

### **IC 22-3-3**

#### **Chapter 3. Worker's Compensation: Notice of Injury; Treatment; Compensation Schedule; Payments**

### **IC 22-3-3-1**

#### **Notice of injury; time**

Sec. 1. Unless the employer or his representative shall have actual knowledge of the occurrence of an injury or death at the time thereof or shall acquire such knowledge afterward, the injured employee or his dependents, as soon as practicable after the injury or death resulting therefrom, shall give written notice to the employer of such injury or death.

Unless such notice is given or knowledge acquired within thirty (30) days from the date of the injury or death, no compensation shall be paid until and from the date such notice is given or knowledge obtained. No lack of knowledge by the employer or his representative, and no want, failure, defect or inaccuracy of the notice shall bar compensation, unless the employer shall show that he is prejudiced by such lack of knowledge or by such want, failure, defect or inaccuracy of the notice, and then only to the extent of such prejudices.

*(Formerly: Acts 1929, c.172, s.22.)*

### **IC 22-3-3-2**

#### **Notice of injury; contents; signature**

Sec. 2. The notice provided for in the preceding section shall state the name and address of the employee, the time, place, nature and cause of the injury or death, and shall be signed by the injured employee or by some one in his behalf or by one (1) or more of the dependents, in case of death, or by some person in their behalf. Said notice may be served personally upon the employer, or upon any foreman, superintendent or manager of the employer to whose orders the injured or deceased employee was required to conform or upon any agent of the employer upon whom a summons in a civil action may be served under the laws of the state, or may be sent to the employer by registered letter, addressed to his last known residence or place of business.

*(Formerly: Acts 1929, c.172, s.23.)*

### **IC 22-3-3-3**

#### **Limitation of actions; radiation**

Sec. 3. The right to compensation under IC 22-3-2 through IC 22-3-6 shall be forever barred unless within two (2) years after the occurrence of the accident, or if death results therefrom, within two (2) years after such death, a claim for compensation thereunder shall be filed with the worker's compensation board. However, in all cases wherein an accident or death results from the exposure to radiation, a claim for compensation shall be filed with the board within two (2) years from the date on which the employee had knowledge of his injury or by exercise of reasonable diligence should have known of

the existence of such injury and its causal relationship to his employment.

*(Formerly: Acts 1929, c.172, s.24; Acts 1947, c.162, s.2; Acts 1961, c.101, s.1.) As amended by P.L.144-1986, SEC.31; P.L.28-1988, SEC.26.*

#### **IC 22-3-3-4**

##### **Medical treatment pending adjudication of impairment**

Sec. 4. (a) After an injury and prior to an adjudication of permanent impairment, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of the employee's injuries, and in addition thereto such surgical, hospital and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the state budget agency. If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.

(b) During the period of temporary total disability resulting from the injury, the employer shall furnish the physician services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by the physician and services and supplies be furnished by or on behalf of the employer as the worker's compensation board may deem reasonably necessary.

(c) After an employee's injury has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27 of this chapter, the employer may continue to furnish a physician or surgeon and other medical services and supplies, and the worker's compensation board may within the statutory period for review as provided in section 27 of this chapter, on a proper application of either party, require that treatment by that physician and other medical services and supplies be furnished by and on behalf of the employer as the worker's compensation board may deem necessary to limit or reduce the amount and extent of the employee's impairment. The refusal of the employee to accept such services and supplies, when provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of the refusal, and the employee's right to prosecute any proceeding under IC 22-3-2 through IC 22-3-6 shall be suspended and abated until the employee's refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal

under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of the impairment, disfigurement, or death which is the result of the failure of the employee to accept the treatment, services, and supplies required under this section. However, an employer may at any time permit an employee to have treatment for the employee's injuries by spiritual means or prayer in lieu of the physician or surgeon and other medical services and supplies required under this section.

(d) If, because of an emergency, or because of the employer's failure to provide an attending physician or surgical, hospital, or nursing services and supplies, or treatment by spiritual means or prayer, as required by this section, or because of any other good reason, a physician other than that provided by the employer treats the injured employee during the period of the employee's temporary total disability, or necessary and proper surgical, hospital, or nursing services and supplies are procured within the period, the reasonable cost of those services and supplies shall, subject to the approval of the worker's compensation board, be paid by the employer.

(e) An employer or employer's insurance carrier may not delay the provision of emergency medical care whenever emergency medical care is considered necessary in the professional judgment of the attending health care facility physician.

(f) Regardless of when it occurs, where a compensable injury results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable injury pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

(g) If an accident arising out of and in the course of employment after June 30, 1997, results in the loss of or damage to an artificial member, a brace, an implant, eyeglasses, prosthodontics, or other medically prescribed device, the employer shall repair the artificial member, brace, implant, eyeglasses, prosthodontics, or other medically prescribed device or furnish an identical or a reasonably equivalent replacement.

(h) This section may not be construed to prohibit an agreement between an employer and the employer's employees that has the approval of the board and that binds the parties to:

- (1) medical care furnished by health care providers selected by agreement before or after injury; or
- (2) the findings of a health care provider who was chosen by agreement.

*(Formerly: Acts 1929, c.172, s.25; Acts 1937, c.214, s.1; Acts 1943, c.136, s.5; Acts 1945, c.188, s.3; Acts 1947, c.162, s.3; Acts 1963, c.387, s.5; Acts 1974, P.L.108, SEC.7.) As amended by Acts 1979, P.L.227, SEC.1; P.L.95-1988, SEC.3; P.L.170-1991, SEC.3; P.L.258-1997(ss), SEC.3; P.L.31-2000, SEC.2; P.L.67-2010, SEC.1.*

### **IC 22-3-3-5**

#### **Medical treatment; liability of estate; right to order payment; health care provider claims; attending physician fees**

Sec. 5. (a) The pecuniary liability of the employer for medical, surgical, hospital and nurse service herein required shall be limited to such charges as prevail as provided under IC 22-3-6-1(j), in the same community (as defined in IC 22-3-6-1(h)) for a like service or product to injured persons.

(b) The employee and the employee's estate do not have liability to a health care provider for payment for services obtained under IC 22-3-3-4.

(c) The right to order payment for all services provided under IC 22-3-2 through IC 22-3-6 is solely with the board.

(d) All claims by a health care provider for payment for services are against the employer and the employer's insurance carrier, if any, and must be made with the board under IC 22-3-2 through IC 22-3-6. After June 30, 2011, a health care provider must file an application for adjustment of a claim for a health care provider's fee with the board not later than two (2) years after the receipt of an initial written communication from the employer, the employer's insurance carrier, if any, or an agent acting on behalf of the employer after the health care provider submits a bill for services. To offset a part of the board's expenses related to the administration of health care provider reimbursement disputes, a hospital or facility that is a medical service provider (as defined in IC 22-3-6-1) shall pay a filing fee of sixty dollars (\$60) in a balance billing case. The filing fee must accompany each application filed with the board. If an employer, an employer's insurance carrier, or an agent acting on behalf of the employer denies or fails to pay any amount on a claim submitted by a hospital or facility that is a medical service provider, a filing fee is not required to accompany an application that is filed for the denied or unpaid claim. A health care provider may combine up to ten (10) individual claims into one (1) application whenever:

- (1) all individual claims involve the same employer, insurance carrier, or billing review service; and
- (2) the amount of each individual claim does not exceed two hundred dollars (\$200).

(e) The worker's compensation board may withhold the approval of the fees of the attending physician in a case until the attending physician files a report with the worker's compensation board on the form prescribed by the board.

*(Formerly: Acts 1929, c.172, s.26.) As amended by P.L.170-1991, SEC.4; P.L.216-1995, SEC.1; P.L.258-1997(ss), SEC.4; P.L.168-2011, SEC.3.*

### **IC 22-3-3-5.1**

#### **Collection of medical expense payments; civil penalties; good faith errors**

Sec. 5.1. (a) A medical service provider or a medical service provider's agent, servant, employee, assignee, employer, or independent contractor on behalf of the medical service provider may not knowingly collect or attempt to collect the payment of a charge for medical services or products covered under IC 22 from an employee or the employee's estate or family members.

(b) If after a hearing, the worker's compensation board finds that a medical service provider has violated this section, the worker's compensation board may assess a civil penalty against the medical service provider in an amount that is at least one hundred dollars (\$100) but less than one thousand dollars (\$1,000) for each violation.

(c) The worker's compensation board may not assess a civil penalty against a medical service provider for a violation of this section that is the result of a good faith error.

*As added by P.L.216-1995, SEC.2.*

### **IC 22-3-3-5.2**

#### **Billing review service standards**

Sec. 5.2. (a) A billing review service shall adhere to the following requirements to determine the pecuniary liability of an employer or an employer's insurance carrier for a specific service or product covered under worker's compensation:

(1) The formation of a billing review standard, and any subsequent analysis or revision of the standard, must use data that is based on the medical service provider billing charges as submitted to the employer and the employer's insurance carrier from the same community. This subdivision does not apply when a unique or specialized service or product does not have sufficient comparative data to allow for a reasonable comparison.

(2) Data used to determine pecuniary liability must be compiled on or before June 30 and December 31 of each year.

(3) Billing review standards must be revised for prospective future payments of medical service provider bills to provide for payment of the charges at a rate not more than the charges made by eighty percent (80%) of the medical service providers during the prior six (6) months within the same community. The data used to perform the analysis and revision of the billing review standards may not be more than two (2) years old and must be periodically updated by a representative inflationary or deflationary factor. Reimbursement for these charges may not exceed the actual charge invoiced by the medical service provider.

(4) The billing review standard shall include the billing charges of all hospitals in the applicable community for the service or product.

(b) A medical service provider may request an explanation from

a billing review service if the medical service provider's bill has been reduced as a result of application of the eightieth percentile or of a Current Procedural Terminology (CPT) coding change. The request must be made not later than sixty (60) days after receipt of the notice of the reduction. If a request is made, the billing review service must provide:

- (1) the name of the billing review service used to make the reduction;
- (2) the dollar amount of the reduction;
- (3) the dollar amount of the medical service at the eightieth percentile; and
- (4) in the case of a CPT coding change, the basis upon which the change was made;

not later than thirty (30) days after the date of the request.

(c) If after a hearing the worker's compensation board finds that a billing review service used a billing review standard that did not comply with subsection (a)(1) through (a)(4) in determining the pecuniary liability of an employer or an employer's insurance carrier for a health care provider's charge for services or products covered under worker's compensation, the worker's compensation board may assess a civil penalty against the billing review service in an amount not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000).

*As added by P.L.216-1995, SEC.3. Amended by P.L.202-2001, SEC.4.*

### **IC 22-3-3-6**

#### **Physical examination; physician's statement; autopsy**

Sec. 6. (a) After an injury and during the period of claimed resulting disability or impairment, the employee, if so requested by the employee's employer or ordered by the worker's compensation board, shall submit to an examination at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer or by order of the worker's compensation board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to, or otherwise learned by, any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged, either in the hearings provided for in IC 22-3-2 through IC 22-3-6, or in any action at law brought to recover damages against any employer who is subject to the compensation provisions of IC 22-3-2 through IC 22-3-6. If the employee refuses to submit to or in any way obstructs such examinations, the employee's right to compensation and his right to take or prosecute any proceedings under IC 22-3-2 through IC 22-3-6 shall be suspended until such refusal or obstruction ceases. No compensation shall at any time be payable for the period of suspension unless in the opinion of the worker's compensation board the circumstances justified the refusal or obstruction. The employee

must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the board.

(b) Any employer requesting an examination of any employee residing within Indiana shall pay, in advance of the time fixed for the examination, sufficient money to defray the necessary expenses of travel by the most convenient means to and from the place of examination, and the cost of meals and lodging necessary during the travel. If the method of travel is by automobile, the mileage rate to be paid by the employer shall be the rate currently being paid by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the budget agency. If such examination or travel to or from the place of examination causes any loss of working time on the part of the employee, the employer shall reimburse the employee for such loss of wages upon the basis of the employee's average daily wage. When any employee injured in Indiana moves outside Indiana, the travel expense and the cost of meals and lodging necessary during the travel payable under this section shall be paid from the point in Indiana nearest to the employee's then residence to the place of examination. No travel and other expense shall be paid for any travel and other expense required outside Indiana.

(c) A duly qualified physician or surgeon provided and paid for by the employee may be present at an examination if the employee so desires. In all cases where the examination is made by a physician or surgeon engaged by the employer and the injured employee has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the injured employee, or the employee's representative, a statement in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by such physician or surgeon to the employer. Such statement shall be furnished to the employee or the employee's representative, as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (e). If such physician or surgeon fails or refuses to furnish the employee or the employee's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and such physician or surgeon shall not be permitted to testify before the worker's compensation board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations requested by the employer.

(d) In all cases where an examination of an employee is made by a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the employer or the employer's representative a statement

in writing of the conditions evidenced by such examination. The statement shall disclose all facts that are reported by such physician or surgeon to the employee. Such statement shall be furnished to the employer or the employer's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (e). If such physician or surgeon fails or refuses to furnish the employer, or the employer's representative, with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and such physician or surgeon shall not be permitted to testify before the worker's compensation board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations made by a physician or surgeon engaged by the employee.

(e) All statements of physicians or surgeons required by this section, whether those engaged by employee or employer, shall contain the following information:

- (1) The history of the injury, or claimed injury, as given by the patient.
- (2) The diagnosis of the physician or surgeon concerning the patient's physical or mental condition.
- (3) The opinion of the physician or surgeon concerning the causal relationship, if any, between the injury and the patient's physical or mental condition, including the physician's or surgeon's reasons for the opinion.
- (4) The opinion of the physician or surgeon concerning whether the injury or claimed injury resulted in a disability or impairment and, if so, the opinion of the physician or surgeon concerning the extent of the disability or impairment and the reasons for the opinion.
- (5) The original signature of the physician or surgeon.

Notwithstanding any hearsay objection, the worker's compensation board shall admit into evidence a statement that meets the requirements of this subsection unless the statement is ruled inadmissible on other grounds.

(f) Delivery of any statement required by this section may be made to the attorney or agent of the employer or employee and such action shall be construed as delivery to the employer or employee.

(g) Any party may object to a statement on the basis that the statement does not meet the requirements of subsection (e). The objecting party must give written notice to the party providing the statement and specify the basis for the objection. Notice of the objection must be given no later than twenty (20) days before the hearing. Failure to object as provided in this subsection precludes any further objection as to the adequacy of the statement under subsection (e).

(h) The employer upon proper application, or the worker's compensation board, shall have the right in any case of death to

require an autopsy at the expense of the party requesting the same. If, after a hearing, the worker's compensation board orders an autopsy and such autopsy is refused by the surviving spouse or next of kin, then any claim for compensation on account of such death shall be suspended and abated during such refusal. The surviving spouse or dependent must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board. No autopsy, except one performed by or on the authority or order of the coroner in the discharge of the coroner's duties, shall be held in any case by any person, without notice first being given to the surviving spouse or next of kin, if they reside in Indiana or their whereabouts can reasonably be ascertained, of the time and place thereof, and reasonable time and opportunity given such surviving spouse or next of kin to have a representative or representatives present to witness same. However, if such notice is not given, all evidence obtained by such autopsy shall be suppressed on motion duly made to the worker's compensation board.

*(Formerly: Acts 1929, c.172, s.27; Acts 1943, c.136, s.7; Acts 1945, c.188, s.2; Acts 1947, c.162, s.4; Acts 1949, c.253, s.1; Acts 1963, c.387, s.6; Acts 1975, P.L.235, SEC.4.) As amended by P.L.28-1988, SEC.27; P.L.95-1988, SEC.4; P.L.109-1992, SEC.1; P.L.1-2006, SEC.337.*

### **IC 22-3-3-7**

#### **Temporary disability benefits; installment payments; termination; overpayment**

Sec. 7. (a) Compensation shall be allowed on account of injuries producing only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for medical benefits provided in section 4 of the chapter. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(b) The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed injury. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier

that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;
- (3) the facts or circumstances that are necessary to make a determination; and
- (4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty under IC 22-3-4-15.

(c) Once begun, temporary total disability benefits may not be terminated by the employer unless:

- (1) the employee has returned to any employment;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination under section 6 of this chapter or has refused to accept suitable employment under section 11 of this chapter;
- (4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowed under section 22 of this chapter; or
- (5) the employee is unable or unavailable to work for reasons unrelated to the compensable injury.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means, and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee,

or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under IC 22-3-4-5.

(d) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(e) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under section 10 of this chapter and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

*(Formerly: Acts 1929, c.172, s.28; Acts 1949, c.243, s.1; Acts 1974, P.L.108, SEC.8.) As amended by P.L.170-1991, SEC.5; P.L.258-1997(ss), SEC.5; P.L.168-2011, SEC.4.*

#### **IC 22-3-3-7.5**

##### **Average weekly wages of public employee; determination**

Sec. 7.5. For purposes of this chapter, the average weekly wages of a public employee shall be determined without regard to any salary reduction agreement under Section 125 of the Internal Revenue Code.

*As added by P.L.5-1992, SEC.8.*

#### **IC 22-3-3-8**

##### **Temporary total disability or total permanent disability; awards**

Sec. 8. With respect to injuries occurring prior to April 1, 1951, causing temporary total disability for work there shall be paid to the injured employee during such total disability for work a weekly compensation equal to fifty-five percent (55%) of his average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after April 1, 1951, and prior to July 1, 1971, causing temporary total disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of his average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, causing temporary total disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of his average weekly wages, as defined in IC 22-3-3-22 a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1974, and before July 1, 1976, causing temporary total disability or total permanent disability for work there shall be paid

to the injured employee during such total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of his average weekly wages up to one hundred and thirty-five dollars (\$135.00) average weekly wages, as defined in section 22 of this chapter, for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1976, causing temporary total disability or total permanent disability for work, there shall be paid to the injured employee during the total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of his average weekly wages, as defined in IC 22-3-3-22, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

*(Formerly: Acts 1929, c.172, s.29; Acts 1949, c.243, s.2; Acts 1951, c.294, s.1; Acts 1971, P.L.353, SEC.2; Acts 1974, P.L.108, SEC.9.)  
As amended by Acts 1976, P.L.112, SEC.1.*

### **IC 22-3-3-9**

#### **Temporary partial disability; awards**

Sec. 9. With respect to injuries occurring prior to April 1, 1951 causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability, as prescribed in section 7 of this chapter, a weekly compensation equal to fifty-five per cent (55%) of the difference between his average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. With respect to injuries occurring on and after April 1, 1951 and prior to July 1, 1974 causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability, as prescribed in section 7 of this chapter, a weekly compensation equal to sixty per cent (60%) of the difference between his average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. With respect to injuries occurring on and after July 1, 1974 causing temporary partial disability for work, compensation shall be paid to the injured employee during such disability as prescribed in section 7 of this chapter, a weekly compensation equal to sixty-six and two-thirds per cent (66 2/3%) of the difference between his average weekly wages and the weekly wages at which he is actually employed after the injury, for a period not to exceed three hundred (300) weeks. In case the partial disability begins after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

*(Formerly: Acts 1929, c.172, s.30; Acts 1937, c.214, s.2; Acts 1951, c.294, s.2; Acts 1974, P.L.108, SEC.10.)*

### **IC 22-3-3-10**

#### **Injuries schedule**

Sec. 10. (a) With respect to injuries in the schedule set forth in

subsection (d) occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not to exceed fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the injury.

(b) With respect to injuries in the schedule set forth in subsection (d) occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the injury.

(c) With respect to injuries in the schedule set forth in subsection (d) occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the injury.

(d) With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the injury.

(1) Amputation: For the loss by separation of the thumb, sixty (60) weeks, of the index finger forty (40) weeks, of the second finger thirty-five (35) weeks, of the third or ring finger thirty (30) weeks, of the fourth or little finger twenty (20) weeks, of the hand by separation below the elbow joint two hundred (200) weeks, or the arm above the elbow two hundred fifty (250) weeks, of the big toe sixty (60) weeks, of the second toe thirty (30) weeks, of the third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks, of the fifth or little toe ten (10) weeks, for loss occurring on and after April 1, 1959, by separation of the foot below the knee joint, one hundred seventy-five (175) weeks and of the leg above the knee joint two hundred twenty-five (225) weeks. The loss of more than one (1) phalange of a thumb or toes shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not

more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) the period for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger, shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) For the loss by separation of both hands or both feet or the total sight of both eyes, or any two (2) such losses in the same accident, five hundred (500) weeks.

(3) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred seventy-five (175) weeks.

(4) For the permanent and complete loss of hearing in one (1) ear, seventy-five (75) weeks, and in both ears, two hundred (200) weeks.

(5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of both testicles, one hundred fifty (150) weeks.

(e) With respect to injuries in the schedule set forth in subsection (h) occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not exceeding fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars (\$125) average weekly wages for the period stated for the injury.

(f) With respect to injuries in the schedule set forth in subsection (h) occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the injury.

(g) With respect to injuries in the schedule set forth in subsection (h) occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the injury.

(h) With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the injury.

(1) Loss of use: The total permanent loss of the use of an arm,

hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid for the same period as for the loss thereof by separation.

(2) Partial loss of use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(3) For injuries resulting in total permanent disability, five hundred (500) weeks.

(4) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (d)(3), compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then in such event compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses, plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(5) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (d)(4), compensation shall be paid for a period proportional to the degree of such permanent reduction.

(6) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(7) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(i) With respect to injuries in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the injury, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the injury occurred.

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent

impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; by separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, and for the loss by separation of any of the body parts described in subdivision (3), (5), or (8), on or after July 1, 1999, the dollar values per degree applying on the date of the injury as described in subsection (j) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation, thirty-five (35) degrees of permanent impairment.

(6) For the reduction of vision to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.

(7) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(8) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(9) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall

be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(10) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(11) For injuries resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(12) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (h)(4), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(13) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (h)(5), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(14) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(15) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(j) Compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the injury determined under subsection (i) and the following:

(1) With respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per

degree.

(2) With respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars (\$500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(3) With respect to injuries occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars (\$500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars (\$700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(4) With respect to injuries occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(5) With respect to injuries occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to injuries occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six

hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(7) With respect to injuries occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, and before July 1, 2007, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(9) With respect to injuries occurring on and after July 1, 2007, and before July 1, 2008, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred forty dollars (\$1,340) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred forty-five dollars (\$1,545) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred seventy-five dollars (\$2,475) per degree; for each degree of permanent impairment above fifty (50), three thousand one hundred fifty dollars (\$3,150) per degree.

(10) With respect to injuries occurring on and after July 1, 2008, and before July 1, 2009, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred sixty-five dollars (\$1,365) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred seventy dollars (\$1,570) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand five hundred twenty-five dollars (\$2,525) per degree; for each degree of permanent impairment above fifty (50), three thousand two hundred dollars (\$3,200) per degree.

(11) With respect to injuries occurring on and after July 1, 2009, and before July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred eighty dollars (\$1,380) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one

thousand five hundred eighty-five dollars (\$1,585) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand six hundred dollars (\$2,600) per degree; for each degree of permanent impairment above fifty (50), three thousand three hundred dollars (\$3,300) per degree. (12) With respect to injuries occurring on and after July 1, 2010, for each degree of permanent impairment from one (1) to ten (10), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand seven hundred dollars (\$2,700) per degree; for each degree of permanent impairment above fifty (50), three thousand five hundred dollars (\$3,500) per degree.

(k) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (i) and (j) shall not exceed the following:

(1) With respect to injuries occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to injuries occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to injuries occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).

(4) With respect to injuries occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).

(8) With respect to injuries occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).

(10) With respect to injuries occurring on or after July 1, 2002, and before July 1, 2006, eight hundred eighty-two dollars (\$882).

(11) With respect to injuries occurring on or after July 1, 2006, and before July 1, 2007, nine hundred dollars (\$900).

(12) With respect to injuries occurring on or after July 1, 2007, and before July 1, 2008, nine hundred thirty dollars (\$930).

(13) With respect to injuries occurring on or after July 1, 2008, and before July 1, 2009, nine hundred fifty-four dollars (\$954).

(14) With respect to injuries occurring on or after July 1, 2009, nine hundred seventy-five dollars (\$975).

*(Formerly: Acts 1929, c.172, s.31; Acts 1943, c.136, s.8; Acts 1947, c.162, s.5; Acts 1949, c.243, s.5; Acts 1951, c.294, s.3; Acts 1955, c.325, s.1; Acts 1957, c.298, s.1; Acts 1959, c.315, s.1; Acts 1963, c.387, s.7; Acts 1971, P.L.353, SEC.1.) As amended by Acts 1977, P.L.261, SEC.1; Acts 1979, P.L.227, SEC.2; P.L.223-1985, SEC.1; P.L.95-1988, SEC.5; P.L.3-1989, SEC.132; P.L.170-1991, SEC.6; P.L.258-1997(ss), SEC.6; P.L.235-1999, SEC.2; P.L.31-2000, SEC.3; P.L.134-2006, SEC.4; P.L.3-2008, SEC.156.*

### **IC 22-3-3-11**

#### **Partial disability; refusing employment; notice**

Sec. 11. (a) If an injured employee, only partially disabled, refuses employment suitable to his capacity procured for him, he shall not be entitled to any compensation at any time during the continuance of such refusal unless in the opinion of the worker's compensation board such refusal was justifiable.

(b) Before compensation can be denied under this section the employee must be served with a notice setting forth the consequences of the refusal of employment under this section. The notice must be in a form prescribed by the worker's compensation board.

*(Formerly: Acts 1929, c.172, s.32.) As amended by P.L.95-1988, SEC.6.*

### **IC 22-3-3-12**

#### **Subsequent permanent injuries; aggravation; awards**

Sec. 12. If an employee has sustained a permanent injury either in another employment, or from other cause or causes than the employment in which he received a subsequent permanent injury by accident, such as specified in section 31, he shall be entitled to compensation for the subsequent permanent injury in the same amount as if the previous injury had not occurred: Provided, however, That if the permanent injury for which compensation is claimed, results only in the aggravation or increase of a previously sustained permanent injury or physical condition, regardless of the source or cause of such previously sustained injury or physical condition, the board shall determine the extent of the previously sustained permanent injury or physical condition, as well as the extent of the aggravation or increase resulting from the subsequent permanent injury, and shall award compensation only for that part of such injury, or physical condition resulting from the subsequent permanent injury. Provided further, however, That amputation of any part of the body or loss of any or all of the vision of one or both eyes shall be considered as a permanent injury or physical condition.

*(Formerly: Acts 1929, c.172, s.33; Acts 1945, c.284, s.2.)*

### **IC 22-3-3-13**

#### **Second injury fund; employee compensation; employer assessments; penalties**

Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(f) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than November 1 in any year to:

- (1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and
- (2) each employer carrying the employer's own risk;

stating that an assessment is necessary. Not later than January 31 of the following year, each entity identified in subdivisions (1) and (2) shall send to the board a statement of total paid losses and premiums (as defined in subsection (d)(4)) paid by employers during the previous calendar year. The board may conduct an assessment under this subsection not more than one (1) time annually. The total amount of the assessment may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. The board shall assess a penalty in the amount of ten percent (10%) of the amount owed if payment is not made under this section within thirty (30) days from the date set by the board. If the amount to the credit of the second injury fund on or before November 1 of any year exceeds one hundred thirty-five percent (135%) of the previous year's disbursements, the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before November 1 of any year the amount to the credit of the fund is less than one hundred thirty-five percent (135%) of the previous year's disbursements, the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended

by the study performed before the assessment.

(d) The board shall assess all employers for the liabilities, including administrative expenses, of the second injury fund. The assessment also must provide for the repayment of all loans made to the second injury fund for the purpose of paying valid claims. The following applies to assessments under this subsection:

(1) The portion of the total amount that must be collected from self-insured employers equals:

(A) the total amount of the assessment as determined by the board; multiplied by

(B) the quotient of:

(i) the total paid losses on behalf of all self-insured employers during the preceding calendar year; divided by

(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.

(2) The portion of the total amount that must be collected from insured employers equals:

(A) the total amount of the assessment as determined by the board; multiplied by

(B) the quotient of:

(i) the total paid losses on behalf of all insured employers during the preceding calendar year; divided by

(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.

(3) The total amount of insured employer assessments under subdivision (2) must be collected by the insured employers' worker's compensation insurers. The amount of employer assessments each insurer shall collect equals:

(A) the total amount of assessments allocated to insured employers under subdivision (2); multiplied by

(B) the quotient of:

(i) the worker's compensation premiums paid by employers to the carrier during the preceding calendar year; divided by

(ii) the worker's compensation premiums paid by employers to all carriers during the preceding calendar year.

(4) For purposes of the computation made under subdivision (3), "premium" means the direct written premium.

(5) The amount of the assessment for each self-insured employer equals:

(A) the total amount of assessments allocated to self-insured employers under subdivision (1); multiplied by

(B) the quotient of:

(i) the paid losses attributable to the self-insured employer during the preceding calendar year; divided by

(ii) paid losses attributable to all self-insured employers during the preceding calendar year.

An employer that has ceased to be a self-insurer continues to be liable for prorated assessments based on paid losses made by the employer in the preceding calendar year during the period that the employer was self-insured.

(e) The board may employ a qualified employee or enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than December 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(f) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of insurance producer commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(g) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of fund liabilities described in subsection (d) and awards of compensation ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(h) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

- (1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or
- (2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (i).

(i) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional

compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

- (1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and
- (2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(j) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(k) All insurance carriers subject to an assessment under this section are required to provide to the board:

- (1) not later than January 31 each calendar year; and
- (2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

*(Formerly: Acts 1929, c.172, s.33a; Acts 1949, c.250, s.1; Acts 1957, c.298, s.2; Acts 1963, c.387, s.8; Acts 1969, c.94, s.2; Acts 1974, P.L.108, SEC.11.) As amended by Acts 1979, P.L.227, SEC.3; Acts 1980, P.L.22, SEC.14; P.L.28-1988, SEC.28; P.L.170-1991, SEC.7; P.L.235-1999, SEC.3; P.L.202-2001, SEC.5; P.L.178-2003, SEC.9; P.L.134-2006, SEC.5; P.L.1-2007, SEC.158; P.L.173-2007, SEC.5; P.L.67-2010, SEC.2; P.L.168-2011, SEC.5.*

### **IC 22-3-3-14**

#### **Subsequent injuries; two awards**

Sec. 14. If an employee receives an injury for which compensation is payable while he is still receiving or entitled to compensation for a previous injury in the same employment, he shall not at the same time be entitled to compensation for both injuries, unless it be for a permanent injury, such as specified in section 10 of this chapter; but he shall be entitled to compensation for that injury and from the time of that injury which will cover the longest period and the largest amount payable under IC 22-3-2 through IC 22-3-6. *(Formerly: Acts 1929, c.172, s.34.) As amended by P.L.144-1986, SEC.32.*

### **IC 22-3-3-15**

#### **Subsequent injuries; awards; extending period of payment**

Sec. 15. If an employee receives a permanent injury such as

specified in section 10 of this chapter after having sustained another permanent injury in the same employment, he shall be entitled to compensation for both injuries, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation, and when such previous and subsequent permanent injuries in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or permanent total impairment, but payments made for the previous injury shall be deducted from the total payment of compensation due.

*(Formerly: Acts 1929, c.172, s.35; Acts 1963, c.387, s.9.) As amended by P.L.144-1986, SEC.33.*

### **IC 22-3-3-16**

#### **Death while receiving awards; dependents; payment**

Sec. 16. When an employee has been awarded or is entitled to an award of compensation for a definite period under IC 22-3-2 through IC 22-3-6 for an injury occurring prior to April 1, 1945, and dies from any other cause than such injury, payment of the unpaid balance of such compensation, not exceeding three hundred (300) weeks, shall be made to his dependents as defined in section 18 of this chapter; provided that where the compensable injury occurred on and after April 1, 1945, and prior to April 1, 1951, the maximum shall not exceed three hundred fifty (350) weeks. With respect to any such injury occurring on and after April 1, 1951, the maximum shall not exceed three hundred fifty (350) weeks for dependents of the second or third class and the maximum shall not exceed five hundred (500) weeks for dependents of the first class.

*(Formerly: Acts 1929, c.172, s.36; Acts 1945, c.188, s.5; Acts 1951, c.294, s.4.) As amended by P.L.144-1986, SEC.34.*

### **IC 22-3-3-17**

#### **Death benefits**

Sec. 17. On and after April 1, 1965, and prior to April 1, 1969, when death results from an injury within four hundred fifty (450) weeks, there shall be paid to total dependent of said deceased, as determined by IC 22-3-3-18, 19 and 20, a weekly compensation amounting to sixty percent (60%) of the deceased's average weekly wage, until compensation so paid, when added to any compensation paid to deceased employee, shall equal four hundred fifty (450) weeks, and to partial dependents as hereinafter provided.

On and after April 1, 1969, and prior to July 1, 1971, when death results from an injury within five hundred (500) weeks, there shall be paid to the total dependents of said deceased, as determined by the provisions of IC 22-3-3-18, 19 and 20, weekly compensation amounting to sixty percent (60%) of the deceased's average weekly wage, until the compensation so paid, when added to any compensation paid to the deceased employee, shall equal five hundred (500) weeks, and to partial dependents as hereinafter provided.

On and after July 1, 1971, and prior to July 1, 1974, when death results from an injury within five hundred (500) weeks, there shall be paid to the total dependents of said deceased, as determined by the provisions of IC 22-3-3-18, 19 and 20, weekly compensation amounting to sixty percent (60%) of the deceased's average weekly wage, not to exceed one hundred dollars (\$100) average weekly wages, until the compensation so paid, when added to any compensation paid to the deceased employee, shall equal five hundred (500) weeks, and to partial dependents as hereinafter provided.

On and after July 1, 1974, and before July 1, 1976, when death results from an injury within five hundred (500) weeks, there shall be paid the total dependents of the deceased, as determined by the provisions of sections 18, 19 and 20 of this chapter, weekly compensation amounting to sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the deceased's average weekly wage, not to exceed a maximum of one hundred thirty-five dollars (\$135) average weekly wages, until the compensation so paid, when added to any compensation paid to the deceased employee, shall equal five hundred (500) weeks, and to partial dependents as hereinafter provided. On and after July 1, 1976, when death results from an injury within five hundred (500) weeks, there shall be paid the total dependents of the deceased as determined by sections 18, 19 and 20 of this chapter, weekly compensation amounting to sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the deceased's average weekly wage, as defined by IC 22-3-3-22, until the compensation paid, when added to the compensation paid to the deceased employee, equals five hundred (500) weeks, and to partial dependents, as provided in sections 18 and 20 of this chapter.

*(Formerly: Acts 1929, c.172, s.37; Acts 1945, c.188, s.6; Acts 1947, c.162, s.6; Acts 1949, c.243, s.3; Acts 1951, c.294, s.5; Acts 1957, c.298, s.3; Acts 1965, c.217, s.1; Acts 1969, c.94, s.3; Acts 1971, P.L.353, SEC.3; Acts 1974, P.L.108, SEC.12.) As amended by Acts 1976, P.L.112, SEC.2.*

### **IC 22-3-3-18**

#### **Death resulting from injuries; award; payment to dependents**

Sec. 18. (a) Dependents under IC 22-3-2 through IC 22-3-6 shall consist of the following three (3) classes:

- (1) Presumptive dependents.
- (2) Total dependents in fact.
- (3) Partial dependents in fact.

(b) Presumptive dependents shall be entitled to compensation to the complete exclusion of total dependents in fact and partial dependents in fact and shall be entitled to such compensation in equal shares.

(c) Total dependents in fact shall be entitled to compensation to the complete exclusion of partial dependents in fact and shall be entitled to such compensation, if more than one (1) such dependent exists, in equal shares. The question of total dependency shall be

determined as of the time of death.

(d) Partial dependents in fact shall not be entitled to any compensation if any other class of dependents exist. The weekly compensation to persons partially dependent in fact shall be in the same proportion to the weekly compensation of persons wholly dependent as the average amount contributed weekly by the deceased to such partial dependent in fact bears to his average weekly wages at the time of the occurrence of the accident. The question of partial dependency in fact shall be determined as of the time of the occurrence of the accident.

*(Formerly: Acts 1929, c.172, s.38; Acts 1947, c.162, s.7.) As amended by P.L.144-1986, SEC.35.*

### **IC 22-3-3-19**

#### **Presumptive dependents; termination of dependency**

Sec. 19. (a) The following persons are conclusively presumed to be wholly dependent for support upon a deceased employee and shall constitute the class known as presumptive dependents in section 18 of this chapter:

(1) A wife upon a husband with whom she is living at the time of his death, or upon whom the laws of the state impose the obligation of her support at such time. The term "wife", as used in this subdivision, shall exclude a common law wife unless such common law relationship was entered into before January 1, 1958, and, in addition, existed openly and notoriously for a period of not less than five (5) years immediately preceding the death.

(2) A husband upon his wife with whom he is living at the time of her death. The term "husband", as used in this subdivision, shall exclude a common law husband unless such common law relationship was entered into before January 1, 1958, and, in addition, existed openly and notoriously for a period of not less than five (5) years immediately preceding the death.

(3) An unmarried child under the age of twenty-one (21) years upon the parent with whom the child is living at the time of the death of such parent.

(4) An unmarried child under twenty-one (21) years upon the parent with whom the child may not be living at the time of the death of such parent, but upon whom, at such time, the laws of the state impose the obligation to support such child.

(5) A child over the age of twenty-one (21) years who has never been married and who is either physically or mentally incapacitated from earning the child's own support, upon a parent upon whom the laws of the state impose the obligation of the support of such unmarried child.

(6) A child over the age of twenty-one (21) years who has never been married and who at the time of the death of the parent is keeping house for and living with such parent and is not otherwise gainfully employed.

(b) As used in this section, the term "child" includes stepchildren,

legally adopted children, posthumous children, and acknowledged children born out of wedlock. The term "parent" includes stepparents and parents by adoption.

(c) The dependency of a child under subsections (a)(3) and (a)(4) shall terminate when the child attains the age of twenty-one (21).

(d) The dependency of any person as a presumptive dependent shall terminate upon the marriage of such dependent subsequent to the death of the employee, and such dependency shall not be reinstated by divorce. However, for deaths from injuries occurring on and after July 1, 1977, a surviving spouse who is a presumptive dependent and who is the only surviving dependent of the deceased employee is entitled to receive, upon remarriage before the expiration of the maximum statutory compensation period, a lump sum settlement equal to the smaller of one hundred four (104) weeks of compensation or the compensation for the remainder of the maximum statutory compensation period.

(e) The dependency of any child under subsection (a)(6) shall be terminated at such time as such dependent becomes gainfully employed or marries.

*(Formerly: Acts 1929, c.172, s.38a; Acts 1947, c.162, s.8; Acts 1963, c.387, s.10.) As amended by Acts 1977, P.L.261, SEC.2; P.L.152-1987, SEC.6; P.L.134-1990, SEC.1.*

### **IC 22-3-3-20**

#### **Total or partial dependents; eligibility; termination**

Sec. 20. Total or partial dependents in fact shall include only those persons related to the deceased employee by blood or by marriage, except an unmarried child under the age of eighteen (18) years. Any such person who is actually totally or partially dependent upon the deceased employee is entitled to compensation as such dependent in fact. The right to compensation of any person totally or partially dependent in fact shall be terminated by the marriage of such dependent subsequent to the death of the employee and such dependency shall not be reinstated by divorce.

*(Formerly: Acts 1929, c.172, s.38b; Acts 1947, c.162, s.9.)*

### **IC 22-3-3-21**

#### **Burial expenses**

Sec. 21. In cases of the death of an employee from an injury by an accident arising out of and in the course of the employee's employment under circumstances that the employee would have been entitled to compensation if death had not resulted, the employer shall pay the burial expenses of such employee, not exceeding seven thousand five hundred dollars (\$7,500).

*(Formerly: Acts 1929, c.172, s.39; Acts 1937, c.214, s.3; Acts 1943, c.136, s.4; Acts 1947, c.162, s.10; Acts 1955, c.231, s.1; Acts 1963, c.387, s.11; Acts 1967, c.312, s.1; Acts 1971, P.L.353, SEC.4.) As amended by P.L.225-1983, SEC.1; P.L.16-1984, SEC.15; P.L.95-1988, SEC.7; P.L.170-1991, SEC.8; P.L.201-2005, SEC.4.*

## **IC 22-3-3-22**

### **Awards; computation**

Sec. 22. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

- (1) not more than two hundred sixty-seven dollars (\$267); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

- (1) not more than two hundred eighty-five dollars (\$285); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

- (1) not more than three hundred eighty-four dollars (\$384); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

- (1) not more than four hundred eleven dollars (\$411); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

- (1) not more than four hundred forty-one dollars (\$441); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

- (1) not more than four hundred ninety-two dollars (\$492); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

- (1) not more than five hundred forty dollars (\$540); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

- (1) not more than five hundred ninety-one dollars (\$591); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

- (1) not more than six hundred forty-two dollars (\$642); and
- (2) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(j) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

- (1) with respect to injuries occurring on and after July 1, 1997, and before July 1, 1998:

- (A) not more than six hundred seventy-two dollars (\$672); and

- (B) not less than seventy-five dollars (\$75);

- (2) with respect to injuries occurring on and after July 1, 1998, and before July 1, 1999:

- (A) not more than seven hundred two dollars (\$702); and

- (B) not less than seventy-five dollars (\$75);

- (3) with respect to injuries occurring on and after July 1, 1999, and before July 1, 2000:

- (A) not more than seven hundred thirty-two dollars (\$732); and

- (B) not less than seventy-five dollars (\$75);

- (4) with respect to injuries occurring on and after July 1, 2000, and before July 1, 2001:

- (A) not more than seven hundred sixty-two dollars (\$762); and

- (B) not less than seventy-five dollars (\$75);

- (5) with respect to injuries occurring on and after July 1, 2001, and before July 1, 2002:

- (A) not more than eight hundred twenty-two dollars (\$822); and

- (B) not less than seventy-five dollars (\$75);
- (6) with respect to injuries occurring on and after July 1, 2002, and before July 1, 2006:
  - (A) not more than eight hundred eighty-two dollars (\$882); and
  - (B) not less than seventy-five dollars (\$75);
- (7) with respect to injuries occurring on and after July 1, 2006, and before July 1, 2007:
  - (A) not more than nine hundred dollars (\$900); and
  - (B) not less than seventy-five dollars (\$75);
- (8) with respect to injuries occurring on and after July 1, 2007, and before July 1, 2008:
  - (A) not more than nine hundred thirty dollars (\$930); and
  - (B) not less than seventy-five dollars (\$75);
- (9) with respect to injuries occurring on and after July 1, 2008, and before July 1, 2009:
  - (A) not more than nine hundred fifty-four dollars (\$954); and
  - (B) not less than seventy-five dollars (\$75); and
- (10) with respect to injuries occurring on and after July 1, 2009:
  - (A) not more than nine hundred seventy-five dollars (\$975); and
  - (B) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(k) With respect to any injury occurring on and after July 1, 1985, and before July 1, 1986, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-nine thousand dollars (\$89,000) in any case.

(l) With respect to any injury occurring on and after July 1, 1986, and before July 1, 1988, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed ninety-five thousand dollars (\$95,000) in any case.

(m) With respect to any injury occurring on and after July 1, 1988, and before July 1, 1989, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred twenty-eight thousand dollars (\$128,000) in any case.

(n) With respect to any injury occurring on and after July 1, 1989, and before July 1, 1990, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred thirty-seven thousand dollars (\$137,000) in any case.

(o) With respect to any injury occurring on and after July 1, 1990, and before July 1, 1991, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any

provisions of this law or any combination of provisions may not exceed one hundred forty-seven thousand dollars (\$147,000) in any case.

(p) With respect to any injury occurring on and after July 1, 1991, and before July 1, 1992, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred sixty-four thousand dollars (\$164,000) in any case.

(q) With respect to any injury occurring on and after July 1, 1992, and before July 1, 1993, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred eighty thousand dollars (\$180,000) in any case.

(r) With respect to any injury occurring on and after July 1, 1993, and before July 1, 1994, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred ninety-seven thousand dollars (\$197,000) in any case.

(s) With respect to any injury occurring on and after July 1, 1994, and before July 1, 1997, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed two hundred fourteen thousand dollars (\$214,000) in any case.

(t) The maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provision of this law or any combination of provisions may not exceed the following amounts in any case:

(1) With respect to an injury occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars (\$224,000).

(2) With respect to an injury occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars (\$234,000).

(3) With respect to an injury occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars (\$244,000).

(4) With respect to an injury occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars (\$254,000).

(5) With respect to an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).

(6) With respect to an injury occurring on and after July 1, 2002, and before July 1, 2006, two hundred ninety-four thousand dollars (\$294,000).

(7) With respect to an injury occurring on and after July 1, 2006, and before July 1, 2007, three hundred thousand dollars (\$300,000).

(8) With respect to an injury occurring on and after July 1,

2007, and before July 1, 2008, three hundred ten thousand dollars (\$310,000).

(9) With respect to an injury occurring on and after July 1, 2008, and before July 1, 2009, three hundred eighteen thousand dollars (\$318,000).

(10) With respect to an injury occurring on and after July 1, 2009, three hundred twenty-five thousand dollars (\$325,000).

*(Formerly: Acts 1929, c.172, s.40; Acts 1943, c.136, s.3; Acts 1945, c.188, s.1; Acts 1949, c.243, s.4; Acts 1951, c.294, s.6; Acts 1953, c.172, s.1; Acts 1955, c.181, s.1; Acts 1957, c.298, s.4; Acts 1959, c.315, s.2; Acts 1963, c.387, s.12; Acts 1965, c.217, s.2; Acts 1967, c.312, s.2; Acts 1969, c.94, s.4; Acts 1971, P.L.353, SEC.5; Acts 1974, P.L.108, SEC.13.) As amended by Acts 1976, P.L.112, SEC.3; Acts 1977, P.L.261, SEC.3; Acts 1979, P.L.227, SEC.4; Acts 1980, P.L.22, SEC.15; P.L.225-1983, SEC.2; P.L.223-1985, SEC.2; P.L.95-1988, SEC.8; P.L.170-1991, SEC.9; P.L.258-1997(ss), SEC.7; P.L.31-2000, SEC.4; P.L.134-2006, SEC.6.*

### **IC 22-3-3-23**

#### **Mistake in payments; deductions; payments to state employees**

Sec. 23. (a) Any payments made by the employer to the injured employee during the period of his disability, or to his dependents, which by the terms of IC 22-3-2 through IC 22-3-6 were not due and payable when made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation. However, the deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(b) Payments to state employees under the terms of IC 5-10-8-7(d)(5) shall be taken as a credit by the state against payments of compensation for temporary total disability during the time period in which the employee is eligible for compensation under both IC 5-10-8-7(d)(5) and section 8 of this chapter. After a state employee is ineligible for payments under IC 5-10-8-7(d)(5) and if he is still eligible for payments for temporary total disability under section 8 of this chapter, any payments for temporary total disability shall be deducted from the amount of compensation payable under section 10 of this chapter. Payments to state employees under the terms of IC 5-10-8-7(d)(5) may not be deducted from compensation payable under section 10 of this chapter.

*(Formerly: Acts 1929, c.172, s.41.) As amended by Acts 1976, P.L.113, SEC.1; P.L.28-1988, SEC.29; P.L.1-1994, SEC.107.*

### **IC 22-3-3-24**

#### **Payments; time of payment**

Sec. 24. When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.

*(Formerly: Acts 1929, c.172, s.42.) As amended by P.L.28-1988, SEC.30.*

### **IC 22-3-3-25**

#### **Lump sum payments; minors; interest rate**

Sec. 25. (a) In unusual cases, upon the agreement of the employer and the employee or his dependents, and the insurance carrier, and the approval of the worker's compensation board, compensation may be redeemed, in whole or in part, by the cash payment, in a lump sum, of the commutable value of the installments to be redeemed.

(b) The board may, at any time, in the case of permanently disabling injuries of a minor, require that he be compensated by the cash payment in a lump sum of the commutable value of the unredeemed installments of the compensation to which he is entitled.

(c) In all such cases, the commutable value of the future unpaid installments of compensation shall be the present value thereof, at the rate of three percent (3%) interest, compounded annually.

*(Formerly: Acts 1929, c.172, s.43; Acts 1937, c.214, s.4; Acts 1947, c.162, s.11.) As amended by P.L.28-1988, SEC.31.*

### **IC 22-3-3-26**

#### **Lump sum payments; trustees**

Sec. 26. Whenever the worker's compensation board deems it expedient, any lump sum under section 25 of this chapter shall be paid by the employer to some suitable person or corporation appointed by the circuit or superior court, as trustee, to administer the same for the benefit of the person entitled thereto, in the manner authorized by the court appointing such trustee. The receipt of such trustee for the amount so paid shall discharge the employer or anyone else who is liable therefor.

*(Formerly: Acts 1929, c.172, s.44.) As amended by P.L.144-1986, SEC.36; P.L.28-1988, SEC.32.*

### **IC 22-3-3-27**

#### **Jurisdiction; modification of award**

Sec. 27. (a) The power and jurisdiction of the worker's compensation board over each case shall be continuing and from time to time it may, upon its own motion or upon the application of either party, on account of a change in conditions, make such modification or change in the award ending, lessening, continuing, or extending the payments previously awarded, either by agreement or upon hearing, as it may deem just, subject to the maximum and minimum provided for in IC 22-3-2 through IC 22-3-6.

(b) Upon making any such change, the board shall immediately send to each of the parties a copy of the modified award. No such modification shall affect the previous award as to any money paid thereunder.

(c) The board shall not make any such modification upon its own motion nor shall any application therefor be filed by either party after the expiration of two (2) years from the last day for which compensation was paid. The board may at any time correct any clerical error in any finding or award.

*(Formerly: Acts 1929, c.172, s.45; Acts 1947, c.162, s.12; Acts 1963,*

*c.387, s.13.) As amended by P.L.144-1986, SEC.37; P.L.28-1988, SEC.33; P.L.134-2006, SEC.7.*

### **IC 22-3-3-28**

#### **Children and minors; direct payments**

Sec. 28. (a) When the aggregate payments of compensation, awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age, do not exceed one hundred dollars (\$100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

(b) Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars (\$100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or to a parent upon the order of the worker's compensation board. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

*(Formerly: Acts 1929, c.172, s.46.) As amended by P.L.28-1988, SEC.34.*

### **IC 22-3-3-29**

#### **Injured employee or dependent under guardianship**

Sec. 29. If any injured employee or a dependent is under guardianship at the time when any right or privilege accrues to the employee or dependent under IC 22-3-2, IC 22-3-3, IC 22-3-4, IC 22-3-5, or IC 22-3-6, the employee or dependent's guardian shall claim and exercise the right or privilege of the employee or dependent.

*(Formerly: Acts 1929, c.172, s.47.) As amended by P.L.144-1986, SEC.38; P.L.33-1989, SEC.19.*

### **IC 22-3-3-30**

#### **Incompetent persons; limitation of actions**

Sec. 30. No limitation of time provided in IC 22-3-2 through IC 22-3-6 shall run against any person who is mentally incompetent or a minor so long as he has no guardian or trustee.

*(Formerly: Acts 1929, c.172, s.48; Acts 1969, c.94, s.5.) As amended by P.L.144-1986, SEC.39.*

### **IC 22-3-3-31**

#### **Joint service of two or more employers; apportionment of award**

Sec. 31. Whenever any employee for whose injury or death compensation is payable under IC 22-3-2 through IC 22-3-6 shall at the time of the injury be in the joint service of two (2) or more employers subject to IC 22-3-2 through IC 22-3-6, such employers shall contribute to the payment of such compensation in proportion to their wage liability to such employees; provided, however, that nothing in this section shall prevent any reasonable arrangements between such employers for a different distribution as between

themselves of the ultimate burden of compensation.  
*(Formerly: Acts 1929, c.172, s.49.) As amended by P.L.144-1986,  
SEC.40.*

**IC 22-3-3-32**

**Construction of article**

Sec. 32. The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid and to be paid for temporary total disability, temporary partial disability, or permanent total disability combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person who is permanently totally disabled from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from an injury occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars (\$75,000).

*As added by P.L.258-1997(ss), SEC.8.*