



# **Virginia Workers' Compensation Commission**

## **Quick Reference Guide**





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## Average Weekly Wage

If an injured worker lost more than 7 consecutive calendar days, although not in the same week, these periods should be noted on the Wage Chart using an asterisk (\*) in the Week No. column and are not to be counted in the calculations.

If an injured employee has worked less than 12 months, the earnings for the time worked should be used or the earnings for a similar employee may be used if the employee has worked less than 60 days.

### *Quick Facts:*

- "AWW" means Average Weekly Wage
- VWC Form #7A is the preferred method for submitting wage information to the Commission
- Use the gross earnings for the 52 weeks preceding the date of injury
- List any perquisites (amounts paid to the employee for meals, lodging, uniforms, etc.) in the spaces provided on the bottom section of the form and do not include in the total gross earnings



## Wage Chart

Employer's Statement of Wage Earnings

Virginia Workers' Compensation Commission  
333 E. Franklin St., Richmond, Virginia 23219

The boxes  
to the right  
are for the  
use of the  
insurer.

Reserved	VWC File Number 000-00-00
Insurer Code	Insurer Location
Insurer Claim Number	

<b>Employee</b>	<b>Address</b>
Name of Employee John P. Hurtworker	Date of Accident 07/10/2004
<b>Employer</b>	<b>Address</b>
Name of Employer Virginia Workers' Compensation Commission	Employee's Social Security Number xxx-xx-xxxx

PLEASE REFER TO THE FILING INSTRUCTIONS PRINTED ON THE BACK OF THIS FORM

Week No.	Week Ending Date	Days Worked	Gross amount paid, including overtime	Week No.	Week Ending Date	Days Worked	Gross amount paid, including overtime	Week No.	Week Ending Date	Days Worked	Gross amount paid, including overtime
1	07/18/03	5	200.00	19	11/21/03	6	240.00	37	03/26/04	6	240.00
2	07/25/03	6	240.00	20	11/28/03	5	200.00	38	04/02/04	5	200.00
3	08/01/03	5	200.00	21	12/05/03	5	200.00	39	04/09/04	5	200.00
4	08/08/03	5	200.00	22	12/12/03	5	200.00	40	04/16/04	5	200.00
5	08/15/03	5	200.00	23	12/19/03	5	200.00	41	04/23/04	5	200.00
6	08/22/03	6	240.00	24	12/26/03	5	200.00	42	04/30/04	5	200.00
7	08/29/03	5	200.00	25	01/02/04	4	160.00	43	05/07/04	5	200.00
8	09/05/03	5	200.00	26	01/09/04	5	200.00	44	05/14/04	5	200.00
9	09/12/03	5	200.00	27	01/16/04	5	200.00	45	05/21/04	4	160.00
10	09/19/03	5	200.00	28	01/23/04	5	200.00	46	05/28/04	6	280.00
11	09/26/03	5	200.00	29	01/30/04	5	200.00	47	06/04/04	5	220.00
12	10/03/03	5	200.00	30	02/06/04	5	200.00	48	06/11/04	5	220.00
13	10/10/03	5	200.00	31	02/13/04	4	160.00	49	06/18/04	5	220.00
14	10/17/03	6	288.00	32	02/20/04	6	296.00	50	06/25/04	5	220.00
15	10/24/03	6	294.00	33	02/27/04	5	200.00	51	07/02/04	5	220.00
16	10/31/03	5	200.00	34	03/05/04	5	200.00	52	07/09/04	4	176.00
17	11/07/03	5	200.00	35	03/12/04	5	200.00	<b>Totals</b>			
18	11/14/03	5	200.00	36	03/19/04	5	200.00				\$10,874.00

Value of perquisites for entire year: \_\_\_\_\_ Total gross earning \$ 10,874.00 Total weeks worked 52

Bonuses \$ 500.00 Electricity \$ \_\_\_\_\_  
 Meals/Lodging \$ \_\_\_\_\_ Water \$ \_\_\_\_\_  
 Meals Only \$ \_\_\_\_\_ Telephone \$ \_\_\_\_\_  
 Temporary Lodging \$ \_\_\_\_\_ Uniforms \$ \_\_\_\_\_  
 House Rent \$ \_\_\_\_\_ Laundry \$ \_\_\_\_\_  
 Tip Income \$ \_\_\_\_\_

Total value of perquisites \$ 500.00

Total earnings & perquisites \$ 11,374.00

VWC use only:

AWW: \_\_\_\_\_  
CR: \_\_\_\_\_

INSURER OR EMPLOYER (include name & signature)	Date	Telephone number
--	------	------------------

Wage Chart  
VWC Form No. 7A (rev. 07-01-06)

## EXAMPLE

Date of injury: 7/10/04

Date range you can use:  
7/10/03 to 7/09/04

## STEPS:

1. Add up all applicable weeks
2. Add any perquisites to total (if any)
3. Divide by the number of weeks used

## This example:

$\$10,874.00 + \$500 =$   
 $\$11,374.00 \div 52 \text{ weeks} =$   
**\$218.73 AWW**



## Calculating Cost of Living (COLA)

### A Quick How-To

- $\text{*Net SS} \times 12 \div 52 = \text{weekly SS}$
- $\text{CR} + \text{weekly SS} = \text{total combined}$
- $\text{AWW} \times 80\% =$

*Average Weekly Wage (AWW)*  
*Compensation Rate (CR)*  
*Social Security (SS)*  
*\*after deduction for medicare premium*

If the total combined exceeds 80% of the average weekly wage (AWW), COLA is not due.

### EXAMPLE

$\$1,864 (\text{Net SS}) \times 12 \div 52 = \$430.15 \text{ weekly}$ $\$841 (\text{CR}) + \$430.15 (\text{Weekly SS}) = \$1,271.15 \text{ total}$ $\$2,232.23 (\text{AWW}) \times 80\% = \mathbf{\$1,785.78}$	$\$734 (\text{Net SS}) \times 12 \div 52 = \$169.38 \text{ weekly}$ $\$189.16 (\text{CR}) + \$169.38 (\text{Weekly SS}) = \$358.54 \text{ total}$ $\$283.75 (\text{AWW}) \times 80\% = \mathbf{\$227.00}$
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**COLA ELIGIBLE**

**NOT COLA ELIGIBLE**

## Min/Max Rate Chart

Virginia Workers' Compensation Commission Chronological Compensation Benefits Chart								
Year	Weekly Minimum (effective July 1)	Weekly Maximum (effective July 1)	% of Weekly Wage	Maximum Benefit Weeks	COLA (effective Oct. 1)	Limit of Medical Benefits	Mileage Reimbursement Rate	Burial Transportation Expenses
2026				500	2.85%	Life	0.725 effective 1/1/26	Burial not exceeding \$10,000 Transportation not exceeding \$1,000
2025	\$365.78	\$1,463.10	66 2/3%	500	2.85%	Life	\$0.70 (effective 1/1/25)	Burial not exceeding \$10,000 Transportation not exceeding \$1,000
2024	\$352.50	\$1,410.00	66 2/3%	500	3.35%	Life	\$0.67 (effective 1/1/24)	Burial not exceeding \$10,000 Transportation not exceeding \$1,000
2023	\$335.75	\$1,343.00	66 2/3%	500	6.40%	Life	\$0.655 (effective 1/1/23)	Burial not exceeding \$10,000 Transportation not exceeding \$1,000
2022	\$322.50	\$1,290.00	66 2/3%	500	7.40%	Life	\$0.585 (effective 4/1/22) \$0.625 (effective 7/1/22)	Burial not exceeding \$10,000 Transportation not exceeding \$1,000
2021	\$298.75	\$1,195.00	66 2/3%	500	1.40%	Life	\$0.555	Burial not exceeding \$10,000 Transportation not exceeding \$1,000
2020	\$284.25	\$1,137.00	66 2/3%	500	2.30%	Life	\$0.555	Burial not exceeding \$10,000 Transportation not exceeding \$1,000
2019	\$275.50	\$1,102.00	66 2/3%	500	1.85%	Life	\$0.555	Burial not exceeding \$10,000 Transportation not exceeding \$1,000
2018	\$270.50	\$1,082.00	66 2/3%	500	2.15%	Life	\$0.555	Burial not exceeding \$10,000 Transportation not exceeding \$1,000
2017	\$260.75	\$1,043.00	66 2/3%	500	2.05%	Life	\$0.555	Burial not exceeding \$10,000 Transportation not exceeding \$1,000



## Converting Partial Week of Temporary Partial Disability (TPD)

### A Quick How-To

- All figures are to be converted into weekly figures (7 days)
- Calculate the average earned by the injured worker for the specified time frame
- Determine the number of days the injured worker worked
- The average earned  $\div$  by the number of days worked = the daily rate
- Convert that amount into a weekly rate by multiplying by 7 (for 7 days/week). This is the post-injury wage (PIW)
- $AWW - PIW \times .66667 = TPD \text{ rate}$

### EXAMPLE

AWW =	\$652.56
Partial PIW earnings of the injured worker	\$238.55
Number of days worked	4
Convert to a daily PIW: $\$238.55 \div 4 =$	\$59.64 daily PIW
Convert to a weekly PIW: $\$59.64 \times 7 =$	\$417.48 weekly PIW
AWW - PIW: $\$652.56 - \$417.48 = \$235.08$ and multiply by .66667 = TPD Compensation Rate	$\$235.08 \times .66667$ <b>\$156.72 TPD rate</b>

*AWW- Average Weekly Wage*  
*PIW- Post-Injury Wage*  
*TPD- Temporary Partial Disability*  
*CR- Compensation Rate*

\* For assistance with calculations, please contact the Commission at 877-664-2566.



## Calculating Permanent Partial Disability (PPD) Virginia Code § 65.2-503

### A Quick How-To

Multiply (rating) "x" number of weeks for body part "x" compensation rate = total amount due claimant.

### EXAMPLE

20% loss of use of arm:  
 $200 \times 20\% = 40 \text{ weeks due}$

LOSS	COMPENSATION PERIOD
Thumb	60 weeks
First finger (index finger)	35 weeks
Second finger	30 weeks
Third finger	20 weeks
Fourth finger (little finger)	15 weeks
<i>1st phalanx of the thumb or any finger is equal to half compensation for loss of entire thumb or finger.</i> <i>Loss of more than one phalanx of thumb or any finger is deemed 100% loss of entire thumb or finger.</i> <i>Amounts received for loss of more than one finger shall not exceed compensation for loss of hand.</i>	
Great toe	30 weeks
Any toe other than great toe	10 weeks
<i>Loss of more than one phalanx of a toe is deemed loss of the entire toe.</i>	
Hand	150 weeks
Arm	200 weeks
Foot	125 weeks
Leg	175 weeks
Permanent loss of vision of an eye	100 weeks
Permanent loss of hearing of an ear	50 weeks
Severely marked disfigurement	Not exceeding 60 weeks
First stage of pneumoconiosis, silicosis & asbestoses	50 weeks
Second stage of pneumoconiosis, silicosis & asbestoses	100 weeks
Third stage of pneumoconiosis, silicosis & asbestoses	300 weeks
Byssinosis	50 weeks





Jurisdiction Claim Number (JCN)

Claim Administrator Number

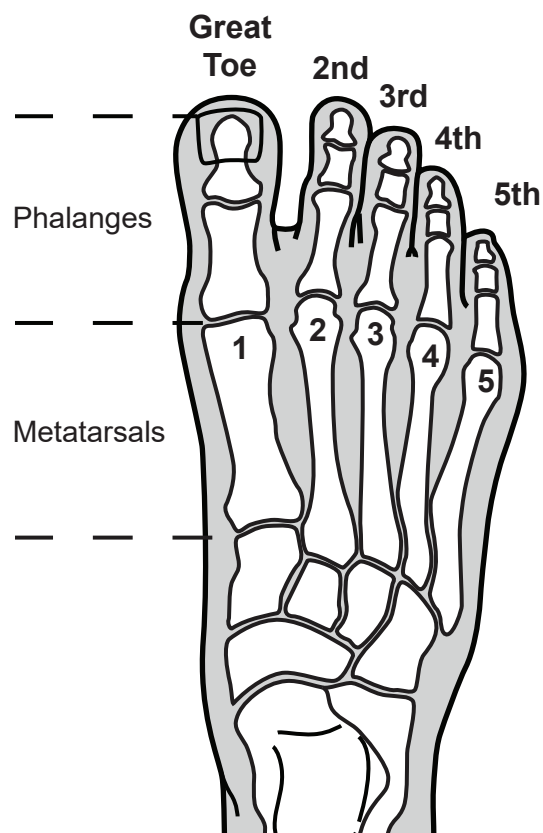
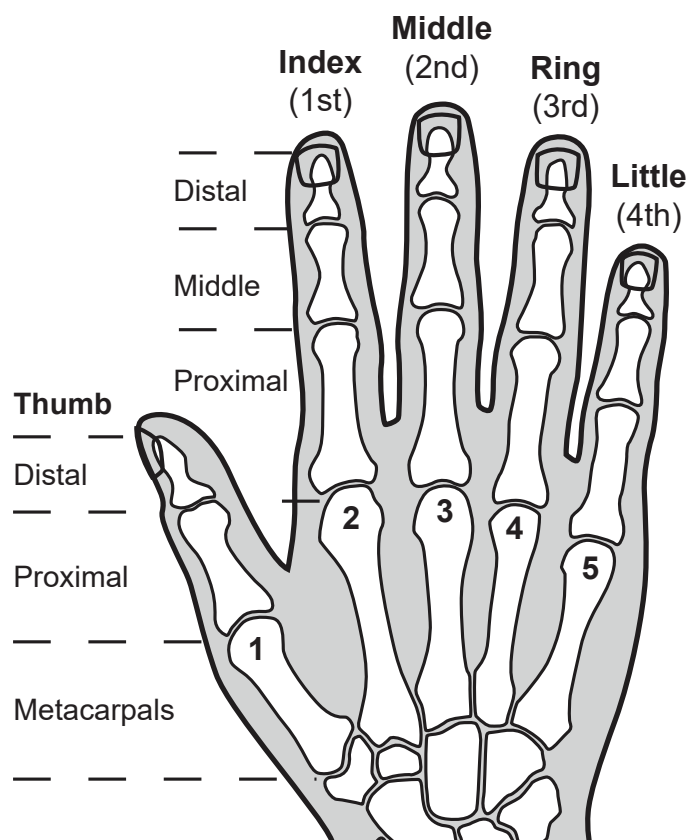
**Injured Worker Information**

Patient's Name

Date of Injury/Occupational Disease

Date of Amputation

Name of Company/Employer

**Amputation Chart - Hand/Foot***The physician should complete this form with a straight line drawn at the exact point of amputation. Circles are not acceptable.*

Which hand?

Which foot?

**Attending Physician**

Attending Physician's Name

Address

City

State

Zip Code

I certify that I personally examined and treated this patient.

SIGNATURE OF PHYSICIAN

DATE

### Amputation Chart

The treating physician completes this form to provide information to support an injured worker's claim which resulted in amputation to the hand, fingers, metacarpal bones; or, the foot, toes (phalanges) or metatarsals.

### Instructions

The physician should complete this form with a straight line drawn at the exact point of amputation. Circles are not acceptable. This will allow the Commission to determine an accurate entitlement of permanent partial disability benefits.

This form may be filed electronically through the Commission's WebFile system at:

[webfile.workcomp.virginia.gov](http://webfile.workcomp.virginia.gov).

To file electronically, the user must have a valid and active WebFile account. This form may also be filed by mail or in-person at 333 E. Franklin St., Richmond, Virginia 23219.

For questions or assistance with completing this form, please contact the Virginia Workers' Compensation Commission toll-free at 877-664-2566.

### Ombudsman Office

Have questions about the Virginia Workers' Compensation Commission and no lawyer? Call the Ombuds Department at 833-448-1681, or email [ombuds@workcomp.virginia.gov](mailto:ombuds@workcomp.virginia.gov). We cannot give legal advice, but all conversations will be kept confidential.



## Calculating Vision Loss

The percentage of visual acuity is based on the Snellen's Chart (Rule 13). If the injured worker had pre-existing loss of vision, it is subtracted from the post-injury reading prior to determination of the percentage of loss.

SNELLEN'S CHART READINGS	PERCENTAGE OF LOSS OF VISUAL ACUITY
20/20	0
20/25	5
20/30	10
20/40	20
20/50	25
20/60	33.5
20/70	40
20/80	50
20/90	62.5
20/100	75
20/110	80
20/120	85
20/130	87
20/140	89
20/150	91
20/160	93
20/170	95
20/180	97
20/190	99
20/200	100



## Calculating Hearing Loss

- 100% loss of hearing to an ear is equal to 50 weeks of compensation benefits
- Hearing loss percentages are determined by the Hearing Loss Table - Rule 12 of the Rules of the Virginia Workers' Compensation Commission

## Hearing Loss Table (Rule 12)

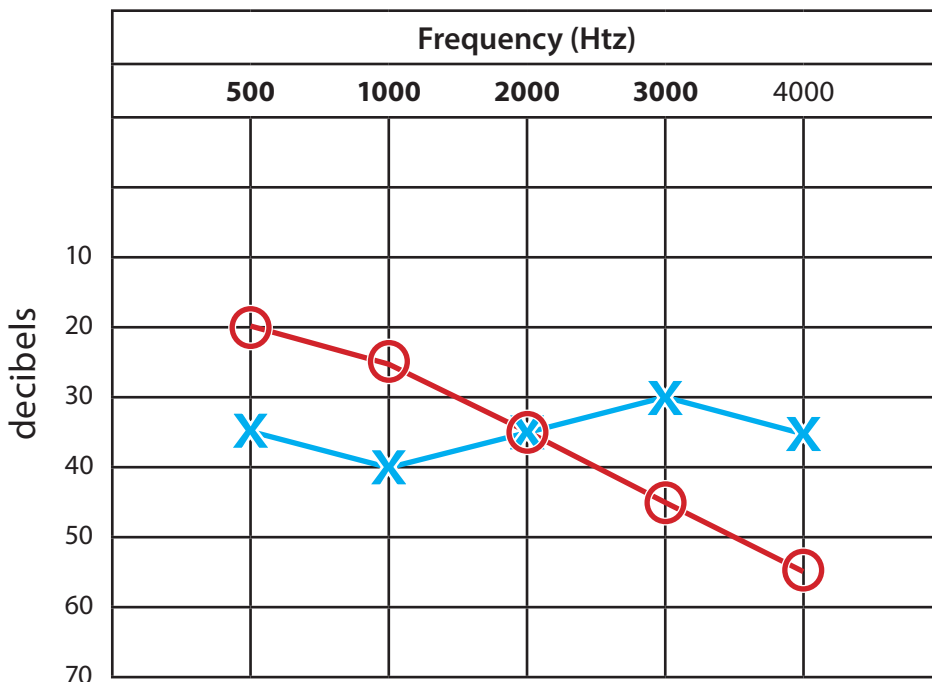
Average Decibel Loss	Percent of Compensable Hearing Loss	Average Decibel Loss	Percent of Compensable Hearing Loss
27	0.8	60	55.0
28	2.2	61	56.7
29	3.6	62	58.3
30	5.0	63	60.0
31	6.7	64	61.7
32	8.3	65	63.3
33	10.0	66	65.0
34	11.7	67	66.7
35	13.3	68	68.3
36	15.0	69	70.0
37	16.7	70	71.7
38	18.3	71	73.3
39	20.0	72	75.0
40	21.7	73	76.4
41	23.3	74	77.8
42	25.0	75	79.2
43	26.7	76	80.6
44	28.3	77	82.0
45	30.0	78	83.4
46	31.7	79	84.8
47	33.3	80	86.2
48	35.0	81	87.6
49	36.7	82	89.0
50	38.3	83	90.4
51	40.0	84	91.8
52	41.7	85	93.2
53	43.3	86	94.6
54	45.0	87	96.0
55	46.7	88	97.4
56	48.3	89	98.8
57	50.0	90 and over	100
58	51.7		
59	53.3		



## Hearing Loss- Audiogram Example

- An audiogram graph is used to measure hearing loss intensity and frequency
  - The symbol O represents the right ear
  - The symbol X represents the left ear
  - Hertz (Hz): The measurement standard for the *frequency* or frequency of sound. On an audiogram, these typically range from 250 Hz to 8,000 Hz.
  - decibels (dB HL): The measurement standard for the *amplitude* or loudness/intensity of sound. On an audiogram, these typically range from 0 to 110 dB HL.
- Calculating hearing loss:
  - Add the decibels on the audiogram for each ear at 500, 1,000, 2,000, and 3,000
  - Divide the total by 4 = average decibel of hearing in that ear
- The average decibel of hearing is equal to the percentage of compensable hearing loss, if any.  
*Note:* Hearing that is less than 27 average decibels is not at a compensable level pursuant to the Virginia Workers' Compensation Act
- Use rounding rule: .50 decibels round up, below .50 decibels round down

## Audiogram Example



### Right Ear - O

20 dB

25 dB

35 dB

+ 45 dB

---

 125 dB ÷ 4 = 31.25

Average decibel loss = 6.7%

### Left Ear - X

35 dB

40 dB

35 dB

+ 30 dB

---

 140 dB ÷ 4 = 35

Average decibel loss = 13.3%



### Third Party Settlements and Request for Offset Toward Future Benefits

- Third party settlements and offset toward future benefits may apply when an injury occurs from a traffic accident or from a faulty equipment incident, etc.
- Information for lien against settlement proceeds/third party recoveries can be found in Virginia Code §§ 65.2-309 – 311.
- Virginia Code § 65.2-313 provides information on employer offset.

Information needed by the Virginia Workers' Compensation Commission when submitting a request for an offset award towards future benefits payable based on proceeds from the third party settlement.

- Date of the third party settlement
- Total amount of the third party settlement
- Total amount of the carrier's original lien
- Amount the carrier recovered from the original lien
- Total amount of the third party settlement cost
- Total amount of the third party settlement attorney fees
- Settlement disbursement sheet

### Determination of the offset amount

The total amount of the settlement minus the carrier/employer's original lien.

#### Offset Amount:

Ex:	\$75,000.00	Full Settlement
	- \$18,565.00	Statutory Lien
	<u>\$56,435.00</u>	Employers Offset

### Determination of percentage of pro rata share of fees and costs

The amount of the attorney fees and costs.

#### Offset Percentage:

Ex:	\$20,000.00	Attorney Fee
	+ \$565.00	Attorney Cost
	<u>\$20,565.00</u>	Total Attorney Fees and Costs
	÷ 75,000.00	Full Settlement
	<u>.27</u>	
	<u>27%</u>	Offset for reduction of future benefits

**Exception:** Any portion of a third party recovery that was received based upon the claimant's Underinsured Motorist coverage does not apply to the workers' compensation claim for an offset. Attorney fees should be adjusted accordingly.



## Subrogation Lien Recovery Checklist

Injured Worker: \_\_\_\_\_

Claim Number: \_\_\_\_\_

JCN: \_\_\_\_\_

In order for the Commission to determine the effect of the third party settlement on the workers' compensation case, it will be necessary to provide the following information:

\_\_\_\_\_ Date of the third party settlement

\$\_\_\_\_\_ Total amount of the third party settlement

\$\_\_\_\_\_ Total amount of the carrier's lien

\$\_\_\_\_\_ Total amount that the carrier recovered from the lien

\$\_\_\_\_\_ Total amount of the third party settlement attorney costs

\$\_\_\_\_\_ Total amount of the third party settlement attorney fees



## VWC Calculator Application

On the Commission's website, [workcomp.virginia.gov](http://workcomp.virginia.gov),

**VWC Resources**, Online Tools and Calculators



Choose one of the calculators below to get started.

Basic Calculator

Multiple Period Calculator

Lump Sum Calculator

Interest Calculator

COLA Calculator





### Basic Calculator

- TTD, TPD and PPD
- 500 weeks

### Multiple Period Calculator

- TTD, TPD and PPD for multiple periods
- 5+ benefit lines

### Lump Sum Calculator

- PPD (4% discount compounded annually)
- Lump sum request date = date award processed

### Interest Calculator

- Interest due after Review Opinion
- Required:
  - opinion appeal date
  - compensation begin/end date
  - issue payment date
  - compensation rate

### COLA Calculator

- COLA due
- Maximum CR exceeded > cell turns red



## Calculator Examples

### Basic Calculator

**Choose a Benefit Type**

TT - Temporary Total    Select Body Part    % Loss

**Enter Benefit Information**

Date of Injury 01/01/2014

Average Weekly Wage \$9.89

Partial Weekly Wage

Compensation Rate \$659.33

Start Date 01/10/2014

End Date 05/15/2015

Weeks Due 70.14286

Compensation Due \$46,247.29

Compensation Paid

Difference \$46,247.29

Calculate    Reset Form

### Multiple Period Calculator

Benefit Type	Body Part	Percent Loss	Accident Date	Average Wage	Partial Wage	Comp Rate	Start Date	End Date	Weeks Due	Comp Due	Comp Paid	Difference	Action
PP	Leg	10.00%	01/01/2014	\$989.00		\$659.33			17.5	\$11,538.28		\$11,538.28	Calculate
PP	Leg	10.00%	01/01/2014	\$989.00		\$659.33			17.5	\$11,538.28		\$11,538.28	Calculate
PP	Arm	5.00%	01/01/2014	\$989.00		\$659.33			10	\$6,593.30		\$6,593.30	Calculate
<div style="text-align: right;"> <b>TOTALS</b>                      Weeks Due 45                      Compensation Due \$29,669.86                      Compensation Paid \$0.00                      Difference \$29,669.86                 </div>													
<div style="text-align: center;"> <span>Add another benefit</span> </div>													



Lump Sum Calculator

Enter Required Benefit Info

Accident Date   
 Start Date   
 PP Weeks Awarded   
 Compensation Rate   
 Lump Sum Request Date

Lump Sum Details

PP Weeks Accrued   
 Through Date   
 Lump Sum Weeks   
 Discount Compensation Rate   
 Lump Sum Amount   
 Discount Amount

Interest Calculator

Enter Required Benefit Info

Accident Date   
 Date of Opinion   
 Benefit Start Date   
 Benefit End Date   
 Compensation Rate   
 Date Paid

Interest Details

Weeks Due   
 Daily Interest Rate   
 Due At Opinion   
 Daily Rate   
 Days Delayed   
 Interest Due   
 Total Compensation



## COLA Calculator

## Enter Benefit Information

Accident Date   
 Begin Date   
 End Date   
 Compensation Rate   
 COLA Paid

## Results

Compounded Comp Rate	\$669.22
Maximum In Effect	\$967.00
Total Due	\$320.72
Difference	\$320.72

Rate Year	COLA %	From	To	Previous Rate	CC Rate	Max Rate	COLA	Weeks	COLA Due
2014	1.5	10/01/2014	05/15/2015	\$659.33	\$669.22	\$967.00	\$9.89	32.42857	\$320.72

## Browser Requirements

To use this application, your browser must have JavaScript enabled.

We recognize that our users may have various internet browsers and operating systems or devices. We like our visitors to have the best possible experience when using our applications. The Virginia Workers' Compensation Commission recommends Google Chrome for best results or any other modern web browsers with HTML5 and CSS3 compatibility.

NOTE: If you are using Microsoft Internet Explorer and still encounter problems, please verify that your browser is not operating in Compatibility Mode.

## Disclaimer

The VWC Calculator Application is a reference tool provided by the Virginia Workers' Compensation Commission. Ultimately, the amount of benefits due will be determined by the Commission on a case-by-case basis, according to eligibility and corresponding statutes.



## **Vocational Rehabilitation Guidelines**

*(effective October 1, 2015)*

The Virginia Workers' Compensation Commission has issued these guidelines for vocational rehabilitation with the hope that the guidelines will provide better understanding between the parties, facilitate appropriate vocational rehabilitation, and eliminate needless conflict and litigation.

Neither the Virginia Workers' Compensation Act nor the regulations of the Commission have any provisions regarding the licensure or certification of rehabilitation counselors. Therefore, the Commission does no regulation on this point. Reference should be made to the provisions of Title 54.1 referenced in Virginia Code § 65.2-603(A)(3) of the Workers' Compensation Act.

### **I. THE VOCATIONAL REHABILITATION PROCESS**

Vocational rehabilitation services may only be provided by rehabilitation providers certified in accordance with Virginia Code § 54.1-3510 et seq. Certified Rehabilitation Providers must comply with the Regulations Governing the Certification of Rehabilitation Providers, 18 VAC 115-40-10 et seq., Part V Standards of Practice, or by rehabilitation providers certified in accordance with the laws of the state where the vocational rehabilitation services are provided.

- A. Vocational rehabilitation services, including vocational evaluation, counseling, job coaching, job development, job placement, on-the-job training, education, and retraining, shall take into account the employee's pre-injury job and wage classification; age, aptitude and level of education; the likelihood of success in the new vocation; and the relative costs and benefits of such services. Retraining should be considered if job placement efforts are not successful, or the employee's transferable skills are not readily marketable.
- B. The provider should not ask the employee to engage in job development, job placement or on-the-job training until he/she is medically released for work. However, the provider may require the employee to meet in order to assess the employee's potential for work, and to prepare résumés and to schedule other appropriate actions, such as attending job preparation training, in anticipation of employment.
- C. The two goals of vocational rehabilitation are to restore the employee to gainful employment, and to relieve the employer's burden of future compensation. Rehabilitation providers should attempt to find employment within the employee's medical restrictions consistent with the employee's pre-injury position and salary level, and the provider should take into account such factors as distance, transportation costs, and actual anticipated earnings from the potential job, when considering such alternative employment.
- D. It is the rehabilitation provider's responsibility to assess employment opportunities by direct contact with potential employers when possible or through research in the labor market as to how the job is commonly performed in the local economy. The assessment should determine whether a suitable position is presently available that is within the employee's restrictions and for which the employee is qualified. The provider shall not send the employee to apply or interview for positions not suitable for the employee with or without reasonable accommodation, but the provider may ask the employee to develop résumés and to attend job preparation training as well as job fairs. The provider may ask the employee to attend interviews for present employment opportunities where the treating physician anticipates that the employee will be released to such work within a reasonably brief period.



## **Vocational Rehabilitation Guidelines (continued)**

*(effective October 1, 2015)*

- E. Telemarketing and commission sales positions are only appropriate job placement when the employee has demonstrated aptitude or ability in this line of work. Interviews with sheltered workshops and selective employers who are subsidized by employers/carriers are inappropriate if they do not provide the potential for legitimate rehabilitation, such as learning work skills or restoring the employee to a productive place in the labor market.
- F. It is the responsibility of the provider to assist the employee in all aspects of the vocational rehabilitation process such as appropriate presentation, interviewing skills, discussion of limitations with employers, and other employability factors. The employee will be counseled in accordance with the Standards of Practice for Certified Rehabilitation Providers, 18 VAC 115-40-40. Requiring employees to look in newspapers, contact a specific number of potential employers per week, check listings at the VEC, or register with agencies for short-term jobs does not constitute appropriate "vocational rehabilitation."
- G. Rehabilitation providers may not advise the employee to withhold information about his/her injury or job capabilities during job interviews or on applications. However the employee may not discuss them in such a way as to sabotage the interview or application process. Any discussion should be limited to the question of whether the employee can perform the job(s) at issue with or without reasonable accommodation.
- H. Employees are not required to give rehabilitation providers personal or financial information, such as number of children, spouse's employment, or credit history, unless such information relates to a bona fide occupational qualification for employment. An employee is required to disclose whether he/she is legally eligible for employment, including their Social Security number, has a valid driver's license, or has been convicted of a felony or a misdemeanor, and to provide his/her previous employment history.

## **II. MEETINGS BETWEEN EMPLOYEES AND PROVIDERS**

- A. Meetings should be held at reasonable times and places for both the employee and provider. Employees are not required to invite rehabilitation providers onto their property or into their homes. Also, just as the employee must cooperate with reasonable demands of the rehabilitation provider that are likely to return him/her to gainful employment, the provider must make reasonable accommodation for the employee's personal life, such as medical conditions and transportation problems.
- B. Routine telephone contact should be made between 9:00 a.m. and 6:00 p.m. No calls should be made before 7:00 a.m. or after 10:00 p.m. except in cases of emergency.
- C. The provider should give the employee advance notice, in writing or by phone, of meetings between the rehabilitation provider and employee, and of employment interviews. A minimum of two calendar days' notice of any meeting or employment interview is suggested, except for exceptional situations.
- D. Prior to being released to selective employment, the employee does not have to seek employment. However, the employee must meet with the provider for the purpose of a vocational assessment.



## **Vocational Rehabilitation Guidelines (continued)**

*(effective October 1, 2015)*

### **III. ROLE OF EMPLOYEE'S ATTORNEY**

- A. Employees have the right to have their attorney present at the initial rehabilitation meeting. However, an attorney may not delay such a meeting for more than 10 business days after initial contact by the rehabilitation provider with the employee's attorney.
- B. An employee may consult with his/her attorney at any time. Actions of the attorney will be imputed to the employee for the purposes of considering whether the employee is cooperating.

### **IV. MEDICAL ASPECTS OF VOCATIONAL REHABILITATION**

- A. As the vocational rehabilitation provider's role is limited to providing vocational rehabilitation, the provider is prohibited from medically managing the employee's treatment in any way, even if requested by the physician.
- B. Monitoring treatment is not medical management. Determining return to work status is part of the rehabilitation process intended to enhance communication between all parties involved in the rehabilitation process. With the consent of the physician, the provider may meet with the doctor outside of the employee's presence. The employee is not required to sign a consent granting the provider access to the physicians. If the physician does not wish to communicate with the provider, information will have to be obtained by other means provided or permitted by law.
- C. The employee has the right to a private examination by and consultation with the medical provider without the presence of any certified rehabilitation provider and/or nurse or case manager.
- D. In order to determine the work capacity of the employee, the provider may require the employee to submit to a functional evaluation, if approved and authorized by the employee's treating physician or an independent medical examiner.

### **V. TRANSPORTATION AND OTHER COSTS**

- A. The employee is entitled to reimbursement for expenses incurred in rehabilitation efforts. This includes mileage costs for trips to rehabilitation meetings, obtaining or returning applications, attending interviews, and other travel at the direction of the provider. Costs incurred for telephone calls, photocopying, postage, and obtaining DMV and other records are also reimbursable, if such are requested by the rehabilitation provider or a potential employer.
- B. If the claimant does not have access to transportation, it is the responsibility of the employee to notify the vocational rehabilitation provider. The vocational rehabilitation provider should contact the carrier regarding the issue and make appropriate arrangements as directed/approved by the carrier to insure the employee's attendance at meetings and interviews. This may include the carrier forwarding mileage payments in advance or arranging appropriate alternative transportation. The employee must provide information explaining why transportation is or is not available.



## Marketing Guidelines

### GUIDELINES ON LOOKING FOR LIGHT DUTY WORK

1. **Good faith search for work** - An employee who is partially disabled – i.e., unable to perform his or her regular job, but able to perform light duty work – is required to seek light duty work in good faith in order to receive disability benefits if he or she is not on an open award.
2. **Factors the Commission considers** - In deciding whether a partially disabled employee has made a reasonable effort to find suitable light duty employment the Commission considers such factors as: (1) the nature and extent of the disability; the employee's training, age, experience and education; (3) the nature and extent of the job search; (4) the availability of jobs in the area suitable for the employee considering his or her disability; (5) any other matter affecting the employee's capacity to find suitable employment.
3. **Evidence of reasonable effort** - It is presumed that in most cases the claimant made a reasonable effort to market residual work capacity when he or she (a) registered with the Virginia Employment Commission within a reasonable time after being released to return to work and (b) directly contacted at least five potential employers per week where the employee has a reasonable basis to believe that there might be a job available that he or she might be able to \*perform and (c) if appropriate, contacted the pre-injury employer for light duty work.
4. **Keep a job search record** - Information provided by the injured worker about job contacts should be supported by facts, preferably in writing, about the names of the employers contacted; where the employers are located; the date(s) the contact was made; whether the contact was in person, by phone or via internet; and the result of the contact.
5. **Pre-injury skills or experience** - Where an injured worker has particular job skills or training, he or she may focus the search on jobs in that field if there are jobs in that field that the employee can reasonably perform. However, if within a reasonable amount of time the search is not successful, the employee must broaden the search beyond that field.
6. **Method of Contacting Employers** - Employer contacts should be conducted in a manner reasonably suited to the position sought, which in some cases may be personal visits. In other cases, contacts may be by phone, internet, mail, or through employment agents such as union hiring halls.
7. **Attempt to maximize earnings** - If the employee locates and takes a job that pays substantially less than his or her pre-injury job, the employee should continue looking for a higher paying job.

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\* It is not necessary to prescreen or know for certain of the availability of a suitable job.





Jurisdiction Claim Number (JCN)

Claim Administrator Number

**Injured Worker Information**

Name	Date of Injury/Occupational Disease		
Address	City	State	Zip Code

**Marketing/Job Search Log**

Date	Name of Company: Job Title: Address: Contact Method: <input type="checkbox"/> In Person <input type="checkbox"/> Internet <input type="checkbox"/> Phone	Name of Contact: Were there any openings? <input type="checkbox"/> Yes <input type="checkbox"/> No Outcome:
Date	Name of Company: Job Title: Address: Contact Method: <input type="checkbox"/> In Person <input type="checkbox"/> Internet <input type="checkbox"/> Phone	Name of Contact: Were there any openings? <input type="checkbox"/> Yes <input type="checkbox"/> No Outcome:
Date	Name of Company: Job Title: Address: Contact Method: <input type="checkbox"/> In Person <input type="checkbox"/> Internet <input type="checkbox"/> Phone	Name of Contact: Were there any openings? <input type="checkbox"/> Yes <input type="checkbox"/> No Outcome:
Date	Name of Company: Job Title: Address: Contact Method: <input type="checkbox"/> In Person <input type="checkbox"/> Internet <input type="checkbox"/> Phone	Name of Contact: Were there any openings? <input type="checkbox"/> Yes <input type="checkbox"/> No Outcome:
Date	Name of Company: Job Title: Address: Contact Method: <input type="checkbox"/> In Person <input type="checkbox"/> Internet <input type="checkbox"/> Phone	Name of Contact: Were there any openings? <input type="checkbox"/> Yes <input type="checkbox"/> No Outcome:

Please attach copies reflecting the submission of any applications via online and any correspondence received in response to your applications.



### Good Faith Search for Work

An injured worker who is partially disabled (unable to perform his or her or her regular job, but able to perform light duty work) is **required** to seek light duty work in good faith in order to receive disability benefits if he or she is not on an open award.



### Factors the Commission Considers

In deciding whether a partially disabled injured worker has made a reasonable effort to find suitable light duty employment, the Commission considers such factors as:

- (1) the nature and extent of the disability;
- (2) the injured worker's training, age, experience and education;
- (3) the nature and extent of the job search;
- (4) the availability of jobs in the area suitable for the injured worker considering his or her disability;
- (5) any other matter affecting the injured worker's capacity to find suitable work.



### Evidence of Reasonable Effort

It is presumed that in most cases the claimant made a reasonable effort to market residual work capacity when he or she:

- (1) registered with the Virginia Employment Commission within a reasonable time after being released to return to work and;
- (2) directly contacted at least five (5) potential employers per week where the injured worker has reasonable basis to believe that there might be a job available that he or she might be able to perform\* and;
- (3) if appropriate, contacted the pre-injury employer for light duty work.

\*It is not necessary to prescreen or know for certain of the availability of a suitable job.



### Keep a Job Search Record

Information provided by the injured worker about job contacts should be supported by facts, preferably in writing, about the names of the employers contacted; where the employers are located; the date(s) the contact was made; whether the contact was in person, by phone or via internet; and the result of the contact. Please attach printouts reflecting the submission of any applications via Internet and any correspondence received in response to your application.



### Pre-injury Skills or Experience

Where an injured worker has particular job skills or training, he or she may focus the search on jobs in that field if there are jobs in that field that the injured worker can reasonably perform. However, if within a reasonable amount of time the search is not successful, the injured worker must broaden the search beyond that field.



### Method of Contacting Employers

Employer contacts should be conducted in a manner reasonably suited to the position sought, which in some cases may be personal visits. In other cases, contacts may be by phone, internet, mail, or through employment agents such as union hiring halls.



### Attempt to Maximize Earnings

If the injured worker locates and accepts a job that pays substantially less than his or her or her pre-injury job, the injured worker should continue looking for a higher paying job.

### Ombudsman Office

Have questions about the Virginia Workers' Compensation Commission and no lawyer? Call the Ombuds Department at 833-448-1681, or email [ombuds@workcomp.virginia.gov](mailto:ombuds@workcomp.virginia.gov). We cannot give legal advice, but all conversations will be kept confidential.



