ILLINOIS WORKERS' COMPENSATION COMMISSION

HANDBOOK ON WORKERS' COMPENSATION AND OCCUPATIONAL DISEASES



This handbook is designed to serve as a general guide to the rights and obligations of employees who have experienced work-related injuries or diseases, as well as the rights and obligations of their employers, under the Illinois Workers' Compensation and Occupational Diseases Acts.

While this handbook attempts to provide both employees and employers with an overview of the Act, the facts and circumstances of each workplace injury will affect the outcome of each case. If you still have questions, please contact one of our Commission offices listed below. While the Commission staff is happy to try to answer your questions, this handbook is not intended to, nor does it constitute legal advice. Should you seek legal advice, please consult an attorney.

COMMISSION OFFICES

Chicago:	69 W Washington, #900, Chicago, IL 60602	(312) 814-6500
Peoria:	401 Main Street, Ste 640, 61602	(312) 814-6500
Rockford:	200 S. Wyman, Rockford, IL 61101	(312) 814-6500
Springfield:	400 S. Ninth Street, Springfield, IL 62703	(217)785-7087
TDD/TTY:	Telecomm. Device for the Deaf	(866) 383-4370

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SECTION 1: Overview

1. ***What is workers' compensation?***

Workers' compensation is a system of benefits provided by law to most employees who experience work-related injuries or occupational diseases. Generally, benefits are paid regardless of fault.

2. ***What is the Illinois Workers' Compensation Commission?***

The Illinois Workers' Compensation Commission is the State agency that administers the judicial process that resolves disputed workers' compensation claims between employees and employers. The Commission acts as an administrative court system for these claims.

As anadministrative court system, the Commission must be impartial. Staff explains procedures and basic provisions of the law to members of the public but cannot provide legal advice or act as an advocate for either the employee or employer.

3. ***Which employees are covered by the Workers' Compensation Act?***

Most employees who are hired, injured, or whose employment is localized in the State of Illinois are covered by the Act. These employees are covered from the moment they begin their jobs.

4. ***What injuries and diseases are covered under the law?***

The Workers' Compensation Act provides that accidents that arise out of and in the course of employment are eligible to receive workers' compensation benefits. This generally means that the Act covers injuries that result in whole or in part from the employee's work.

5. ***What benefits are provided?***

The Act provides the following benefit categories, which are explained in later sections of this handbook:

a) Medical care that is reasonably required to cure or relieve the employee of the effects of the injury;

b) Temporary total disability (TTD) benefits while the employee is off work, recovering from the injury;

c) For injuries that occur on or after February 1, 2006, temporary partial disability (TPD) benefits while the employee is recovering from the injury but working on light duty for less compensation;

d) Vocational rehabilitation/maintenance benefits are provided to an injured employee who is participating in an approved vocational rehabilitation program;

e) Permanent partial disability (PPD) benefits for an employee who sustains some permanent disability or disfigurement, but can work;

f) Permanent total disability (PTD) benefits for an employee who is rendered permanently unable to work;

g) Death benefits for surviving family members.

6. ***Are workers' compensation benefits taxable income?***

No. Workers' compensation benefits are not taxable under state or federal law and need not be reported as income on tax returns.

7. ***Who pays for workers' compensation benefits?***

By law, the employer is responsible for the cost of workers' compensation benefits. Most employers buy workers' compensation insurance, and the insurance company pays the benefits on the employer's behalf. No part of the workers' compensation insurance premium or benefit can be charged to the employee. Other employers obtain the state's approval to self-insure, which means that the employer will be responsible for paying its own claims.

To identify the party responsible for paying benefits, an employee may check the employer's workplace notice or check the Employer Insurance Coverage Search on the Commission's website.

8. ***What does the law require of employers?***

Employers are obligated to follow the provisions of the Workers' Compensation Act. Employers must:

a) purchase workers' compensation insurance or obtain permission to self-insure from the Commission;

b) post a notice in the workplace. Employers can obtain this notice at https://iwcc.illinois.gov/content/dam/soi/en/web/iwcc/documents/icpnform.pdf and

c) keep records of work-related injuries and report to the Commission those accidents involving more than three lost workdays.

Employers are prohibited from doing the following:

a) charging the employee for any part of the workers' compensation insurance premium or benefits; and

e) harass, discharge, refuse to rehire, or in any way discriminate against an employee for exercising his or her rights under the Workers' Compensation Act.

9. ***What should an employee do if his or her employer does not have workers' compensation insurance?***

The employee should give the employer's name and address, and the date of injury, to the Department of Insurance. The Workers' Compensation Fraud Division https://idoi.illinois.gov/wc-fraud.html can be reached at WCC.InsCompQuestions@Illinois.gov

10. ***Is an employer subject to any penalties if they do not purchase workers' compensation insurance?***

Yes. There are various provisions in the Workers' Compensation Act that address this issue. *Negligent* failure to provide workers' compensation insurance coverage is punishable by a Class A misdemeanor for each day without coverage (maximum 12 months imprisonment, $2,500 fine). *Knowing* failure to provide workers' compensation insurance coverage is punishable by a Class 4 felony for each day without coverage (maximum 1-3 years imprisonment, $25,000 fine).

An uninsured employer may also be subject to a civil penalty of $500 for every day it lacked insurance, with a minimum $10,000 fine.

Employers without workers' compensation insurance may be subject to a citation issued by the Insurance Compliance Division. The citation fine may range from $500 to $2,500.

An uninsured employer loses the protections of the Workers' Compensation Act for the period of noncompliance. That means an employee who was injured during the period of noncompliance may choose to sue in civil court.

In addition, if the Commission finds that an employer knowingly failed to provide insurance coverage, it may issue a stop-work order and shut the company down until it obtains insurance.

11. ***Does the Workers' Compensation Act address workers' compensation fraud?***

Yes. Workers' compensation fraud falls into many different categories that affect employees, employers, and healthcare providers. The Act prohibits the intentional filing of any fraudulent workers' compensation claims or making a fraudulent statement to obtain workers' compensation benefits. Workers' compensation fraud may also involve making false statements in order to deny workers' compensation benefits. It is also unlawful to intentionally present a bill or statement for the payment of medical services that were not provided.

Assisting or conspiring in any of these actions may also be considered workers' compensation fraud.

12. ***What are the penalties for workers' compensation fraud?***

The penalties for violations of the fraud provisions increase with the value of the property obtained or attempted to be obtained, starting with a Class A Misdemeanor for property valued at $300 or less (maximum 12 months imprisonment and a $2,500 fine), and ranging upwards to a Class 1 felony (maximum 4-15 years imprisonment, $25,000 fine) for property valued at more than $100,000. A convicted party is required to pay complete restitution, as well as court costs and attorney fees.

13. ***What should I do if I suspect workers' compensation fraud?***

If you wish to report a possibly fraudulent situation, contact the Workers' Compensation Fraud Unit, Department of Insurance (DOI.WorkCompFraud@illinois.gov; toll-free (877) 923-8648.

Anyone who intentionally makes a false report of fraud is subject to a Class A misdemeanor (maximum 12 months imprisonment, $2,500 fine).

SECTION 2: Reporting an Injury or Exposure

1. ***Who should an employee notify if injured at work?***

The employee should inform their employer if they are injured at work.

2. Are there any specific requirements for a notice of an accident to an employer?

The Act provides that the notice of accident shall include the approximate date and place of the accident, if known. Notice may be given orally or in writing.

3. ***What are the time limits for notifying the employer of a workplace accident?***

Generally, the employee must notify the employer as soon as practicable, but no later than 45 days after the accident. Any delay in the notice to the employer can delay the payment of benefits.

For injuries resulting from radiological exposure, the employee must notify the employer 90 days after the employee knows or suspects that he or she has received an excessive dose of radiation.

For occupational diseases, the employee must notify the employer as soon as practicable after he or she becomes aware of the condition.

4. ***What should the employer do after receiving notice of accident?***

The employer should promptly take the following steps:

a) provide all necessary first aid and medical services;

b) inform the insurance carrier or workers' compensation administrator, even if the employer disputes the employee's claim;

c) if the employee cannot work for more than three days because of the injury, the employer must do one of the following:

(i) Begin payments of TTD; or

(ii) Give the employee a written explanation of the additional information the employer needs before it will begin payments; or

(iii) Give the employee a written explanation of why benefits are being denied.

5. ***What records about workplace injuries must the employer maintain?***

Employers must maintain accurate records of work-related deaths, injuries, or illnesses. This does not include minor injuries requiring only first aid and not involving further medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

6. ***Are employers required to submit any reports to the Commission?***

Yes. Employers are required to report accidents to the Commission on the form, "Employer's First Report of Injury" which is known as the Form 45. The Form 45 is available on the Commission's website, https://iwcc.illinois.gov/content/dam/soi/en/web/iwcc/documents/ia1form.pdf

Written reports of all job-related deaths must be made to the Commission within two working days. Written reports of job-related injuries or illnesses resulting in the loss of more than three scheduled workdays must be made within one month. Employers are not required to submit a Form 45 for injuries that result in three or less days of lost work.

7. ***How do employers submit accident reports?***

Accident reports should be submitted electronically. For information on how to submit accident reports electronically, please visit the Commission's website at https://iwcc.illinois.gov/resources/forms.html#ar

8. ***Are employers required to post any notices in the workplace?***

Yes. Employers are required to post a notice developed by the Commission at each respective place of employment. The Commission maintains a copy of this notice on its website at https://iwcc.illinois.gov/content/dam/soi/en/web/iwcc/documents/icpnform.pdf

9. ***What are an employee's options if the employer refuses to pay for workers' compensation benefits?***

The employee or the employee's attorney should contact the employer directly to determine why benefits are not being paid. Poor communication often causes delays and misunderstanding.

If the employer still does not pay any benefits, the employee's other option is to file a claim at the Commission. Please note that an accident report does not trigger any action by the Commission.

The Commission becomes involved only if the employee files a claim and follows the procedures to request a hearing. For more information about the claims process at the Commission, please see the next section of the handbook.

10. ***Can an employee be fired for reporting an accident or filing a claim?***

It is illegal for an employer to harass, discharge, refuse to rehire, or discriminate in any way against an employee for exercising his or her rights under the law. Such conduct by the employer may give rise to a right to file a separate suit for damages in the circuit court.

An employee with a pending workers' compensation claim may still be disciplined or fired for other valid reasons.

SECTION 3: Filing a Claim at the Commission

1. How is a claim filed at the Commission?

The IWCC uses CompFile, an electronic filing system for workers' compensation cases. Effective **April 21, 2021**, attorneys and pro se litigants **must electronically file all cases and documents in CompFile.** Prior to filing any document electronically with the IWCC, users are required to register for an account with CompFile. You can learn about CompFile and review user manuals, frequently asked questions, and instructional videos on the **CompFile Implementation** page.

2. Is there a filing fee for filing documents at the Commission?

No. There are no fees for the forms or to file a claim.

3. What happens after a claim is filed?

The Commission assigns a case number and an arbitrator to the case. For cases in Cook County, cases are randomly assigned among the Chicago arbitrators. For cases outside of Cook County, cases are assigned to the hearing site closest to the site of the accident.

Every three months, the case will automatically be set for a status call. At the call, the parties may request a trial. If neither party requests a trial, the case is continued for another three months.

This rotation continues for three years. For the first three years after a case is filed, it is the parties' responsibility to move the case along. After three years, the arbitrator may dismiss the case at the status call unless the parties show there is a good reason to continue it.

It is important to note that each arbitrator is responsible for thousands of cases, cannot monitor individual cases, and has no information as to whether benefits are or are not being paid. It is the parties' responsibility to track the case and take action when appropriate.

4. How can I determine the status of a case at the Commission?

You can access the CompFile website at https://iwcc.dynamics365portals.us/ to find information about your case.

5. ***What are the time limits for filing a claim at the Commission?***

   In most cases, the employee must file a claim within three years after an injury, death, or disablement from an occupational disease, or within two years of the last payment of TTD or a medical bill, whichever is later.

   Some cases involving specific diseases or death of an employee have different time limits. You may wish to consult an attorney in those instances.

   Generally, an employee who fails to file a claim within the time limits loses his or her right to claim future benefits.

6. ***Does the voluntary payment of benefits affect a claim?***

   If the employee accepts benefits from their employer, he or she does not give up any rights under the law. Similarly, if the employer pays benefits, it does not waive its right to dispute the claim. Even if a claim is filed with the Commission after some benefits have been paid, the employer still has the right to contest its liability to pay any compensation at all.

7. ***Does the employee have to hire an attorney to file a claim?***

   No, but in disputed cases, most employees and employers do hire attorneys.

   If the employee does not hire an attorney, it is the employee's responsibility to keep track of the claim, appear at hearings when necessary, and present evidence at hearings that proves his or her eligibility under the law.

   Arbitrators and commissioners must be neutral and are subject to the Code of Judicial Conduct. They cannot act as an advocate for the employee or for the employer.

   The Commission cannot recommend attorneys. Employees seeking an attorney may wish to ask friends for a recommendation or call an attorney referral service. The Commission has a list of bar associations that make referrals to Attorney Referral Services https://iwcc.illinois.gov/content/dam/soi/en/web/iwcc/documents/attys.pdf

8. ***How much can an attorney charge for their services on a workers' compensation case?***

   The law limits the claimant attorney's fee:

   a. An attorney shall not charge any fee on payments the employer voluntarily made in a timely and proper manner for medical care, TTD, and any other compensation.

   b. The attorney's fee is limited to 20% of compensation recovered, up to 20% of 364 weeks of the maximum TTD benefit, unless a hearing is held, and the Commission approves additional fees.

   c. If the employer made a written offer to the employee, the attorney may only charge a fee on the amount recovered in excess of this offer. In such case, the attorney's fee may exceed 20% of the additional amount recovered, but in no event may the fee exceed 20%of the total award.

   d. The attorney's fee must be stated on the *Attorney Representation Agreement* form, signed by the employee (or by the beneficiaries in death cases) and approved by the Commission.

9. What if the employee is dissatisfied with his or her attorney?

The Commission cannot resolve problems between an injured employee and his or her attorney.

SECTION 4: Resolving a Dispute at the Commission

1. *What must the employee demonstrate to obtain an order from the Commission awarding benefits?*

In cases before the Commission, it is the employee's responsibility to prove he or she is eligible for benefits. The employer does not need to disprove an employee's claim. By law, the burden of proof rests with the employee.

2. *What are the most commonly disputed issues in cases filed at the Commission?*

Some of the main issues in a workers' compensation case are listed below. The employee must prove all of them to qualify for benefits.

a) Jurisdiction: on the date of the accident, the employer was subject to the Illinois Workers' Compensation or Occupational Diseases Act.

b) Employment: on the date of the accident, a relationship of employee and employer existed between the parties.

c) Accident or exposure: the employee sustained accidental injuries or was exposed to an occupational disease that arose out of and in the course of employment.

d) Causal connection: the medical condition was caused or aggravated by the alleged accident or exposure.

e) Notice: the employer received notice of the accident or exposure within the time limits set by law.

If the employee prevails on these issues, he or she will generally qualify for some benefit, but there may be other issues in dispute. For example, the parties may disagree over the extent of the employee's disability, the employee's average weekly wage, whether the medical treatments and/or bills were reasonable and necessary, or whether the employee is entitled to penalties.

3. *How are claims before the Commission resolved?*

An arbitrator of the Commission will conduct a trial, relying on Illinois law, rules of evidence, precedent set by previous workers' compensation cases, and the *Rules Governing Practice Before the Commission*. A court reporter will make a record of the hearing.

Except for emergency hearings, an arbitrator cannot resolve a case until the employee has reached maximum medical improvement. Once the employee has healed to the extent possible, the parties need to prepare the case for trial by obtaining medical records, doctors' depositions, and other paperwork. By the time everything is ready for trial, it is not uncommon for one to two years to have elapsed since the filing of the claim with the Commission.

In order to proceed to a trial, a trial date must be requested at the arbitrator's status call. The schedules for arbitrator status calls are available at the Commission's website at https://iwcc.illinois.gov/news/2024/2024-arbitration-calendars.html. After the trial, the arbitrator will issue a decision within 60 days, stating the amount of benefits, if any, to which the employee is entitled.

4. ***Is there a way to get a quicker decision if there is an emergency?***

Yes. There are two methods of obtaining an emergency decision. They are commonly referred to 19(b) hearings and 19(b-1) hearings. For both 19(b) and 19(b-1) hearings, once the issues contained in the emergency process are decided, the case will go back on the arbitration call to resolve other issues in dispute, such as the degree of permanent disability.

19(b) Hearings

Under Section 19(b) of the Workers' Compensation Act, the Commission is required to issue a decision within 180 days of the date the *Petition for Review* was filed.

An employee who claims to be owed medical or compensation benefits may file a 19(b) petition, regardless of whether the employee is working.

An employer that is paying TTD may also file a 19(b) petition, as long as it keeps paying TTD until:

a) the arbitrator rules on the petition;
b) the employee's medical provider releases him or her back to regular work; or
c) the employee starts work of any kind.

Neither the employee nor the employer is entitled to a 19(b) hearing if the employee has returned to work and the only benefit in dispute amounts to less than 12 weeks of TTD.

19(b-1) Hearings

Under Section 19(b-1), the Commission is required to issue a decision within 180 days, but it should be noted that there are many technical requirements to this process.

An employee who claims to be unable to work as the result of an injury and who is not receiving medical benefits or TTD, may file a 19(b-1) petition to obtain a quick ruling on the medical care and/or TTD issues.

5. ***Is it possible to appeal the arbitrator's decision?***

Yes. The employee and the employer each have the right to appeal a decision. A panel of three commissioners (usually called the Commission) will review the arbitrator's decision, as well as the evidence and transcript of the trial. Both sides may submit written arguments to the Commission. The Commission will then conduct a hearing (called an oral argument) at which the parties may present a brief, 5–10-minute argument for their position. The Commission is required to issue its decision within 60 days.

6. ***Does the employer have to pay the award for benefits while the appeal is pending?***

While an appeal is pending, the employer is not required to pay the benefits awarded by the arbitrator. If the case is ultimately resolved completely in the employee's favor, interest will be added to the award, based on governmental bond rates at the time of the decision. There is also a 1% per month interest charge on medical bills, payable to the medical provider.

7. ***Is there any way to appeal the Commission's decision?***

Commission decisions are final for cases involving employees of the State of Illinois. In all other cases and for cases involving Workers' Compensation Commission employees, either party may appeal to the circuit court, which may result in further appeals to the Appellate Court, and in some cases, to the Illinois Supreme Court. A chart at the end of this section illustrates the process.

8. ***Is there any other way to resolve disputes?***

As in other court systems, most cases filed at the Commission are resolved through a compromise settlement between the parties. For cases at the Commission, these arrangements are referred to as "settlement contracts." A settlement contract is an agreement between the employee and the employer to close a claim in exchange for an agreed-upon resolution.

9. ***Why do employers and employees enter into settlement contracts?***

By settling a case, the employee avoids the risk of either getting no compensation or less than is provided in the settlement, and the employer avoids the risk of paying more. Usually, cases are resolved faster by settlement than by trial.

10. ***How do employers and employees enter into settlement contracts?***

If the employer and employee reach an agreement, they should write down the terms of their agreement on the Commission's Settlement Contract form and present it through CompFile for approval to the arbitrator assigned to the case. A settlement is not legally binding unless the Commission approves it.

An employee who does not have an attorney (called a "pro se" petitioner) must appear in person before the arbitrator who, before approving it, will review the settlement and make sure it is fair and that the employee understands its effect. Please note that the arbitrator will act as a neutral adjudicator, not as the employee's advocate.

11. ***Are there any consequences to a settlement contract?***

It is important for all parties to review a settlement contract carefully. An approved settlement contract generally terminates the employee's rights to any future cash or medical benefits, even if his or her condition worsens. If the parties want to keep a benefit open, this should be clearly stated in the settlement contract.

12. ***Can a settlement be made without the Commission's approval?***

A settlement that is made without Commission approval does not close out the employee's rights, and the time in which an employee may file a claim with the Commission is extended indefinitely. Any settlement contract made within seven days of the injury is presumed to be fraudulent.

13. ***What is a lump sum settlement?***

The Workers' Compensation Act also allows for settlements that pay an injured employee in a single payment. Lump sum settlements may end other rights. It is important to read any settlement carefully and consult an attorney for legal advice.

14. ***Does a decision or settlement close a case forever?***

A settlement contract usually closes a case forever unless the parties specifically state otherwise in the terms of the settlement contract. The following changes may occur after a decision or settlement is approved:

a) At any time after a decision, the employee may request additional medical services that are reasonably required to cure or relieve the effects of the injury or disease. If the employer does

not agree to the request, the employee may file a petition asking the Commission to resolve the dispute.

b) Within 30 months after the Commission issues a decision or approves a settlement contract payable in installments, if an employer can show that the disability has decreased, it may file a petition for a reduction in benefits. Conversely, if an employee can show that the disability has increased, he or she may file a petition for additional benefits.

c) Within 30-60 months after the Commission issues a decision or approves a settlement contract payable in installments for wage differential benefits, if an employer can show that the disability has decreased, it may file a petition for a reduction in benefits. Conversely, if an employee can show that the disability has increased, he or she may file a petition for an increase in benefits.

d) Any time after the Commission issues a decision for permanent total disability, if the employer can show that the employee is no longer totally disabled, the employer may petition the Commission for an order terminating the PTD payments.

15. ***What if the Commission awards benefits, but the employer won't pay?***

The employee may take one or more of the following actions:

a) file a petition in the circuit court, asking the court to order payment under Section 19(g) of the Act;

b) file a petition with the Commission for penalties and/or attorneys' fees for delay in payment, as appropriate, under Sections 16, 19(k), and/or 19(l) of the Act;

c) file a petition with the Commission alleging a policy of delay or unfairness by the insurer or self-insurer under Section 4(c) of the Act;

d) Contact the Workers' Compensation Division of the Illinois Department of Insurance
DOI.WorkCompFraud@illinois.gov
toll-free 877-923-8648

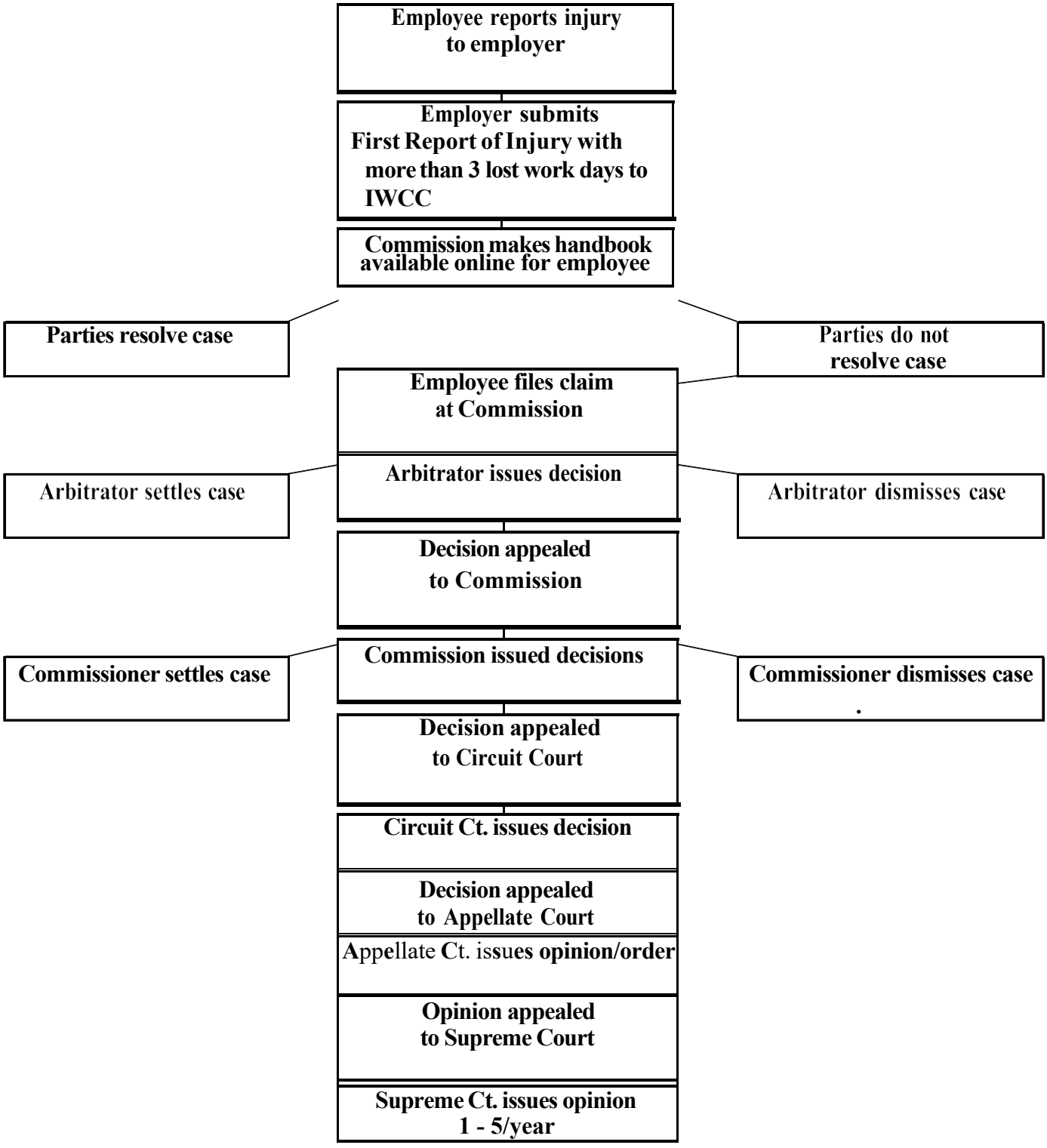
16. ***Where are hearings held?***

Arbitrators hold hearings at numerous sites around Illinois. The employee and named employer on a claim will receive a notice from the Commission indicating the hearing site where the status hearings for the case are to be held.

For cases that have been appealed to the Commission after a decision has been entered by an arbitrator, the commissioners hold oral arguments in Springfield and Chicago.

For a complete schedule and list of hearing sites, please visit the Commission's website at https://iwcc.illinois.gov/content/dam/soi/en/web/iwcc/documents/arbitrator-calendar/hearingsites/hearingsite.pdf

FLOW CHART OF DISPUTE RESOLUTION PROCESS



SECTION 5: Medical Benefits

1. ***What medical benefits are covered under the Act for work-related injuries?***

The employer is required to pay for all medical care that is reasonably necessary to cure or relieve the employee from the effects of the injury. This includes, but is not limited to, first aid, emergency care, doctor visits, hospital care, surgery, physical therapy, chiropractic treatment, pharmaceuticals, prosthetic devices, and prescribed medical appliances.

The cost of devices, such as a shoe lift or a wheelchair, may be covered. If the work injuries result in a disability that requires physical modifications to the employee's home, such as a wheelchair ramp, the employer may have to pay those costs as well.

2. ***Who pays for the medical care?***

If the employer does not dispute a medical bill, it will pay the medical provider directly. The employee is not required to pay co-payments or deductibles, unless the service is covered under a group health plan.

3. ***Can a doctor send the employee a bill for the medical care for a work-related injury while a case is pending at the Commission?***

While a case is pending at the Commission, the provider cannot try to collect payment from the employee once the employee notifies the provider that he or she has filed a claim with the Commission to resolve this dispute. This is a practice known as "balance billing."

The provider may send the employee reminders of the outstanding bill, and ask for information about the case such as the case number and status of case. If the employee does not provide the information within 90 days of the date of the reminder, the provider may resume its efforts to collect payment.

4. ***Can the employee choose a doctor or hospital from which to receive treatment?***

Generally, the employee may choose the provider where he or she seeks treatment. However, there may be some limitations both on the number of providers seen by the employee or on which particular providers that an employee may choose. The employee must choose carefully so that he or she does not end up becoming personally responsible for medical bills.

The employee's choice of provider will be limited to a selected network of providers if an employer has established what is called a Preferred Provider Program or "PPP." If there is a PPP, the employee has a choice of two physicians from the network within the PPP.

If an employer does not have a PPP, then the employee has a choice of any two providers. This does not include referrals from those two providers. First aid and emergency care are not considered to be one of the employee's two choices. Nonemergency care obtained before the employee reports the injury to the employer does not count as one of the two choices.

5. ***How will an employee know if their employer has a PPP?***

If an employer has established a PPP, it must inform the employee about the PPP in writing on a form that is promulgated by the Commission.

6. ***Is an employee only allowed to choose providers from the PPP network?***

The employee may decline participation in the PPP at any time by sending the employer a written statement. If the employee declines participation, it counts as one of the two choices of medical providers.

If the employee declines participation in the PPP, the employee may choose any doctor or hospital, and go to any doctor to whom the employee is referred by that provider. If the employee wishes to see another chain of providers, however, the employer must approve.

7. ***What if the employee believes the PPP or the second choice of provider is providing improper or inadequate medical care?***

In this situation, the employee may petition the Commission. If the Commission finds the provider's care is improper or inadequate, the employee may choose a provider at the employer's expense.

8. ***Where can employers obtain the form informing employees about its PPP?***

This form is available on the Commission's website at https://iwcc.illinois.gov/resources/forms.html

9. ***As long as the employee stays within the limits on their choice of provider, will the employer then pay for all medical care?***

Employers may use other methods under the Workers' Compensation Act to evaluate or challenge the necessity of medical care sought by an injured employee.

An employer may perform what is called a "utilization review," which is a review of the employee's past, present, and future medical treatments related to the work injury, and analyze the necessity of those treatments. The Commission will consider the utilization review findings, along with all other evidence, when determining whether a treatment was reasonably necessary.

If the Commission finds that a medical treatment was not reasonably necessary, the employer will not be responsible for paying the bill. The employee is not responsible for any treatment the Commission finds to be excessive or unnecessary. The employee may be held responsible for treatment that is deemed not covered under the Act.

10. ***What are the employee's responsibilities regarding medical care?***

The employee should take the following steps in terms of medical care:

a) Seek first aid or medical attention immediately after the injury or the point at which gradual symptoms first begin affecting physical activities at work or at home.

b) Cooperate with the doctors and make efforts to achieve a complete recovery and full return to work, if possible. An employee may lose their eligibility for benefits for injurious or unsanitary activities.

c) Tell the medical providers that the treatment is for a work-related condition. This lets the providers know that the employer is responsible for the medical bill.

d) Give the employer the name and address of the doctor or hospital chosen. If the employee changes providers, the employee should again notify the employer.

The employee must also give the employer enough medical information for the employer to determine whether to accept or deny the claim. This includes all medical records relevant to the condition for which benefits are sought. An employee is not required to give anyone unlimited access to his or her medical records, however.

The employer is not required to provide benefits if it does not receive the medical information necessary to determine the employee's medical status and fitness to work.

11. ***What if an injured employee has religious beliefs that prevent him or her from seeking medical treatment?***

If an employee and employer agree in writing, and if the employee submits to all physical examinations required by the Act, the employee may, in good faith, rely on treatment by prayer or spiritual means alone in accordance with the tenets and practice of a recognized church or religious denomination. An injured employee who refuses treatment in accordance with this provision will not suffer any loss or reduction of workers' compensation benefits.

12. ***Does an employee have to allow employer-hired case managers to manage his or her care?***

No. An employee may, without penalty, refuse or limit the involvement of nurses or case managers hired by the employer. The employee is obligated to provide medical records that are relevant to the case, but otherwise an employee's medical care is confidential.

While case management is not mandatory, an employee may find the assistance of case management helpful.

13. ***Can the employer ask for an evaluation of an employee by its own doctor?***

Yes. The employer may order a full medical exam by the doctor of its choice. The employer must provide notice of the exam to the employee and the exam must be at a time and place reasonably convenient for the employee. If submitting to the examination causes the employee loss of wages, the employer must provide reimbursement for the wages and also the expense of travel and meals.

14. ***Can the employee review the examiner's report?***

The employer's doctor must give both parties the examiner's report as soon as practicable, but not less than 48 hours before an arbitration hearing.

15. ***How are prices for medical care determined?***

Most treatments that are covered under the Act and were provided on or after February 1, 2006, are subject to a medical fee schedule. The employer shall pay the lesser of the provider's actual charge or the amount set by the fee schedule.

If, however, an employer or insurance carrier contracts with a provider for the purpose of providing services under the Act, the rate negotiated in the contract shall prevail.

The schedule is posted on the Commission's website. Please also refer to the law, rules, *Instructions and Guidelines*, and the "Medical: Frequently Asked Questions" web page at https://iwcc.illinois.gov/resources/faqmed.html

SECTION 6: Temporary Total Disability (TTD) Benefits

1. ***What are temporary total disability (TTD) benefits?***

TTD is the benefit that an injured employee receives during the period in which the employee is either: (a) temporarily unable to return to any work, as indicated by his or her doctor, or (b) is released to do light-duty work but whose employer is unable to accommodate him or her.

2. ***How long can an employee receive TTD benefits?***

The employer pays TTD benefits to an injured employee until the employee has returned to work or has reached maximum medical improvement (MMI).

3. ***How is the amount of the TTD benefit calculated?***

The TTD benefit is two-thirds (66 2/3%) of the employee's average weekly wage, subject to minimum and maximum limits. The minimums and maximums for TTD are available at https://iwcc.illinois.gov/resources/benefits.html

4. ***How is the employee's average weekly wage (AWW) calculated?***

The calculation of AWW can be complicated and will depend on the facts of each case. Generally, AWW is based on the employee's gross (pre-tax) wages during the 52 weeks before the date of injury or exposure. However, the calculation of AWW may be affected by many different factors, including, but not limited to: if the employee had more than one job at the time of the injury, worked less than 52 weeks, or on a casual basis.

5. ***Is there a waiting period for TTD benefits?***

TTD is not paid for the first three lost workdays, unless the employee misses 14 or more calendar days due to the injury.

6. ***When is TTD paid?***

The employer should make the first TTD payment within 14 days after receiving notice of the injury. Since delays are common, to facilitate the prompt payment of benefits, we encourage the employee to give the employer a written demand for TTD benefits along with the doctor's note.

If the employer does not pay promptly and cannot justify the delay, the employee may petition the arbitrator to order the employer to pay penalties and/or attorneys' fees to the employee.

The employer should pay TTD benefits at the same interval the employee was paid before the injury (e.g., weekly or biweekly).

If an employer stops paying TTD benefits before the employee returns to work, it must give the employee a written explanation no later than the date of the last TTD payment. If the employer fails to provide an explanation, the employee may petition the arbitrator to assess penalties and/or attorneys' fees.

SECTION 7: Temporary Partial Disability (TPD) Benefits

1. ***What are temporary partial disability (TPD) benefits?***

TPD is the benefit that may be received during the period in which an injured employee is still healing and is working light duty, on a part-time or full-time basis, and earning less than he or she would earn in the pre-injury employment. The employer pays TPD benefits to an injured employee until the employee has returned to his or her regular job or has reached maximum medical improvement.

2. *How is the TPD benefit calculated?*

For injuries that occurred **before June 28, 2011**, the TPD benefit is two-thirds (66 2/3%) of the difference between the average amount the employee would be able to earn in the pre-injury job(s) and the net amount he or she earns in the light-duty job.

For injuries that occurred **on or after June 28, 2011**, the TPD benefit is two-thirds (66 2/3%) of the difference between the average amount the employee would be able to earn in the pre-injury job(s) and the gross amount he or she earns in the light-duty job.

Example:

An employee was earning $900/week at the time of injury. While the employee was off work and recuperating, the pay for the job increased to $925/week. The employee returns to a light-duty job and earns $500/week.

Pre-injury average weekly wage (AWW)	=	$900
Current AWW of pre-injury job	=	$925
Post-injury gross pay	=	$500
Wage differential =	$925 – $500 =	$425
TPD =	$425 X 66 2/3% =	$283.33/week

The minimums and maximums for TPD are available online at https://iwcc.illinois.gov/resources/benefits.html

3. *Who is eligible for the TPD benefit?*

Individuals whose injuries occurred on or after February 1, 2006, are eligible to receive TPD benefits.

SECTION 8: Vocational Rehabilitation/Maintenance Benefits

1. *What is vocational rehabilitation?*

Vocational rehabilitation includes, but is not limited to, counseling for job searches, supervising a job search program, and vocational retraining, including education at an accredited learning institution.

2. *When is the employee entitled to vocational rehabilitation?*

If the employee cannot return to the pre-injury job, the employer must pay for treatment, instruction, and training necessary for the physical, mental, and vocational rehabilitation of the employee, including all maintenance costs and incidental expenses. The employee must cooperate in a reasonable rehabilitation program.

The employee may choose the provider of such reasonable vocational rehabilitation services or may accept the services of a provider selected by the employer.

3. *What benefit is the employee entitled to while participating in an approved vocational rehabilitation program?*

An employee is entitled to maintenance benefits, plus costs and expenses incidental to the vocational rehabilitation program.

4. ***How is the maintenance benefit calculated?***

The maintenance benefit shall not be less than the employee's TTD rate.

5. ***Who is eligible for the maintenance benefit?***

Individuals whose injuries occurred on or after February 1, 2006, are eligible for the maintenance benefit.

SECTION 9: Permanent Partial Disability (PPD) Benefits

1. ***What is permanent partial disability (PPD)?***

PPD is:

a) the complete or partial loss of a part of the body; or
b) the complete or partial loss of use of a part of the body; or
c) the partial loss of use of the body as a whole.

"Loss of use" is not specifically defined in the law, but it generally means the employee is unable to do things he or she was able to do before the injury.

The Commission cannot make a PPD determination until the employee has reached maximum medical improvement or "MMI." PPD is paid only if the job-related injury results in some permanent physical loss.

2. ***What types of PPD benefits are awarded by the Commission?***

There are four types of PPD benefits:

a. Wage differential (Section 8(d)(1) of Workers' Compensation Act)

If, due to the injury, the employee obtains a new job that pays less than the pre-injury employment, he or she may be entitled to receive a wage differential award. The wage differential award is two-thirds (66 2/3%) of the difference between the amount the employee earns in the new job and the amount he or she would be earning in their prior employment.

For injuries that occur before September 1, 2011, benefits shall be paid for the life of the employee. For injuries that occur on or after September 1, 2011, benefits shall be paid for five years after the date of the award or until the employee reaches age 67, whichever is later.

An employee may be compensated for either the loss of wages or the permanent disability related to the same injury, but not both.

Example:

An employee was earning $1,000/week at the time of injury. While the employee was off work and recuperating, the pay for the job increased to $1,040/week. Due to the injury, the employee can only find a job that pays $500/week.

Pre-injury average weekly wage (AWW)	=	$1,000
Current AWW of pre-injury job	=	$1,040
AWW of post-injury job	=	$500
Wage differential	= $1,040 - $500 =	$540
PPD benefit	= $540 X 66 2/3% =	$360/week

b. Schedule of injuries (Section 8(e) of Workers' Compensation Act)

The Act sets a value on certain body parts, expressed as a number of weeks of compensation for each part. (See the chart at the end of this section). The number of weeks is then multiplied by 60% of the employee's AWW.

If a body part is amputated or if it cannot be used at all, that represents a 100% loss, and the employee is awarded the entire number of weeks listed on the chart. If the employee sustains a partial loss, the benefit is calculated by multiplying the percentage of loss by the number of weeks listed.

Example:

An employee earning $500 per week injures his or her thumb, and it is later determined there is a 10% loss of the use of the thumb.

PPD weekly rate	= $500 X 60% =	$300
Number of weeks	= 76 weeks X 10% =	7.6
PPD benefit	= 7.6 weeks X $300 =	$2,280

c. Non-schedule injuries (person as a whole) (Section 8(d)2)

If the condition is not listed on the schedule of injuries, but it imposes certain limitations, the employee may be entitled to a percentage of 500 weeks of benefits, based on the loss of the person as a whole. The number of weeks is then multiplied times 60% of the employee's AWW.

Example:

An employee earning $500/week suffers a back injury that is determined to have caused a 10% loss of the person as a whole.

PPD weekly rate	= $500 X 60% =	$300
Number of weeks	= 500 weeks X 10% =	50 weeks
PPD benefit	= 50 weeks X $300 =	$15,000

d. Disfigurement (Section 8(c) of Workers' Compensation Act)

An employee who suffers a serious and permanent disfigurement to the head, face, neck, chest above the armpits, arm, hand, or leg below the knee, is entitled to a maximum of 162 weeks of benefits at the PPD rate. The number of weeks is then multiplied by 60% of the employee's AWW.

A scar must heal for at least six months before a hearing to assess the disfigurement can be held.

An employee may not collect compensation for disfigurement and the loss of use for the same body part. For example, a person who undergoes carpal tunnel surgery and is found to have experienced some loss of use, may be awarded a benefit based on the body part or on the disfigurement from the surgery scars, but not both.

3. *How is the level of disability assessed?*

For injuries occurring before September 1, 2011, the Commission evaluates the physical impairment and the effect of the disability on the injured employee's life. Factors that may be considered include the individual's age, skill, occupation, training, ability to engage in certain kinds of activities, pain, stiffness, or limitation of motion.

For injuries occurring on or after September 1, 2011, the Commission bases the determination of disability on five factors:

(1) an impairment report prepared by a physician using the most current edition of the American Medical Association's "Guides to the Evaluation of Permanent Impairment."
(2) the occupation of the injured employee;
(3) the age of the employee at the time of the injury;
(4) the employee's future earning capacity; and
(5) evidence of disability corroborated by the treating medical records.

One of these factors may not be the sole determinant of disability. The relevance and weight of any factors used in addition to the level of impairment as reported by the physician must be explained by the arbitrator in the decision.

4. ***Is an employee eligible for compensation for pain and suffering for a work-related injury?***

Employees are not compensated for past pain and suffering, only for the residual pain that is part of the permanent disability.

5. ***What if the employee's condition changes?***

For wage differential benefits where the injury occurred on or after February 1, 2006, if the employee's physical condition changes during the 60 months after the award becomes final, either party may ask the Commission to adjust the award.

For all other PPD categories: if the employee's physical condition changes during the 30 months after the award becomes final, either party may ask the Commission to adjust the award.

PERMANENT PARTIAL DISABILITY BENEFITS
SCHEDULE OF BODY PARTS

	For injuries occurring				
	Before 7/20/2005	7/20/2005 - 11/15/2005	11/16/2005 - 1/31/2006	2/1/2006 - 6/27/2011	On or after 6/28/2011
Disfigurement	150	162	150	162	162
Thumb	70	76	70	76	76
First (index) finger	40	43	40	43	43
Second (middle) finger	35	38	35	38	38
Third (ring) finger	25	27	25	27	27
Fourth (little) finger	20	22	20	22	22
Great toe	35	38	35	38	38
Each other toe	12	13	12	13	13
Hand	190	205	190	205	205
--Carpal tunnel due to repetitive trauma					28.5 - 57
Arm	235	253	235	253	253
--Amputation above elbow	250	270	250	270	270
--Amputation at shoulder joint	300	323	300	323	323
Foot	155	167	155	167	167
Leg	200	215	200	215	215
--Amputation above knee	225	242	225	242	242
--Amputation at hip joint	275	296	275	296	296
Eye	150	162	150	162	162
--Enucleation of eye	160	173	160	173	173
Hearing loss of one ear (under WC Act)	50	54	50	54	54
Hearing loss of both ears (under WC Act)	200	215	200	215	215
Testicle--1	50	54	50	54	54
Testicle--2	150	162	150	162	162

The law places a value on certain body parts, expressed as a number of weeks of compensation for each part.

SECTION 10: Permanent Total Disability (PTD) Benefits

1. ***What is permanent total disability (PTD)?***

PTD is either:

a) The permanent and complete loss of use of both hands, both arms, both feet, both legs, both eyes, or any two such parts, e.g., one leg and one arm; or

b) A complete disability that renders the employee permanently unable to do any kind of work for which there is a reasonably stable employment market.

2. ***What is the PTD benefit?***

A claimant who is found to be permanently and totally disabled is entitled to a weekly benefit equal to two-thirds (66 2/3%) of his or her average weekly wage, subject to minimum and maximum limits, for life.

The minimums and maximums for PTD benefits are available ~~in Commission offices and~~ online at https://iwcc.illinois.gov/resources/benefits.html

3. ***Can a PTD recipient ever work?***

If an employee experiences a complete disability that renders the employee permanently unable to do any kind of work, and returns to work or is able to return to work, the employer may petition the Commission to terminate or modify the PTD benefit.

4. ***Does the PTD benefit amount stay fixed for life?***

If a case is decided by an arbitrator, an employee will be entitled to cost-of-living adjustments. Beginning on the second July 15th after the award became final, the recipient will receive a cost-of-living payment from the Commission's Rate Adjustment Fund that reflects the increase in the statewide average weekly wage during the preceding year. These payments are made monthly.

5. ***Can an employee receive both PTD and Social Security?***

Yes, if the employee qualifies under the terms of each program. If an employee receives both benefits, the Social Security Administration will apply a formula that may result in a reduction in the Social Security benefit.

SECTION 11: Death/Survivors' Benefits

1. ***What is the burial benefit?***

For injuries resulting in death that occurred before February 1, 2006, a benefit of $4,200 is provided to the survivor or the person paying for the burial. For injuries resulting in death occurring after February 1, 2006, the benefit is $10,000.

2. ***How is the amount of the survivors' benefit calculated?***

The benefit is two-thirds (66 2/3%) of the employee's gross average weekly wage during the 52 weeks before the injury, subject to minimum and maximum limits.

The minimums and maximums for the survivors' benefit are available online at https://iwcc.illinois.gov/resources/raf.html

3. ***Who is entitled to the survivors' benefit?***

The primary beneficiaries of the survivors' benefit are the spouse and children under the age of 18. If no primary beneficiaries exist, benefits may be paid to totally dependent parents. If no totally dependent parents exist, benefits may be paid to persons who were at least 50% dependent on the employee at the time of death.

4. ***If the surviving spouse remarries, does this have an effect on eligibility for survivors' benefits?***

If there are eligible children at the time of remarriage, benefits will continue.

If there are no eligible children at the time of remarriage, the spouse is entitled to a final lump sum payment equal to two years of compensation. All rights to further benefits are extinguished.

5. ***Does the benefit amount stay fixed for life?***

If a case is decided by an arbitrator, recipients of the survivors' benefit will be entitled to cost-of-living adjustments. Beginning on the second July 15th after the award became final, the recipient will receive an amount from the Commission's Rate Adjustment Fund that reflects the increase in the statewide average weekly wage during the preceding year. These payments are made monthly.