



Iowa Workers' Compensation Legislative Changes

INTOXICATION Section 85.16

Time of injury or immediately following + Positive drug or alcohol test:

Presumed intoxicated

Presumed that intoxication was a substantial factor in causing injury

Burden is on employee to prove:

Not Intoxicated OR

Intoxication was not a substantial factor in causing injury

NOTICE/SOL Section 85.23

Flows from date employee knew or should have known the injury was work related.

TEMPORARY BENEFITS Section 85.33

No temporary benefits if Employer offers suitable work and employee refused to accept

Suitable work:

Need not be with the same employer, but offered by the employer

Includes work at:

employer's principal place of business OR

established place of operation where employee previously worked if

employee's regular duties involved travel away from PPB or

established place of operation greater than 50% of the time

Communication Requirements:

Employer shall communicate offer in writing (including details of lodging, meals, transportation, if applicable)

Communication in writing must tell employee that:

a refusal requires employee to refuse in writing with a reason

refusal results in no benefits during the refusal period unless work

refused was not suitable

If work offered is unsuitable, employee must state at the time of the refusal that the reason is unsuitable work, or is precluded from raising suitability as reason until such time as reason is communicated in writing to employer

COMMENCEMENT OF PPD Section 85.34

MMI reached and PPI can be determined

SHOULDER INJURIES Sections 85.34(2); 85.70

400 weeks

If PPD and cannot return to gainful employment b/c of disability:

Shall be evaluated by Dept. of Workforce Development for career opportunities through post-secondary and technical education programs in areas of:

Ag, family & consumer sciences, health occupations, business, industrial technology, marketing

DWD shall determine if employee would benefit from voc. training at a community college that will allow for a return to the workforce

If a candidate, employee shall be referred to community college in closest proximity to employee's residence or to program that best meets needs.

If employee does not enroll within 6 months of referral, no longer eligible.

\$15,000 max for program to be paid by employer/carrier for tuition/fees and supplies, billed by community college or upon receipt of documentation from employee.

Employer/Carrier may request periodic status report each semester

If employee does not meet requirements or maintain passing grade, eligibility is terminated.

INDUSTRIAL DISABILITY Section 85.34(2)(u)

Shall take into account PPD and number of years into the future it was reasonably anticipated that employee would work at the time of injury

If return to work or offer of work for same or greater earnings than the time of injury, functional impairment only

If later terminated – award shall be reviewed/reopened to determine loss of earning capacity

PPD Sections 85.34(2)(w),(x)

AMA Guides impairment is the only consideration – no lay testimony

PPD ends if PTD begins – No PPD if receiving PTD

PTD Section 85.34(3)

Payable until no longer PTD

Forfeiture of PTD for a week in which employee received equal to or greater than 50% of the statewide average weekly wage from gross earnings from any employer or payment for current services from any source
No PTD if receiving unemployment

CREDITS Sections 85.34(4), (5)

Overpayments of TTD, HP, TPD credited against any future weekly benefits due for an injury

Credit applies to any current or subsequent injury to same employee

No requirement to preserve credit through settlement agreements or agency action

No time limit to claim credit

Credit does not need to be approved by agency

APPORTIONMENT Section 85.34(7)

Employer liable only for portion of employee's disability that arises out of and in course of employment and that relates to the injury that is basis for employee's claim.

Employer not liable for preexisting disability arising out of/in the course of employment from prior injuries with employer the extent it has already been compensated.

IMEs/MEDICAL EXAMS Section 85.39

Employee's refusal to submit to medical exam forfeits employee's right to compensation for period of refusal and compensation not payable for that period of refusal.

Employer only liable for Claimant's chosen IME if injury is determined to be compensable.

Reasonableness of fee determination is based on typical fee charged by a medical provider to perform an impairment rating in local area where exam is conducted.

COMMUTATIONS Section 85.45

Parties to full or partial may agree to continue 85.27 medical benefits for a specified period of time.

Commutations allowed only upon application of a party and written consent of all parties.

JURISDICTION Section 85.71(1)(a)

Removal of section that includes domicile of employee

JUDICIAL REVIEW Section 85.26

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Agency decisions stayed if post bond securing compensation awarded pursuant to decision within 30 days of the filing of the petition for judicial review.
Bond will be a reasonable amount fixed and approved by the court.
Bond amount is deemed reasonable and adequate if no one files an objection within 20 days of being fixed.
If bond amount is modified upon objection, must report bond in modified amount to continue the stay.

ATTORNEY FEES Section 85.39

No fees on any amount of compensation voluntarily paid or agreed to be paid for temporary or permanent disability.
Fees only on amount of compensation attorney demonstrates would not have been paid but for their efforts.
Attorney fee disputes to be resolved by Commissioner.

INTEREST Section 85.42

Interest on all compensation not paid when accrued will be at the rate of the one-year treasury constant maturity plus 2% as of the date of the injury.