

Permanent Partial Disabilities

Self-Insurance Claims Adjudication Guidelines

	Page
<u>Definition</u>	3
<u>Loss of Bodily Function</u>	3
<u>Theory of Reserve Power</u>	3
<u>Tooth Loss</u>	3
<u>PPD Ratings</u>	4
<u>Pain and PPD Awards</u>	4
<u>Who Can Rate</u>	4
<u>Rating Reports</u>	5
<u>Types of PPD Ratings</u>	5
<u>Specified PPD</u>	5
<u>Pay at the Level Rated</u>	6
<u>Unspecified PPD</u>	6
<u>Injuries on or After October 1, 1974</u>	6
<u>Injuries from July 1, 1971 through September 30, 1974</u>	7
<u>PPD Award Limits</u>	7
<u>Self-Insured Employers’ Authority</u>	7
<u>Payment of PPD Awards</u>	8
<u>Timely PPD Payments</u>	8
<u>Advances</u>	8
<u>Scheduled Payments</u>	8
<u>Dates of Injury Prior to June 15, 2011</u>	8
<u>Dates of Injury on or After June 15, 2011</u>	8
<u>Lump Sum Payments</u>	8
<u>Minor Worker</u>	9
<u>Incarcerated Worker</u>	9
<u>Deceased Worker</u>	9
<u>Liens</u>	10
<u>Board or Court Orders for PPD</u>	10
<u>PPD Awards for Mental Health</u>	11
<u>Pre-Existing Conditions</u>	11
<u>Asymptomatic Condition</u>	11
<u>Symptomatic and Disabling Condition</u>	11

<u>Additional PPD Under the Same Claim</u>	12
<u>PPD Paid Under a Different Claim</u>	12
<u>Remaining Amputation Value</u>	13

Definition

Permanent partial disability (PPD) is defined by [RCW 51.08.150](#) as “loss of either one foot, one leg, one hand, one arm, one eye, one or more fingers, one or more toes, any dislocation where ligaments were severed where repair is not complete, or any other injury known in surgery to be permanent partial disability”.

The courts have further defined PPD to include the following:

- A condition arising from the injury that is fixed, lasting and stable.
 - If further improvement is possible with medical treatment, it is not a permanent impairment.
 - A condition can be fixed and still require palliative treatment.
- Any impairment of physical or mental function which detracts from the worker’s physical or mental efficiency and thus hinders the worker in the ordinary pursuits of life.

Loss of Bodily Function

[WAC 296-20-19000](#)

PPD is based on loss of bodily function. The dollar amounts for PPD awards are set by legislature. The worker may dispute the rating itself, but not the dollar value of the rating. The amount of the PPD award is based on the schedule of benefits in effect **on the date of injury**.

Loss of wages and other economic considerations are not taken into account in individual claims. The legislature is presumed to have taken into account the general effect of specific types of injuries on wage loss when determining the PPD award schedule.

Theory of Reserve Power

[RCW 51.32.080\(3\)](#), [WAC 296-20-220](#)

PPD can be considered for a loss of function without disability. A worker is entitled to a PPD award for the loss of a body part even if a remaining body part can fully cover the functional loss (e.g., loss of an organ not causing disability) (*Kostida v. Dept of L&I*). This case denied the theory of a reserve power. In the case of body areas or systems which are category ratings or unspecified disabilities, with the exception of loss of hearing or vision, these PPD awards are rated based on a percentage of total bodily impairment (TBI).

Tooth Loss

PPD is paid to a worker who loses one or more teeth as a result of an industrial injury. The PPD is awarded only for original teeth, whether or not the tooth is replaced by a bridge or denture. PPD is awarded at one-half percent TBI for each tooth lost.

PPD Ratings

The rating of PPD is based on medical opinion in accordance with department rules (WACs), such as the category system or other nationally recognized rating systems, such as the American Medical Association (AMA) guidelines.

PPD includes both objective findings and subjective symptoms caused by the injury, either directly or by aggravation. The condition(s) must be causally related to the injury on a more probable than not basis.

The rating does not need to include the exact terminology as written in the statute or WACs, provided it can be reasonably interpreted.

Pain and PPD Awards

[WAC 296-20-19030](#)

The AMA *Guides to the Evaluation of Permanent Impairment* and the category system both incorporate subjective complaints. Subjective complaints, such as pain, cannot be objectively validated or measured. When rating PPD, reliance is primarily placed on objective findings.

Who Can Rate

[RCW 51.32.112](#), [WAC 296-20-2010](#)

Qualified attending providers or independent medical examiners may rate a worker's impairment. The rating should not be done until treatment is completed and the condition is medically stable.

Provider Type Currently Licensed In:	Able to rate?
Medicine and surgery	Yes
Osteopathic medicine and surgery	Yes
Podiatric medicine and surgery	Yes
Dentistry	Yes
Chiropractic	Yes, if department-approved consultant or IME examiner
Naturopathy	No
Optometry	No
Physician's Assistant (PA)	No
Advanced Registered Nurse Practitioners (ARNP), Including Psychiatric ARNPs	No

If the rating is done by an independent medical examiner, the report must be sent to the attending provider for review. The attending provider's opinion may, depending on the medical evidence presented, be given more weight by the Board of Industrial Insurance Appeals and Courts than one or more independent examiners. The attending provider:

- Is presumed to be more familiar with the overall course of the injury, able to average out good days and bad days.
- Has to have been treating the worker for some period of time before their opinion carries greater weight.
- May not carry greater weight if they are not a specialist in the area of medicine involved or qualified to do rating examinations.

Rating Reports

[WAC 296-20-2010](#), [WAC 296-23-377](#)

An impairment rating report must contain the following:

- A statement that the worker has reached maximum medical improvement and that no further curative treatment is recommended.
- Pertinent details of the physical examination performed (both positive and negative findings).
- Pertinent results of any diagnostic test performed (both positive and negative findings). Include copies of any pertinent tests or studies ordered as part of the exam.
- A rating consistent with the findings and a statement of the system on which the rating was based (e.g., AMA Guides, 5th edition; category rating system).
- Rationale for the rating supported by objective findings. For ratings using the AMA Guides, the rationale must state the tables, figures and page numbers on which the rating was based.

Types of PPD Ratings

There are two types of permanent partial disabilities.

Specified PPD

[RCW 51.32.080](#)

Specified disabilities are listed in RCW 51.32.080(1)(a). They are limited to amputation or loss of function of extremities, loss of hearing or loss of vision. Impairment for the loss of function of extremities, as well as partial loss of hearing or vision, is rated using a nationally recognized impairment rating guide (*AMA Guides to the Evaluation of Permanent Impairment*) unless otherwise precluded by department rule. When a specified disability is not a complete amputation or total loss of vision or hearing, the disability is rated as a percentage of impaired function as compared to an amputation or total loss of function of the ear, eye, or limb at the appropriate level (joint). [Schedules for specified PPDs](#) can be found online.

Loss of vision is rated as a percentage of visual acuity without correction. 20/200 or greater is considered to be 100 percent loss of visual acuity.

Pay at the Level Rated

PPD awards must be paid at the level rated by the provider. The department prefers the rating examiner provide the PPD rating closest to the injured body part. However, it is not uncommon for some providers to rate for an entire extremity. For example:

- An injured worker has an ankle injury and the doctor provides a rating of 5% at the ankle (syne). The PPD would be paid at that level.
- An injured worker has a right knee injury and the doctor provides a rating of 2% of the right lower extremity. The PPD would be paid at the leg above the knee joint with short thigh stump.

The AMA Guides 5th edition is currently in use. The current AMA guidelines do not provide a rating table for the knee or the elbow level. Therefore, the knee and elbow must be rated at the full extremity level.

Example: If the examiner provided a rating of 2% of the leg at or above knee joint with functional stump, clarification from provider would be needed.

If the examiner provides a non-specific rating, obtain clarification or use the rating at the highest point. Don't make assumptions on the rating. If a worker has a laceration on the tip of the index finger and the rating is 5% of the index finger, the PPD would be paid for the entire finger (index finger at metacarpophalangeal joint or with resection of metacarpal bone).

Unspecified PPD

[RCW 51.32.080](#)

Unspecified disabilities include, but are not limited to, internal injuries, back injuries, mental health conditions, respiratory disorders, and other disorders affecting the internal organs. These ratings are currently rated in accordance with [WAC 296-20-200 through WAC 296-20-690](#), using the category rating system. [Schedules for unspecified PPDs](#) (categories) can be found online.

Injuries on or after October 1, 1974

For injuries on or after October 1, 1974 the category rating system outlined in [WACs 296-20-230 through 296-20-660](#) is used to rate unspecified disabilities.

- For conditions rated by the category system, a percentage rating is not acceptable.
- Categories describe levels of physical and mental impairments.

- The rating provider selects the category that most closely describes the worker's condition.
- The department assigns percentages to each category. These percentages represent a comparison of the disability to total bodily impairment (TBI).
- The legislature assigns maximum monetary value to unspecified disability as compared to TBI.

The department has the authority to assign percentages to the different categories ([WAC 296-20-670](#)). This is an administrative function and is not subject to appeal. The worker may appeal the category that is awarded but not the percentage assigned to that category.

Injuries from July 1, 1971 through September 30, 1974

The category rating system cannot be applied to injuries prior to October 1, 1974. For injuries during the period July 1, 1971 through September 30, 1974, unspecified injuries are rated as a percentage of total bodily impairment (TBI).

- TBI is equivalent to loss of function of the whole person in the AMA rating system.
- With TBI, the examiner is comparing the effects of any injury with total physical disability and estimating a percentage.

PPD Award Limits

The maximum allowed for unspecified disabilities means the combined awards for unspecified disabilities paid on a claim cannot exceed the limit in effect for that claim. This limit does not apply to specified disabilities.

If injury results in the amputation or total paralysis of both legs, both arms, one leg and one arm, or total loss of vision, and the worker is able to work, the claim **should not** be closed with a PPD award. The worker is entitled to receive total permanent disability (pension) benefits without regard to ability to work. At the time the worker's condition becomes fixed, the claim should be referred to the department's pension adjudicator for consideration ([RCW 51.08.160](#)).

Self-Insured Employers' Authority

[RCW 51.32.055](#), [WAC 296-15-450\(2\)](#)

Self-insured employers have the authority to close PPD claims in some cases. See Claim Closure in the Miscellaneous Claim Issues chapter.

Payment of PPD Awards

Timely PPD Payments

[WAC 296-15-450](#)(6) and (9)

When a claim is closed with PPD, the award, or first payment, must be paid:

- Within five working days of claim closure by a self-insured employer, or
- Without delay if the department closed the claim.

Advances

The department has no jurisdiction over PPD advances prior to closure. Workers must direct any request for an advance to the self-insured employer.

Scheduled Payments

[RCW 51.32.080](#)

When a PPD award is more than three times the state's average monthly wage at the date of injury, a down payment of that amount is made. A [schedule of down payments](#) can be found online. The balance of the award is paid in monthly installments equal to the worker's monthly time-loss compensation (at the time of closure).

Dates of Injury Prior to June 15, 2011

Interest must be paid on the unpaid balance of:

<u>Injury Date</u>	<u>Interest per Annum</u>
Prior to July 1, 1971	5%
July 1, 1971 through June 30, 1982	6%
July 1, 1982 through June 14, 2011	8%

Dates of Injury on or After June 15, 2011

[RCW 51.32.080](#) eliminated the payment of interest on the unpaid balance.

For all dates of injury, a copy of the [Schedule of Future Payments for the Balance of the PPD Award](#) must be submitted to the worker and the department. For dates of injury on or after June 15, 2011, the interest column should be left blank.

Lump Sum Payments

PPD awards that are less than the down payment amount **must** be paid in a lump sum payment.

Awards that are larger than the down payment amount must be paid out in monthly installments. If a worker wants to have a scheduled award paid out in a lump sum, a written request must be made to the department. Only the department can approve a lump sum payment (cash out) of these awards. Approval of the payment will not be made until the closing order is final.

Minor Worker

[RCW 51.04.070](#)

PPD payments to a minor worker (under age 18) must be made to the parent or legal guardian unless written authorization has been given by the parent or legal guardian to make payment to the minor worker.

Incarcerated Worker

[RCW 51.32.040](#)(3)

PPD award payments will not be paid to a worker who is confined in any institution under conviction and sentence. The worker will not be paid the PPD until they are released. However, the order awarding the PPD and closing the claim can be issued.

Exceptions:

- If the worker has any beneficiaries ([RCW 51.08.020](#)), the PPD award is paid to the beneficiaries while the worker is incarcerated.
- *Willoughby v. Dept. of L&I* established the right of prisoners incarcerated in state DOC prisons who have no beneficiaries and/or are unlikely to be released to receive PPD awards while they are still confined. PPD awards are sent to the workers in care of DOC ([RCW 51.32.380](#)). This exception does not apply to prisoners incarcerated by other states or by federal, county or city jails.

Once the worker is released any further payment due should be sent to the worker.

Deceased Worker

[RCW 51.32.040](#)(2)

If a worker dies from **a cause other than the injury** and would have been entitled to a PPD due to the effects of the injury, the PPD award is payable to the surviving spouse or children. If there is no surviving spouse or child, the award shall be paid consistent with the terms of the worker's will or, if they died without a will, consistent with the terms of [RCW 11.04.015](#).

The courts have ruled that a worker's condition at the time of death would have been stable or fixed, so that it would be reasonable to assume the worker's condition would not have improved. A rating of the amount of PPD should have been made prior to the worker's death, or the attending provider should be able to provide a rating based on the medical records. The rating must be credible.

The spouse or dependents can make a request for the PPD to be paid to them within one year of the worker's death, regardless of any closing orders issued even if they are final and binding.

The spouse must be married to the worker at the time of death but did not have to be married to the worker on the date of injury.

Liens

[RCW 51.32.040\(1\)](#), [RCW 74.20A.260](#)

PPD awards are not affected by Office of Financial Recovery (OFR) liens resulting from receipt of public assistance benefits by a worker. However they are subject to Division of Child Support (DCS) liens (formerly called Office of Support Enforcement or OSE). The lien is submitted by the Department of Social and Health Services (DSHS) Order to Withhold and Deliver form which subjects up to 50 percent of the net proceeds of the PPD payment be paid to DCS. Prior to paying a PPD award on a claim with a DCS lien, telephone contact should be made with the DCS support officer who filed the lien to determine the current amount due DCS. The support officer's telephone and office location are on the Order to Withhold and Deliver.

The maximum amount payable on the lien is determined by multiplying the net PPD payable (after deductions for previous awards, advances, overpayments, etc.) by 50 percent. If the lien is greater than 50 percent of the net award, only 50 percent can be paid. DCS liens also apply to scheduled PPD payments that have not been mailed at the time the lien is received. The maximum payable is 50 percent of the remaining balance of the award at the time the lien is received.

Failure to honor a DCS lien may result in a penalty assessed by DSHS against the self-insured employer in the amount of the monies due.

Out of State Liens

The department does not recognize out of state liens. If an out of state lien request is received, notify the requesting party out of state liens are not honored and refer the requester to:

Division of Child Support

PO Box 11520

Tacoma, WA 98411

(360) 664-5321

(800) 922-4306

www.DSHS.WA.Gov/DCS

Board or Court Orders for PPD

When PPD is awarded from a Board of Industrial Insurance Appeals (BIIA) or higher court order, the entire award for PPD should be paid in a lump sum if the worker would have received the award by the time the order was entered, had it been awarded at the time of closure.

PPD Awards for Mental Health

[WAC 296-20-330](#), [WAC 296-20-340](#)

The courts have considered that a degree of worry or brooding over the economic consequences of an injury is not uncommon and was probably taken into consideration by the legislature when setting PPD award limits. The pattern of adjustment before an industrial injury or occupational disease serves as the base line for all assessments of whether there has been a permanent impairment due to the industrial injury or occupational disease. For there to be a compensable PPD due to mental health impairment, it must be in excess of what is normally expected.

Pre-Existing Conditions

[RCW 51.32.080\(5\)](#)

Asymptomatic Condition

If an injury aggravated or “lighted up” a pre-existing **asymptomatic** condition, the entire resulting impairment is attributed to the injury rather than to the pre-existing condition. In the *Miller v. Dept. of L&I* decision, it states that a congenital defect or structural weakness does not in itself constitute a disability if it does not interfere with working capacity, notwithstanding the fact it presumably constitutes a loss of bodily function. This decision concludes that: “ ... if any injury, within the statutory meaning, lights up or makes active a latent or quiescent infirmity or weakened physical condition occasioned by disease, then the resulting disability is to be attributed to the injury, and not to the pre-existing physical condition.”

Examples:

- The worker fell off a ladder at work injuring their back. The claim is ready for closure with a Category 3 lumbar rating, with Category 2 due to pre-existing degenerative disc disease. The worker was not being treated for the degenerative disc disease and it was not preventing them from doing their normal job and daily activities. The worker is entitled to the entire Category 3 PPD.
- The worker was lifting a box and felt pain in their mid-back. The diagnosis is thoracic sprain. Examination revealed a pre-existing asymptomatic scoliosis. The IME rated Category 2 permanent dorsal area impairments. The scoliosis was asymptomatic at the time of injury therefore the worker is entitled to the entire Category 2 PPD.

Symptomatic and Disabling Condition

Increased disability resulting from an injury that aggravated or “lighted up” a pre-existing **symptomatic** and disabling condition may be segregated once the amount of pre-existing disability has been established by medical opinion.

Example:

The worker was involved in a non-work related car accident 3 months before his injury at work. He was receiving treatment and had restrictions related to the car accident. He aggravated his cervical condition when he fell at work. When his workers compensation claim was ready to close he was rated at Category 3 cervical impairment with Category 2 from the car accident. His claim will be closed with a Category 3 award, less Category 2 cervical.

Note: Self-insured employers should request closure from the department in these cases as there is a segregation of a pre-existing PPD.

Additional PPD Under the Same Claim

When a worker received a PPD award and the order has become final and binding, the extent of the disability present on the date of closure can no longer be disputed. If the claim is reopened for a worsening of the worker's condition, contentions of increase disability are limited to the extent of any increased impairment. An order closing the claim after reopening, where the PPD award was previously granted under the same claim, should indicate the total percentage of disability (previous award + percentage of increased disability). The prior monetary award is subtracted to determine the current amount due.

Example:

The worker's claim was closed with a 5% PPD on the left knee; the claim was later reopened for additional surgery and is ready for closure with a 12% PPD on the left knee. The claim will be closed with a 12% PPD less the 5% previously paid on the claim.

PPD Paid Under a Different Claim

Prior monetary awards paid under a different claim cannot be subtracted from a current award. In effect, that would recompensate a worker for a prior injury at a higher rate if a different PPD schedule (from a different date of injury) was involved. Pre-existing awards will be reduced from the new award, but only for the same body part, and rated at the same level. TBI percentages can be subtracted from TBI percentages and category percentages from category percentages.

The closing order will reflect the percentage of increased disability resulting from the current claim and the monetary award due. **Note:** Self-insured employers should request closure from the department in these cases as there is a reduction of a pre-existing PPD.

Examples:

- The worker has a previous claim that closed with a Category 2 cervical PPD. A new claim is filed and is ready for closure with a Category 3 cervical rating. The new claim will be closed with a Category 3 PPD less the pre-existing Category 2 PPD.

- The worker has a previous claim for a right ankle injury that closed with 4% impairment to the right ankle. A new claim is filed five years later for a right ankle injury. The IME gives a rating of 15% of the right ankle with a 4% pre-existing impairment to the right ankle. The new claim will close with a 15% PPD less the 4% pre-existing PPD.
- The worker has a previous claim that closed with a 2% right upper extremity PPD for an elbow injury. A new claim was filed for a shoulder injury and at closure is rated a 5% right upper extremity PPD for the shoulder. The new claim will be closed with a 5% PPD for the right upper extremity with no reduction for the previous PPD because the new injury was not for the same body part.

Remaining Amputation Value

Remaining amputation value must be calculated for PPD for a worker with a pre-existing amputation at a lower level, or a single injury that causes amputation and additional disability to the same extremity at a higher level (*Ringhouse v. Dept. of L&I*). An amputation is an un-repairable severing of a limb at any level. Remaining amputation value is calculated in the following cases:

- In the same injury, a worker sustains an amputation as well as permanent disability at a level higher to the amputation level of the same extremity.

Example: On date of injury, a worker catches his right hand in a piece of machinery and traumatically amputates his right index finger at the metacarpophalangeal (MCP) joint. The worker also sustained a rotator cuff tear in his right shoulder.

- A worker sustains impairment to an extremity and has had a previous amputation to the injured extremity.

Example: The worker has his right little finger amputated as a child due to an injury. On the date of injury, the worker sustained an injury to his right elbow.

- A worker sustains a further amputation of an extremity. The worker had previously sustained an amputation to the same extremity.

Example: The worker had a left index finger amputation at the distal interphalangeal (DIP) joint as a child. On the date of injury, the worker's left index was traumatically amputated at the proximal interphalangeal (PIP) joint.

The PPD order will state the full award for an amputation at the appropriate level and show the deduction in cash for the monetary value of the previous amputation computed from the schedule of benefits in effect at the time of the recent injury. **Note:** Self-insured employers should request closure from the department in these cases as there is a reduction of a pre-existing PPD.