

# ALABAMA WORKERS' COMPENSATION



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ATTORNEYS AT LAW

## I. Common Terms

- CR** = Compensation Rate (2/3 of the AWW)
- AWW** = Average Weekly Wage
- PPD** = Permanent Partial Disability
- MMI** = Maximum Medical Improvement
- TPD** = Temporary Partial Disability
- PTD** = Permanent Total Disability
- IR** = Impairment Rating
- WB** = Weekly Benefits
- DOL** = Ala. Dept. of Labor
- PV** = Present Value
- TTD** = Temporary Total Disability

## II. Time Periods

- Notice of injury to employer (§ 25-5-78)  
**90 days**
- Report to Ala. Dept. of Labor (§25-5-4)  
**15 days**
- Uncontroverted first payment due (§ 25-5-59)  
**30 days**
- Penalty for failure to make timely payments (§ 25-5-86)  
**15%**
- Time after first payment to report to DOL  
**10 days after termination on Combination Supp. & Claim Summary Form**
- Report of Settlement of Claim, other than court approved (§25-5-5)  
**10 days**
- Waiting period for TTD benefits (§ 25-5-59)  
**3 days, but the first three days are paid if TTD lasts longer than 21 days**
- Statute of Limitations (§ 25-5-80)  
**2 years from the date of the accident or 2 years from the date the employee last received compensation benefits (not medical)**
- Statute of Limitations for Occupational Disease (§25-5-117)  
**2 years from the last date of exposure. This includes repetitive motion injuries, even if it is not the last date of employment.**

## III. Calculation Of Permanent Partial Disability Benefits

### Body-As-A-Whole

$AWW * .6667 = CR$  then multiply  $CR * IR = WB$  then multiply

$WB * (300 Weeks - Weeks TTD paid (reduced to PV))$

Note: CR is subject to the max and min rates in place at time of injury

### Scheduled Member (See chart below)

$AWW * .6667 = CR$  then multiply  $CR * IR * Scheduled Weeks$

Note: The CR is subject to the \$220 cap. However, if the AWW is below \$220, you multiply the formula by the AWW.

**NOTE:** AWW is the earnings of the employee for the 52 weeks prior to the injury, divided by 52. It does not include “fringe benefits,” if the employer continues to pay those benefits post-injury. If the employee has worked less than 52 weeks, consider the wages of a similarly situated employee.

## IV. Permanent Total Disability Benefits Ala. Code § 25-5-57(a)(4)

- Permanent inability to perform one’s trade or obtain gainful employment.
- Lump Sum Attorneys’ fees may be awarded on PT verdicts. The attorneys’ fees are assessed at 15% based on PV lump sum award.
- These benefits are based upon two-thirds of the AWW earnings, subject to the current Max/Min benefits set out by the Ala. Dept. of Labor (\$220 cap does not apply in PTD situations).

## Ala. Code § 25-5-57-Scheduled Member List

Member	Weeks	Member	Weeks	Member	Weeks
Thumb	62	Big Toe	32	Eye & Hand	325
1st Finger	43	Other Toes	11	Eye & Foot	300
2nd Finger	31	Foot	139	2 Arms	400
3rd Finger	22	Leg	200	2 Hands	400
4th Finger	16	Eye	124	2 Legs	400
Hand	170	Eye & Leg	350	2 Feet	400
Arm	222	Eye & Arm	350	Hearing 1 or 2 Ears	53/163



## V. Workers' Compensation Death Benefits (Ala. Code §§ 25-5-60 - 67)

- Death benefits are payable to an employee's dependents. Dependents are typically a spouse and children under 18. A spouse is considered a dependent until they remarry. A Child is a dependent until marriage or age 18.
- Death benefits are payable for a set 500 weeks unless dependent status ceases.
- One-time burial benefit: \$6,500.00
- One-time payment to deceased employee's estate if no dependents: \$7,500.00
- One Dependent: 50% AWW (500 weeks max)
- Two or more dependents: 2/3 AWW (subject to min/max)(500 weeks)

## VI. Maximum & Minimum Compensation (Ala. § 25-5-68)

Each calendar year is from July 1 to June 30.

Calendar Year	State's AWW	Effective Date	Min.	Max.
2012	787.59	7/1/13-6/30/14	217	788
2013	794.27	7/1/14-6/30/15	218	794
2014	812.96	7/1/15-6/30/16	224	813
2015	831.88	7/1/16-6/30/17	229	832
2016	842.79	7/1/17-6/30/18	232	843
2017	865.16	7/1/18-6/30/19	238	865
2018	891.68	7/1/19-6/30/20	245	892
2019	920.07	7/1/20-6/30/21	253	920
2020	983.06	7/1/21-6/30/22	270	983
2021	1,026.07	7/1/22-6/30/23	282	1,026
2022	1084.38	7/1/23-6/30/24	298	1084

Min applies to: Temporary Total; Permanent Partial (scheduled only); Permanent Total; and Death Benefits. Max applies to: Temporary Total; Temporary Partial; Permanent Total; and Death Benefits.

## VII. Medical Benefits (Ala. Code § 25-5-77)

- Payable for life if authorized treating physician relates treatment to work injury.
- Employer may designate first physician. Employee is entitled to panel of four if dissatisfied with initial treating physician and further treatment is required.
- Employer must pay for treatment and use facility recommended by authorized treating physician except for treatment determined "not medically necessary" through utilization review.
- Medical mileage reimbursement pursuant to the rate established by the AL DOL.

## VIII. Defenses

- Lack of notice
- Statute of limitations
- Willful violation of a safety policy/rule
- Willful refusal to wear safety device
- Misrepresentation
- Intoxication/Impairment
- Deviations
- Lack of medical causation
- Idiopathic/unexplained falls
- Did not arise out of and in the scope of employment

## IX. Important Points to Remember

- ♦ Settlements must be approved by a judge during a best interest hearing or by a State of Alabama Ombudsman.
- ♦ Suspension of TTD benefits are permissible once MMI is reached.
- ♦ Subrogation is available for compensation and previously paid medicals. Intervention in a third-party lawsuit may be required. Based on recent case law, subrogation for future medicals is now allowed.
- ♦ Trials are handled in the Circuit Civil Court and venue is appropriate in the county where the accident occurred, where the defendant is principally located, or where the plaintiff resides if the employer does business in that county.
- ♦ An Alabama Claims Summary Form must be submitted to the State in all cases

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