



Oregon

Kate Brown, Governor

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BULLETIN NO. 375 Sept. 6, 2016

TO: Workers' compensation insurers and self-insured employers

SUBJECT: Retroactive Program benefits effective Oct. 1, 2016

This bulletin notifies insurers of:

- 1. The annual increase in Retroactive Program benefits, and**
- 2. The methods used to calculate these benefits and determine the amount of Retroactive Program reimbursement.**

The Retroactive Program provides increased benefits to workers or their beneficiaries for benefit levels that are lower than what is currently being paid for like injuries. The increased benefits are received mainly by beneficiaries of workers who suffered fatal injuries and by workers who have been determined to have a permanent total disability.

COMPUTING PERMANENT TOTAL DISABILITY (PTD) BENEFITS

Workers injured before July 1, 2015, are eligible for retroactive benefit increases effective Oct. 1, 2016, as follows:

- | | |
|--------------------------------|---|
| Worker's
Current
Benefit | <ol style="list-style-type: none">1(a) Determine weekly benefits by first calculating 66.67 percent of the worker's weekly wage at the time of injury, and then multiplying this amount by the conversion factor for the year of injury (see the Table of Yearly Conversion Factors on Page 4). If the weekly benefit calculates to less than \$50 per week, increase the benefit to \$50 per week.(b) 90 percent of the July 1, 2015, average weekly wage is \$830.15.(c) Compare 1(b) and 1(a). The lesser figure is the worker's weekly PTD rate.(d) For workers with dates of injury before Oct. 23, 1999, add \$5 for each additional beneficiary, not to exceed five (5) beneficiaries. Add 1(c) and 1(d).(e) Multiply 1(c), or the sum of 1(c) and 1(d) if applicable, by 4.35 to determine the monthly PTD benefit. |
|--------------------------------|---|

- Retroactive Reimbursement
- 2(a) Determine the monthly PTD benefit due in accordance with the law in effect at the time of injury based on current marital and dependency status.
 - (b) The difference between 1(e) and 2(a) is the retroactive benefit, reimbursable from the Retroactive Program.

To determine statutory and Retroactive Program benefits due for a partial month, divide the monthly benefit by the **ACTUAL NUMBER OF DAYS** in the month and then multiply by the number of days included in the partial month.

COMPUTING FATAL BENEFITS

Fatal benefits for injuries occurring before July 1, 2015, are increased to the July 1, 2015 fatal benefit levels.

- The monthly benefit for a surviving spouse or domestic partner is \$2,675.06.
- The monthly benefits for each child of the deceased who is substantially dependent on the spouse or domestic partner for support is \$401.24, until the child becomes 18 years of age*.
- Children of the deceased, who are not substantially dependent on the surviving spouse or domestic partner for support, or who have no surviving parent, are each entitled to a monthly benefit of \$1,003.10, until the child becomes 18 years of age*.
- While attending higher education, children or dependents of the deceased that have no surviving parent are each entitled to a monthly benefit of \$2,675.06. Benefits are payable until the child or dependent becomes 23 years of age, ceases attending higher education or graduates from an approved institute or program, whichever is earlier*.
- **In no event shall the total monthly benefit paid exceed \$5,349.73.**

Compute retroactive benefits in the following manner:

1. For fatal claims occurring before July 1, 2015:
 - (a) Determine the statutory benefit based on the injury date as modified by the current family status.
 - (b) The difference between 1(a) and the July 1, 2015, benefit level is reimbursable from the Retroactive Program.

To determine statutory and Retroactive Program benefits due for a partial month, divide the monthly benefit by the **ACTUAL NUMBER OF DAYS** in the month and then multiply by the number of days included in the partial month.

* Refer to ORS 656.204 to determine statutory benefit levels.

2. Determine remarriage benefits, regardless of the date of injury, as follows:

- (a) Determine the remarriage allowance by multiplying the spouse’s current monthly benefit, including any Retroactive Program benefit increases, by 36.
- (b) Determine the surviving spouse’s statutory remarriage allowance in accordance with the law in effect at the time of injury.
- (c) The difference between 2(a) and 2(b) is reimbursable from the Retroactive Program.

3. Determine burial benefits as follows:

- (a) Determine the statutory benefit in accordance with ORS 656.204(1) based on the date of injury.
- (b) The difference between 3(a) and the July 1, 2015, statutory level of \$18,447.80 (20 times the average weekly wage of \$922.39) is the retroactive benefit, reimbursable from the Retroactive Program.

COMPUTING TEMPORARY TOTAL DISABILITY (TTD) BENEFITS

On or after Oct. 1, 2016, TTD benefits paid to **all** workers injured **before** July 1, 1973, are increased. TTD benefits paid to workers injured on or after July 1, 1973, through March 31, 1974, whose statutory TTD rate is less than \$737.91 (**80 percent of the** July 1, 2015, average weekly wage), are also increased.

Workers injured on or after April 1, 1974, are not entitled to Retroactive Program increases to their TTD benefits (see Bulletin No. 111 (Rev.), dated May 19, 2016).

TTD benefit increases, reimbursable from the Retroactive Program, are paid at 80 percent of the July 1, 2015, average weekly wage level effective Oct. 1, 2016, in the following manner:

Worker's Current Benefit	<ul style="list-style-type: none"> 1(a) Determine weekly benefits by first calculating 66.67 percent of the worker's weekly wage at the time of injury, and then multiplying this amount by the conversion factor for the year of injury (see the Table of Yearly Conversion Factors on Page 4). If the weekly benefit calculates to less than \$50, the benefit is increased to 90 percent of the weekly wage at the time of injury multiplied by the conversion factor or \$50, whichever is less. (b) 80 percent of the July 1, 2015, average weekly wage is \$737.91. (c) Compare 1(a) with 1(b). The lesser figure is the worker's weekly TTD rate.
Retroactive Reimbursement	<ul style="list-style-type: none"> 2(a) Determine TTD benefits due in accordance with the law in effect at the time of injury based on current marital and dependency status. To convert monthly benefit to weekly benefit, divide by 4.35. (b) The difference between 1(c) and 2(a) is the retroactive benefit, reimbursable from the Retroactive Program.

Do not reduce worker benefits, even if computations under this bulletin indicate benefit levels less than currently paid.

TABLE OF YEARLY CONVERSION FACTORS

Injury date	Factor	Injury date	Factor
1-1-66 — 6-30-66	8.71083	7-1-90 — 6-30-91 (PTD only)	2.26888
7-1-66 — 6-30-67	8.23857	7-1-91 — 6-30-92 (PTD only)	2.14654
7-1-67 — 6-30-68	8.03896	7-1-92 — 6-30-93 (PTD only)	2.07488
7-1-68 — 6-30-69	7.69043	7-1-93 — 6-30-94 (PTD only)	1.92586
7-1-69 — 6-30-70	7.28644	7-1-94 — 6-30-95 (PTD only)	1.88454
7-1-70 — 6-30-71	6.85945	7-1-95 — 6-30-96 (PTD only)	1.86552
7-1-71 — 6-30-72	6.56132	7-1-96 — 6-30-97 (PTD only)	1.77862
7-1-72 — 6-30-73	6.19802	7-1-97 — 6-30-98 (PTD only)	1.68896
7-1-73 — 3-31-74 (PTD & certain TTD*)	5.89387	7-1-98 — 6-30-99 (PTD only)	1.59959
4-1-74 — 6-30-74 (PTD only)	5.89387	7-1-99 — 6-30-00 (PTD only)	1.53422
7-1-74 — 6-30-75 (PTD only)	5.54521	7-1-00 — 6-30-01 (PTD only)	1.46728
7-1-75 — 6-30-76 (PTD only)	5.11955	7-1-01 — 6-30-02 (PTD only)	1.43006
7-1-76 — 6-30-77 (PTD only)	4.72584	7-1-02 — 6-30-03 (PTD only)	1.41697
7-1-77 — 6-30-78 (PTD only)	4.31467	7-1-03 — 6-30-04 (PTD only)	1.38684
7-1-78 — 6-30-79 (PTD only)	4.11487	7-1-04 — 6-30-05 (PTD only)	1.33959
7-1-79 — 6-30-80 (PTD only)	3.81626	7-1-05 — 6-30-06 (PTD only)	1.29375
7-1-80 — 6-30-81 (PTD only)	3.52973	7-1-06 — 6-30-07 (PTD only)	1.27856
7-1-81 — 6-30-82 (PTD only)	3.21525	7-1-07 — 6-30-08 (PTD only)	1.21880
7-1-82 — 6-30-83 (PTD only)	3.02820	7-1-08 — 6-30-09 (PTD only)	1.16702
7-1-83 — 6-30-84 (PTD only)	2.91683	7-1-09 — 6-30-10 (PTD only)	1.15212
7-1-84 — 6-30-85 (PTD only)	2.84486	7-1-10 — 6-30-11 (PTD only)	1.12572
7-1-85 — 6-30-86 (PTD only)	2.75686	7-1-11 — 6-30-12 (PTD only)	1.11098
7-1-86 — 6-30-87 (PTD only)	2.67538	7-1-12 — 6-30-13 (PTD only)	1.09644
7-1-87 — 6-30-88 (PTD only)	2.59799	7-1-13 — 6-30-14 (PTD only)	1.06972
7-1-88 — 6-30-89 (PTD only)	2.48649	7-1-14 — 6-30-15 (PTD only)	1.03828
7-1-89 — 6-30-90 (PTD only)	2.37124		

* Use this conversion factor to compute TTD Retroactive Program benefits for workers receiving TTD at less than 80 percent of the July 1, 2015, average weekly wage (\$737.91).

RECOVERY FROM THIRD PERSONS

Retroactive Program benefits are a portion of the paying agency's lien. Immediately report and remit recovered Retroactive Program benefits to the Workers' Compensation Division.

ELIGIBILITY BASED ON INJURY DATE

The worker's injury must have occurred **BEFORE** the following dates:

TTD*	July 1, 1973
PTD	July 1, 2015
FATAL	July 1, 2015

* Effective July 1, 1977, workers injured between July 1, 1973 to April 1, 1974, receiving TTD at a rate less than 80 percent of the July 1, 2015, average weekly wage (\$737.91), are entitled to Retroactive Program benefits.

For instructions on requesting Retroactive Program reimbursement, see Bulletin 102.

If you have questions about this bulletin, contact the Performance Section at 503-947-7562 [new phone number: 503-947-7751].

/s/ Sally Coen for

Louis Savage, Administrator
Workers' Compensation Division

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