

Extended benefits are paid to individuals during period of high unemployment in a State under the Federal-State Extended Unemployment Insurance Act of 1970 and its regulations. However, Iowa does not currently fall under a plan to offer extended benefits.

Will I have to apply for work at the Workforce Development Center?

Most claimants will have to apply for work at the local IAWORKS Center Office. Those who are temporarily laid off are not required to register for work. All others should keep the following points in mind:

- Never put any restriction on what you are willing to do, where you will work, on what shift, or for how much money. Let the Workforce Development Center know that you will consider anything. You can voice a preference, but you need to be sure that the Workforce Development representative knows that you will consider any job offer.
- Watch the small talk. Just a mention of a car problem or childcare problem, etc., could cause your benefits to be challenged.
- Remember, when dealing with the Workforce Development Center, get your business taken care of and get out of there.

Will I have to look for work other than at the Workforce Development Center Office?

Yes. Everyone is required to make a minimum of two job contacts each week unless otherwise specified by Iowa Workforce Development. Keep in mind the following:

- Your work search must be a reasonable and honest effort to find suitable work and you must be willing to accept a reasonable wage in your area for the job for which you are applying.
- Your job contacts must be made between Sunday and Saturday of the week you are claiming benefits. You may make your job contacts in person, by Internet, by on-line applications, mail, or faxing resumes. Telephone calls are not acceptable.

- Repeat or follow-up work searches may be made to the same employer after six weeks from the initial contact.
- You are required to keep a record of your job contacts for one year and be prepared to provide a copy if requested by Iowa Workforce Development. You need to include the date of the contact, company name, address, phone number, the name of the person you contacted, method of contact – i.e. in-person, online, etc., and result of communication.
- Be prepared to prove that you applied for work in person whenever you reported you did. If possible, take someone with you on your job search. Get the name of the person with whom you talked, his/her position, and the date. Ask for a copy of your completed application for your files.
- Do not confine your job search to one area or a single occupation or employer. Apply to a variety of employers and in a variety of occupations.
- Members of a Union hiring hall are required to be in good standing and must contact the Union in accordance with the Hall rules.

Must I be able and available every day I am laid off?

You must be able and available for work the majority of each workweek.

What if I am offered a job?

If you are offered a job, you will have to decide if the job is suitable for you. If you turn down suitable employment, you will be disqualified for receipt of further benefits. You should remember the following points:

- In order for a ruling to be made that you turned down “suitable work,” a bona fide offer of work has to be made. A bona fide offer should include wages, hours, type of work to be done, and commencement date of the job.
- The job offered must be within your physical capabilities and must not require any undue physical skill or particular training which you do not already possess. You can demand wages as follows:

Weeks of Unemployment	Percentage of Wage in Highest Quarter
1 to 5	100%
6 to 12	75%
13 to 18	70%
After 18	65%

- If the Workforce Development Center calls and offers you a referral, you must go talk to the employer.
- The Workforce Development Center also considers other factors besides wages when deciding if a job is suitable. If you have a job offer and don't know what to do, tell the employer you need time to think it over and contact your Union office, Legal Services office, or other knowledgeable persons for advice.
- You are not required to take a job that is vacant as a result of a strike or labor dispute.

What incomes must I report?

You must report all wages earned during the week. You must report wages the week you earn them—not the week you receive them. You must report all vacation pay, severance pay, pay in lieu of notice, employer pension or retirement pay (not disability pay), and temporary worker's compensation payments. You do not have to report earnings from self-employment or private pensions (e.g., IRA's to which only you contributed).

How will my unemployment check be affected if I report wages?

Your unemployment check will not be affected if you report wages up to one-fourth of your weekly benefit. Any additional earnings will result in a dollar-for-dollar reduction.

For example, if your benefits are \$455.00 per week and you earn \$113.75 (1/4 of \$455), you will still draw \$455.00 in unemployment benefits. If you earn \$118.75, your check will be reduced to \$450.00; if you earn \$123.75, your check will be reduced to \$445.00; and so on.

Will my check be reduced if I receive Social Security?

It is common for workers to work in order to supplement their Social Security retirement benefits. If you are working to supplement your benefits and are laid off, discharged for other than misconduct or quit due to good cause attributable to your employer, you are entitled to unemployment benefits without a reduction for the Social Security benefits you receive. The same rule applies if you are receiving Social Security disability benefits. (You should note, however, there are limitations on the amounts you can earn from employment if you are receiving Social Security disability benefits. You need to check those limitations with the Social Security Administration.)

What is the effect of receiving other benefits?

The effect of receiving other retirement and disability benefits depends on who is providing the benefit and the specific type of benefit involved. Generally, your weekly unemployment check will be reduced dollar for dollar to the extent a base period employer contributed to the retirement or disability benefit. You should contact your Union, Legal Services, or other knowledgeable person regarding the amount of reduction in the amount of your check in your situation.

How will vacation and severance pay affect my unemployment check?

When severance pay is based on the number of weeks of pay for years of service, regardless of whether it is made in a lump sum or paid on a weekly basis, it is deductible based on the number of weeks the payment represents the hourly rate at the time of separation.

Vacation pay will only be deducted during the first week of the claim, unless the employer designates the period for which the vacation pay is to apply. If the employer so states, the vacation pay will be deducted for that period designated, based on the hourly rate of pay for the number of days represented by the employer.

Vacation bonuses paid in conjunction with vacation pay are not deductible from unemployment benefits.

What are some of the reasons my benefits can be contested?

Once you apply for benefits, your claim can be contested because:

- You were discharged due to misconduct.
- You voluntarily quit without good cause attributable to the employer.
- You turned down suitable work.
- You are not able, available, or actively seeking work.
- You were incarcerated, and you missed work.

What is “misconduct?”

Misconduct is a willful act that is not in your employer’s best interest. It must be a current act. Past acts are considered to have been condoned by your continuing employment. The act must be in connection with your employment. Some actions done while off duty and away from your workplace can be deemed to be misconduct. Things that you cannot

help are not misconduct—such as the inability to do the job, absences because of sickness, and simple mistakes or errors. If you are fired for misconduct, you will be disqualified from unemployment until you have requalified.

What is “good cause attributable to the employer?”

This issue is very complicated. Under certain circumstances, however, an employee who quits a job may be eligible for benefits. You need some advice from your local Union, Legal Services, or some other knowledgeable person before quitting a job. Here are a few reasons that are **normally** considered to be “good cause attributable to the employer”:

- The employer makes a substantial reduction in your work hours, wages or benefits, requires you to move to another town, or, in some other way, significantly changes your contract of hire. Minor changes in a worker’s routine, however, do not constitute a substantial enough change. The contract of hire does not have to be in written form.
- Unsafe, illegal, and/or intolerable working conditions are reasons for quitting that are attributable to the employer. However, you must have made the employer aware of the situation, and the employer must refuse or fail to correct the conditions.
- Medical reasons are acceptable if a doctor tells you to quit work due to medical reasons. However, you must make your employer aware of the situation, and your employer must fail or refuse to accommodate your medical needs.

Listed below are **just a few** reasons for quitting that are **not** attributable to the employer and will cause disqualification from benefits:

- No transportation to work.
- Inability to get along with other employees.
- Personality conflict with a supervisor.
- Getting married or following a spouse to a new job.
- Quitting your job due to injury or illness, but without the advice of a licensed, practicing physician.
- Absent for three days without giving notice to the employer in violation of a company rule.
- Failing to return to work at the end of a labor dispute.

The penalty for a voluntary quit without good cause attributable to the employer is total disqualification from benefits until you requalify.

Can I safely turn down a job offer made prior to my period of unemployment?

To be disqualified for unemployment benefits for refusing suitable work, an actual refusal must take place after you apply for unemployment. If you are offered a job a week prior to opening your claim and refuse it, you cannot be disqualified for refusing suitable work. If you take a voluntary layoff, you may be disqualified. If, while laid off, you decide to take a vacation for a week and do not ask for benefits that week, you may safely turn down a job. Be sure to report to Workforce Development when you call in to report for the week that you are on vacation and not available. A refusal to bump a junior person does not automatically disqualify you.

How can my claim be contested due to my inability to be able or available for work?

Your claim can be contested at any time for reasons such as the following:

- No transportation.
- Unreasonable restrictions on wages, hours, or working conditions sought.
- Lack of childcare.
- Sickness or injury.
- Vacation.
- You are incarcerated.
- Failure to respond to a Workforce Development referral.

Once disqualified, how would I become eligible for benefits again?

If you quit to take a better job and are subsequently terminated by the employer after you accept the position, you have requalified. You do not even have to have started the job.

If you are disqualified for misconduct, voluntary quit, or refusing suitable work, you must return to work and earn ten times your weekly unemployment benefits. **For example**, if you were to receive \$455.00 per week in benefits, you would have to earn \$4,550.00 to requalify for benefits.

If you were disqualified because you were not able, available, or actively seeking work, you must prove to the Workforce Development Center that you are once again able, available, and actively seeking work.

If you voluntarily quit or are fired for misconduct from part-time employment and you are engaging to supplement unemployment benefits you are receiving due to losing your regular job, you are not disqualified from receiving unemployment benefits based on wages paid by your regular employer or another base period employer. The wages you earned from the part-time employment, however, cannot be counted in computing whether you have earned ten times your weekly benefits for purposes of requalification for benefits.

What other pointers should I remember?

Here are a few of the more important things to remember:

- If your benefits are contested, be sure to attend all interviews and hearings. Seek help from a knowledgeable source—your Union, Legal Services, or a private attorney.
- If a decision is made against you, make sure you appeal the decision within the time limits set forth in the decision.
- Keep your address on file with the Workforce Development Center. You can be disqualified if you do not respond to a mailed notice to contact the Workforce Development Center.
- Do not sign any statement or form unless you agree with everything on it. Do not be intimidated into signing a statement you do not agree with.
- If you receive a fact-finding interview notice or notice of a hearing, you should request any and all documents submitted prior to the time of the fact-finding interview or hearing. You must do this in person or have a signed statement of authorization for another individual to do it on your behalf.
- Be honest on your claim form. Falsifying the form on wages earned or jobs sought may cause you to lose your benefits and subject you to criminal prosecution.
- If you are mistreated by a Workforce Development representative or if you have any complaint or suggestion on the program of the Workforce Development Center, write to:

Iowa Department of Workforce Development
1000 East Grand Avenue
Des Moines, IA 50319

If you are unemployed because of a plant closing, make the claims taker aware of your situation. You may be entitled to greater than normal benefits.

Are there other programs for the unemployed?

Yes. Below are some additional programs:

- **Workforce Investment Act (WIA)** If you are unemployed as a result of a permanent layoff, plant or business closing, and you have had the same type of job for many years, you may be eligible for this special dislocated worker program.
- **Trade Act** If you are unemployed due to foreign imports, you may qualify for Trade Adjustment Assistance.
- **Workers' Compensation Unemployment Insurance Claim** If you have recovered from a workers' compensation injury or illness and you lack the necessary earnings to qualify for an unemployment insurance claim, you may be eligible to receive benefits based on wages you were paid before the workers' compensation claim.
- **Disaster Unemployment Assistance (DUA)** If you are unemployed as a result of a disaster and you lack the necessary earnings to qualify for an unemployment insurance claim, you may be eligible to receive benefits based on non-covered wages.

If you think you may qualify for any of these programs contact the Workforce Development Center.

A final caution:

Make sure that you are completely honest and truthful in making your application for benefits and in any communications with Workforce Development. A misrepresentation by you that results in an overpayment of benefits or your receipt of benefits to which you are not entitled can result in obligations to repay benefits and possible payment of penalties.

Questions and Answers on IOWA WORKERS' COMPENSATION LAW

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CAUTION: This booklet is intended as a brief summary of some of the more significant features of the Iowa Workers' Compensation Law. This booklet is not intended as legal advice. As most of you know, in March 2017, the Iowa Legislature made several changes to our workers' compensation law. Most of these changes apply to injuries occurring on or after July 1, 2017. It is simply too soon to know the purpose or explain the impact of these legislative changes. For more information on how the law may apply to a specific case, please consult your union representative or knowledgeable legal counsel.

Why Do We Have Workers' Compensation?

The Iowa Workers' Compensation law, first enacted in 1913, was the result of political compromise, then known as the "grand bargain," reached by various groups representing labor and industry. The fundamental purpose underlying our workers' compensation law was to provide basic and certain benefits for workers injured on the job, so that the loss caused by work injuries was borne by the industry itself and not suffered alone by the injured worker. In exchange for guaranteed certain and basic benefits, workers gave up their right to sue their employers under common law in state court. Thus, the Iowa Workers' Compensation Act has provided injured workers their exclusive remedy against their employers for the loss caused by workplace injuries.

The Iowa Workers' Compensation law over time proved it could be an effective and fair system for providing basic benefits and compensation for workers injured on the job. Fair and effective for both workers and employers alike. For over a century since its enactment, legislative amendments and court interpretations brought incremental change; but like the original grand bargain itself most of these were the result of political compromise or thoughtful consideration. This Iowa tradition of political compromise and incremental change was challenged by the Republican Legislature and Republican Governor in the 2017 legislative session. On a strict party-line vote, on March 30, 2017, House File 518 became law.

Almost all of the provisions of this new law apply only to injuries that occur on or after July 1, 2017. Because of this, our summary of Iowa Workers' Compensation law must be "bifocal." The following outline sets out basic benefits available to injured workers for injuries that occurred prior to July 1, 2017. We also attempt to explain some of the changes in the law that apply to injuries that occur after July 1, 2017. (These changes will be noted in this summary as "New Section.")

We cannot overemphasize the fact that the 2017 legislative amendments were drafted hastily; and their meaning, purpose and effect will only be revealed over time. Their ultimate impact will largely depend on the efforts of workers, their representatives, and organized labor in fighting for the basic benefits that were the promise underlying the "grand bargain" struck over 100 years ago. With this caveat, prompted by both caution and hope, we offer the following summary of Iowa Workers' Compensation Law.

What Injuries Are Covered?

The Iowa Workers' Compensation Act covers all injuries arising out of and in the course of a worker's employment. The Iowa Supreme Court has defined "injury" very broadly, including both physical and mental injuries. Injuries covered by the Act include not just specific or traumatic events, but also cumulative trauma caused by repetitive work activities. The presence of a pre-existing condition at the time of injury is not a bar to recovery. Injuries or work activities that aggravate or accelerate a prior condition are covered under the Act.

The Act also covers Occupational Disease and Hearing Loss, each of which are set out in separate statutory provisions, with separate rules and procedures. This booklet deals primarily with the laws covering bodily injuries. If you are experiencing an illness or hearing loss which you believe is related to your work, you should contact your union representatives about what you must do to pursue a claim for benefits under these special laws.

What is My First Step If I am Injured?

If you sustain a work-related injury or if you believe a physical condition you have is caused by your work, **you must report the injury** to your employer. Under the law, you **must** report the injury **no later than 90 days** after it occurs. You **should** report the injury **as soon as you are aware of it**.

As a general rule, it is best to make sure you comply with the employer's rules and procedures for reporting work injuries. However, an employer **cannot** refuse to accept an injury report, even if you do not report it within the time or in the manner required by the employer's policies.

If you do not provide notice of the injury within the 90-day period under the law, the employer can claim that it is not obligated to provide Workers' Compensation benefits for the injury. In turn, it is best if you obtain a copy of the injury report or have a witness to the report in case a dispute about whether or when you gave notice arises later.

What Happens After I Report the Injury?

After you report an injury, the employer must decide whether it will "accept" the injury as work related and thus "compensable." If the employer accepts the injury as a "compensable injury," it is then obligated to commence providing benefits as required by the law.

If the injury claim is not immediately accepted as compensable, the employer is obligated to undertake a prompt and reasonable investigation to determine whether the claim is compensable. If the employer denies, delays or terminates benefits without having a reasonable excuse, it may be subject to penalty benefits in an amount of "up to fifty percent" of the benefits that were wrongly denied or delayed. A denial, delay, or termination of benefits must be communicated by the employer to the injured worker immediately.

If the employer denies the injury claim, you must enforce your rights to benefits. This is accomplished by filing a "petition" with the Iowa Workers' Compensation Commissioner.

What Benefits Are Available for Medical Care?

The rules concerning medical care for a work-related injury differ depending on whether or not the employer accepts the injury as compensable.

Accepted Claims

The employer is required to provide the injured worker with prompt and reasonable medical care suitable for treating the employee's injury at its expense. If weekly money benefits are paid, the employer's obligation to furnish the medical care for the injury continues for the lifetime of the employee.

In addition, the employer must pay for the employee's transportation expenses associated with the medical treatment. Transportation expenses associated with the medical treatment. Transportation expenses include mileage at the Internal Revenue Service standard business mileage rate as of July 1, of the current year. As of July 1, 2017, the rate is 53.5 cents per mile.

Once the employer has accepted the claim as compensable under the Workers' Compensation law, it has the **right to choose** the physician who will furnish the injured worker's medical care. The employer, however, is not allowed to "micromanage" the medical care it provide or to interfere with the medical judgements or recommendations of the physician it has chosen to treat the worker. The worker is obligated to cooperate with the medical providers in regard to recommended treatment.

If the employee has reasonable grounds for being dissatisfied with the medical care being offered by the employer-chosen medical provider, the employee can make a written request to the employer of the employer's Workers' Compensation

insurer to provide alternative care. Reasons which justify alternate care can include the distance between the employee's residence and the site of the treatment, the failure of the medical treatment to improve the employee's condition, or the provider's lack of expertise in regard to treating the employee's injuries.

If the employer refuses to grant the request for different medical care, the employee should file an application for alternative medical care with the Iowa Workers' Compensation Commissioner's office. By law, the Commissioner's office is required to decide within 10 to 14 days whether the employer must provide the alternative medical care.

Further, if the injury has caused incapacity to work for more than three days, or results in permanent partial disability, and if the employee thereafter is required to miss work for one full day or less for medical care, the employer must pay the employee regular wages for the time lost from work.

Denied Claims

If the employer decide to deny that the injury is work-related or is otherwise not compensable under the law, the employee may seek medical care from providers of the employee's own choice. The employee may also submit the medical expenses to his own health insurance plan, which usually I the employer's group medical insurance plan. In applying for the group benefits, the employee should state that the bills are for a work-related injury, but that the employer has denied the Workers' Compensation claim. Under the law, where the employer denies the claim, the group insurer cannot refuse to pay benefits under its plan on the grounds the medical expenses are for a work-related injury.

No Collections

If any dispute exists concerning who should pay for medical expenses or the amount of payable expenses resulting from treatment for a work-related injury, it is illegal for the medical providers to take collection actions of any kind against the injured worker while a claim for Workers' Compensation benefits is pending. The medical provider, however, can send a current statement to the worker periodically.

What Money Benefits Are Available When I Am Recovering From My Injury?

Basically, there are two types of benefits due to an injured worker who is off work during the period of recovery. Which type you receive depends on whether the injury results in any permanent disability. If the injury does not cause any permanent disability or impairment, then you are entitled to *temporary total disability* payments. If the injury does cause permanent disability or impairment, then you are entitled to *healing period payments*.

Generally, both payments are aimed at providing you with 80% of your average after-tax regular weekly earnings during the 13 weeks preceding the date of the injury for which payments are due. Some special rules exist regarding how your weekly earnings are computed if you are not paid on a weekly basis. Likewise, special rules exist about how weekly earnings are computed during weeks in which you are not working or not being paid for some days of the week.

For hourly-paid employees, overtime hours and shift pay are included in computing the injured worker's regular weekly earnings. But the overtime hours are computed at straight time pay rates, not premium or overtime pay rates. You are entitled to a copy of your employer's records of your wages for the one year period prior to your injury. You should obtain a copy of the record to use in verifying the benefit rate to which you are entitled.

There are both a minimum weekly rate and a maximum weekly rate, which are determined annually by the Workers'

Compensation Commissioner under a statutory formula. The rates, as well as simple instructions for determining the appropriate rate, can be found at the Workers' Compensation Commissioner's website: <http://www.iowaworkforce.org/WC>.

Temporary Total Disability Payments

Temporary Total Disability (TTD) payments begin on the fourth day after the date the worker is injured. If the injured worker remains off work due to the injury more than fourteen days after the date of the injury, the worker receives payment for the first three days, which were not paid. TTD payments end when the employee has returned to work or is able to return to work which is substantially similar to the work the employee was engaged in at the time of the injury.

Healing Period Payments

Healing period payments begin on the first day of disability after the injury. Healing period payments end whenever the first of one of the following occurs: (1) the employee returns to the employee's regular job; (2) the employee is able to return to work which is substantially similar to the work the employee was engaged in at the time of the injury; or (3) the medical providers have concluded that significant improvement from the injury is not anticipated.

Prior to terminating healing period payments to an employee who has not returned to work, the employer must provide the injured employee a notice stating that it will be ending payments thirty days from the date of the notice and setting out the reason for the termination of the payments. This is known as an "Auxier Notice."

Can I Be Required to Perform Light or Restricted Duty?

Unless your contract has a provision which prohibits the employer from requiring an employee with a work-related injury to perform "light or restricted duty" the answer is yes. If your employer offers you a job within your medical restrictions, you cannot refuse to try to perform the job. If you refuse to attempt to perform the job, the employer may cut off TTD or healing period payments for the entire period you refuse the job.

New Section: For injuries occurring on or after July 1, 2017, the new law imposes additional obligations on both employers and employees. The employer offering temporary work will be required to communicate the offer in writing to the employee. The employer's written communication must also inform the employee:

- That if the employee intends to refuse the offer of work, the employee shall communicate the refusal and the reason for the refusal to the employer in writing;
- That during the period the employee refuses suitable work, the employee will not be paid temporary partial, temporary total, or healing period benefits.

Then, where an employee refuses the offer of temporary work on the grounds that it's not suitable work, the employee shall communicate the refusal, and the reason for the refusal, in writing to the employer.

Simply put, the party who fails to comply with these new obligations to communicate these matters in writing bears the risk of loss (for the employer, who may have to pay additional weekly benefits, including penalty benefits; and for the employee, who may forfeit the right to weekly benefits during the period of the employee's refusal of suitable work). And, the employee not protected by a labor contract bears the ultimate risk of loss of employment itself.

Finally, when the employee returns to light duty work at less pay or reduced hours, the employer is obliged to make *temporary partial disability* (TPD) payments. TPD payments are equal to two-thirds of the difference between the injured worker's weekly earnings before the date of the injury and the weekly earnings from the light or restricted-duty job.

What Am I Entitled To If My Injuries Cause Permanent Disability?

When an injury results in permanent functional loss of any part of an employee's body, the employee is entitled to permanent partial or permanent total disability benefits. These benefits are in addition to the medical benefits and temporary disability benefits discussed above. The amount of benefits due depends on: 1) the body part affected; 2) the extent of impairment or disability; and 3) the weekly benefit rate.

For all injuries occurring before July 1, 2017, compensation for permanent partial disability is due beginning at the termination of the healing period. That is, from the earliest of three events: 1) return to regular work; 2) maximum medical improvement as determined by a medical provider; or 3) employee is able to return to work substantially similar to the work performed at the time of injury.

New Section: For injuries occurring on or after July 1, 2017, compensation for permanent partial disability is now due only when it is medically indicated the employee is at maximum medical improvement and that the extent of impairment can be determined by the AMA Guides to Permanent Impairment. The obvious intent of the new law is to push back the date when benefits begin, and to leave it up to medical providers to determine when this occurs.

Commencement date for payment of permanent total disability was not changed by the new law. Benefits are due from the date the employee becomes totally disabled.

How is my Permanent Disability Determined?

In order for an employee to receive permanent partial disability benefits, it is usually necessary that a medical provider establish the extent of permanent impairment and/or the appropriate work restrictions. Usually, the treating physician has determined that the work-related injury has caused some permanent physical or functional impairment or condition affecting a specific member or area of the worker's body or affecting the worker's "body as a whole." The rating is normally expressed as a numerical percentage impairment to a part or area of the body (e.g. 10% impairment to the arm; 20% impairment of the spine; 35% impairment to the whole body or whole person.)

Disputes in claims accepted by the employer often arise over the physicians' ratings. Usually, the medical provider chosen by the employer will issue a rating at the time the injured worker returns to work or is released from medical care. Some employers forget or fail to obtain a rating from the physicians. Accordingly, if you are not informed about a rating within two or three weeks after you return to work or after you are released from care, you should contact your employer about obtaining a rating from the doctor.

If the employee disagrees with the rating, the employee is entitled to have an **independent examination**, which is paid for by the employer, by a physician of the employee's choice. The examination is only for the purpose of obtaining another rating. If the employer balks at paying for a requested examination, the employee may file an application with the Iowa Workers' Compensation Commissioner's office to require the employer to provide the examination.

If the employer has denied that the injury is compensable, the injured worker's physician will often provide the initial rating. In turn, the employer has a similar right to obtain an examination and a rating by a doctor of its choice.

The impairment ratings determined by the various medical providers are important because they are used in determining the extent of the permanent disability caused by a worker's injury. In turn, the extent of the permanent disability is the basis for establishing the amount of benefits available to the injured worker.

Permanent Partial Disability Payments

There are two different methods for determining the amount of permanent partial disability payments owing to an injured worker. The difference is based on what part of the body is injured. One method of calculating payments exists for what are referred to as “scheduled member” injuries. The other method is used for what are referred to as injuries to the “body as a whole.”

Scheduled Member Injuries

The Iowa Workers’ Compensation statutes establish a schedule which states the maximum number of weeks of weekly payments which must be paid for a total or 100% loss or loss of use (impairment) of specific body parts. The schedule for injuries occurring prior to July 1, 2017, include the following:

MEMBER BENEFITS	MAXIMUM NUMBER OF WEEKS
Thumb	60
First Finger	35
Second Finger	30
Third Finger	25
Fourth Finger	20
Great Toe	40
Other Toes	15
Hand	190
Arm	250
Foot	150
Leg	220
One Eye	140
Second Eye	200
Disfigurement	Up to 150

Thus, if the injured employee’s right arm was completely severed in a work-related accident, the employee would be entitled to receive a total of 250 weekly payments. The weekly payments would be paid at the same weekly rate as healing period payments.

If the injured employee’s right arm was broken and physicians determined that as a result of the fracture the employee had sustained a 10% impairment to the arm, the employee would be entitled to receive only 10% of 250 weeks, or 25 weekly payments. (Special rules apply for injuries to two scheduled members incurred at the same time.)

The impairment ratings provided by the medical providers constitute the primary basis for determining the number of weeks of benefits available to the injured worker. Though, for injuries occurring prior to July 1, 2017, lay (non-expert) testimony may be considered in determining impairment. The calculation does not take into account the effects of the physical impairment to the injured body part on the employee’s ability to work.

New Section: For injuries occurring on or after July 1, 2017, the new law provides two changes. First, the Iowa Legislature has attempted to add shoulder injuries to the section of the statute that sets out scheduled members.

Sec. 7. Section 85.34, subsection 2, Code 2017, is amended by adding the following new paragraph:
NEW PARAGRAPH. *On.* For the loss of a shoulder, weekly compensation during four hundred weeks.

Second, the new law attempts to limit the determination of impairment of scheduled members “solely by utilizing” the AMA Guides to the Evaluation of Permanent Impairment. The purpose and effect of these two changes are at this time open questions.

There are differences in medical terminology used among medical providers. One doctor may rate a hand injury as an injury to a finger or fingers. Similarly, there are legal definitions of where arms and legs become part of the body for purposes of Workers’ Compensation laws. Accordingly, it is important to make sure medical providers are rating the correct body part under the Workers’ Compensation laws.\

Injuries to the Body as a Whole

An injury to any part of the body not expressly listed in the statutory schedule is known as an injury to the “body as a whole.” In determining the extent of the disability resulting from an injury to the body as a whole, the effects of a physical or functional impairment to a part of the body on the employee’s employability and ability to work **are taken into account**. The effects of a physical or functional impairment are referred to as the “industrial disability” caused by the work-related injury.

Traditionally, factors in determining the extent of an employee’s industrial disability in addition to physical or functional impairment of the body included such things as the worker’s age, education, work history, loss of earning capacity due to the injury and ability to retrain for other work. Because the determination of an employee’s industrial disability involves consideration of many factors and judgment calls, disputes often arise regarding the issue.

An injured worker should **never agree** to accept as full payment of a claim for an injury to the body as a whole an amount based on a functional impairment rating alone **without consulting** a union representative or legal counsel who is knowledgeable about Workers’ Compensation matters.

The calculation of the benefits is based on a maximum of 500 weeks of weekly payments. The amount of industrial disability is expressed in a percent. Again, the weekly payments are at the same rate as those for healing period payments.

Thus, an employee with a 50% industrial disability is entitled to 250 weeks of weekly payments (50% of 500 weeks). An employee with a 10% industrial disability is entitled to 50 weeks of weekly payments (10% of 500 weeks).

New Section: For injuries occurring on or after July 1, 2017, new rules apply in determining industrial disability. First, the determination “shall take into account...the number of years in the future it was reasonably anticipated that the employee would work at the time of the injury.”

Second, if an injured worker with a permanent body-as-a-whole injury either 1) returns to work, or 2) is offered work, which pays the same or more than what the employee was earning at the time of injury, the employee's entitlement to permanent partial disability benefits shall be limited to the employee's functional impairment. However, if the employee who has returned to work with the same employer is later terminated, the employee can then petition to have his disability determined using the traditional factors in assessing disability. This should result in an award of permanent partial or permanent total disability above and beyond the functional impairment previously paid.

(Note: There are some situations where an injured worker may receive industrial disability payments for injuries to a scheduled member of the body. They include the following:

1. Where the employee who has a permanent loss to one scheduled member body part and later sustains a work-related injury to another scheduled member body part, the employee may be entitled to payment of industrial disability benefits from the Second Injury Fund. It is necessary to file a formal claim under the Workers' Compensation Commissioner's procedures in order to pursue a claim for these benefits.
2. If the injury to the scheduled member is found to extend into the body as a whole, the employee may be entitled to industrial disability benefits.
3. Where an injury to a scheduled member results in mental or emotional injury, industrial disability benefits may be available.)

Permanent Total Disability Payments

If an employee suffers an injury to the body as a whole, which results in the worker's permanent and total inability to work in any recognized job market, the employer is obligated to pay weekly payments at the healing period payment rate for the life of the injured worker or until the medical condition causing the disability ends.

Are There Any Benefits To Help Me Retrain For Other Work

An injured worker, who has a permanent disability and cannot return to gainful employment due to a work-related injury, may be entitled to \$100 per week for a maximum of 26 weeks if the worker is participating in a vocational rehabilitation program approved by the state of Iowa. The benefits are in addition to any other benefits owed.

New Section: For injuries occurring on or after July 1, 2017, an employee who sustains an injury to the shoulder resulting in permanent partial disability that prevents the employee from returning to gainful employment shall be evaluated by the Department of Workforce Development to determine whether the employee would benefit from vocational training at an area community college. If the employee is approved for such vocational retraining, and if the employee enrolls at the specified community college within six months, the employer shall pay directly to the community college a sum not to exceed \$15,000.00 for the costs of such vocational retraining.

What If I Die As a Result of a Work-Related Accident or Injury?

The injured worker is entitled to payment of medical expenses for care incurred between the time of the injury and death. Also, the employer is obligated to pay TTD weekly payments during the same period.

Upon the death of the injured worker, the employer is obligated to pay weekly payments to the worker's spouse and dependents, if any. Payments to the spouse continue for life or until remarriage. Payments to dependents continue until age 18, or age 25 if a minor is actually dependent after age 18. Enrollment in an accredited educational institution normally makes an individual a dependent. Payments to dependents who are disabled continue during the period of the disability.

Finally, there is a burial expense benefit equal to the reasonable cost of burial not to exceed twelve times the average state weekly wage as determined annually by the Iowa Department of Workforce Development.

What If My Employer Doesn't Pay My Benefits on Time?

The law requires an employer to pay weekly benefits each week they are due—no sooner and no later. Benefits are due beginning on the eleventh day after the date of the injury and each following week until the benefits have been paid in full. If the employer does not pay benefits when they are due, for injuries occurring before July 1, 2017, you are entitled to interest on the unpaid benefits at the rate of 10% per annum. As a general rule, employers do not voluntarily pay interest. You should insist on timely payment of weekly benefits or payment of interest on late payments.

New Section: For injuries occurring on or after July 1, 2017, interest on unpaid benefits will accrue at a much lower rate (based on the one-year treasury constant maturity rate plus 2%). This may encourage many employers to delay payment of benefits with protracted appeals, inflicting financial pain on the injured worker and adding “insult to injury.”

What Can I Do If My Employer Refuses to Pay Workers' Compensation Benefits ?

In such a situation, you have a “contested” or “disputed” claim. The office of the Iowa Workers' Compensation Commissioner is the governmental agency with the authority to resolve the dispute. The Commissioner's office has established procedures, similar to court proceedings, for deciding the dispute. And, the Commissioner's office has rules governing how to process a claim under the procedures.

If you have a contested or disputed claim, you **need help**. You should contact your union representatives, who can assist you in filing and processing a formal claim for benefits through the Commissioner's office or help you obtain legal representation to pursue a claim.

When Must I File a Formal Claim for Benefits in a Contested or Disputed Case?

If the employer refuses to “accept” your claim that you have sustained a work-related injury and has not paid any weekly payments for it, you **must file** a formal claim for benefits with the Commissioner's office **within two years from the date of the injury**. If you fail to make the claim within two years, you lose the right to make a claim.

If the employer has “accepted” your claim and paid you some weekly payments for it, you **must file** a claim with the Commissioner's office **within three years from the date of the last payment of weekly benefits**. Again, if you fail to make the claim within the three-year period, you lose the right to make a claim.

If the employer has “accepted” your claim, but has provided you only medical care benefits, you must file your formal petition with the Commissioner within two years from the date of the injury.

Summary

As noted in the Introduction, Workers' Compensation benefits, in most cases, are the **only remedy** you have against your employer for a work-related injury. Generally, they are also the only remedy you have against a co-worker, whose actions may have contributed to you sustaining an injury.

Under some limited circumstances, you may have a right to pursue legal action for damages against someone other than your employer or a co-worker who caused your work-related injury. If you believe you have such a claim, you need to discuss it with competent legal counsel.

Finally, your collective bargaining agreement may contain benefits, which are available in addition to the benefits provided for under the Workers' Compensation statutes. You should always check with your union representatives to determine whether there are additional contract benefits to which you are entitled as a result of a workplace injury.

If you have additional questions contact:

Iowa Federation of Labor, AFL-CIO
2000 Walker Street
Suite A
Des Moines, IA 50317
515-262-9571
800-372-4817
www.iowaaficio.org

or

Iowa Workers' Compensation Commissioner
1000 East Grand Avenue
Des Moines, Iowa 50319
515-281-5387
800-562-4692
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