

INDUSTRY, LABOR AND HUMAN RELATIONS 19
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E. Impairment of the one eye for industrial use is:
 $100.0\% - 62.3\% = 37.7\%$

F. Compensation payable is:
 Total impairment of one eye 250 weeks. $250 \text{ weeks} \times 37.7\% = 94.25 \text{ weeks}$

Note II—Example of computation covering partial disability to both eyes

1. Left Eye is 62.3% efficient, see Example I.
2. Right Eye:

A. Central Visual Acuity:

Distance—Reading of 20/30 with correction equals visual efficiency of.....	91.5%
Reading of 20/35 without glasses equals visual efficiency of.....	87.5%
Difference	4.0%

Rated efficiency is the vision without correction (because correction gives improvement of less than the 5% minimum allowance for glasses, and is not necessary to prevent eye strain, etc.) 87.5%.

Near— Reading of 14/14 with glasses equals visual efficiency of	100.0%
Reading of 14/21 without glasses equals visual efficiency of	91.5%
Difference.....	8.5%

Rated efficiency is 100.0% minus 5% (because 5% is the minimum allowance for glasses) or 95.0%

Final Central Visual Acuity Efficiency is:
 $87.5\% + 95\% + 95\% = 277.5 \div 3 = 92.5\%$

B. Field vision is 100%

C. Binocular vision is 100%

D. Industrial visual efficiency of the right eye is:
 $92.5\% \times 100\% \times 100\% \text{ or } 92.5\%$

E. Impairment of right eye for industrial use is:
 $100.0\% - 92.5\% = 7.5\%$

3. Compensation payable is:

Left eye (Example I):	94.25 weeks
Right eye: 250 weeks x 7.5% = 18.75 + 200% multiple	56.25 weeks
Total	150.5 weeks

Note III—Example of compensation covering enucleation of one eye and partial disability of the other eye

1. Left eye is 35.28% impaired ($77.7\% \times 83.3\% = 64.72\%$; $100\% - 64.72\% = 35.28\%$, as allowance for binocular vision is inapplicable when the other eye is enucleated or blind), in indemnity payable for 88.2 weeks
2. Right eye is enucleated, which, results in indemnity payable for 275 weeks
3. Total payable: $88.2 \text{ weeks} \times 3 \text{ (multiple injury)} =$
 $264.6 + 275 =$ 539.6 weeks

The number of weeks indemnity indicated as payable for impairment of vision or for enucleation is in addition to indemnity for temporary disability. All results are subject to the limitation that the total amount of indemnity payable, including that for temporary disability, shall not exceed the indemnity which would be payable for permanent total disability. The statutory and legal rules applicable to the determination of additional compensation payable out of the special state fund on account of preexisting disabilities are not here stated.

Ind 80.27 Forms. A sample copy of all forms referred to in these rules may be obtained upon a request to the Worker's Compensation Division, Department of Industry, Labor and Human Relations, Post Office Box 7901, Madison, WI 53707.

History: Cr. Register, October, 1957, No. 22, eff. 11-1-57; am. (1), Register, October, 1965, No. 118, eff. 12-1-65; am. Register, April, 1975, No. 232, eff. 5-1-75; r. and recr. Register, September, 1982, No. 321, eff. 10-1-82.

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Ind 80.29 Value of room or meals. For the purpose of determining the value of lodging and meals for wage purposes under ch. 102, Stats., the allowance provided under ch. Ind 72 shall apply.

History: Cr. Register, October, 1960, No. 58, eff. 11-1-60; am. (1) (a) and (b), Register, October, 1963, No. 94, eff. 11-1-63; r. and recr. Register, January, 1967, No. 133, eff. 2-1-67; am. Register, November, 1970, No. 179, eff. 12-1-70; r. and recr. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.30 Average weekly earnings for members of volunteer fire companies or fire departments. The maximum average weekly earnings under the provisions of s. 102.11, Stats., which are in effect on the date of injury shall be used in computing the amount of compensation payable to an employe as defined by s. 102.07 (7), Stats., except as specific showing may be made in an individual case that such wage is not proper.

History: Cr. Register, June, 1961, No. 66, eff. 7-1-61.

Ind 80.31 Procedure and claims under ch. 40, Stats. The department shall observe the same rules and procedures and may use the same forms in processing and determining claims made under s. 40.65, Stats. as are used under ch. 102, Stats.

History: Cr. Register, October, 1965, No. 118, eff. 11-1-65; am. Register, April, 1975, No. 232, eff. 5-1-75; am. Register, September, 1986, No. 369, eff. 10-1-86.

Ind 80.32 Permanent disabilities. Percentages of loss of use for losses of motion as compared with amputations at the involved joints.

(1) The disabilities set forth in this section are the minimums for the described conditions. However, findings of additional disabling elements shall result in an estimate higher than the minimum. The minimum also assumes that the member, the back, etc., was previously without disability. Appropriate reduction shall be made for any preexisting disability.

Note: An example would be where in addition to a described loss of motion, pain and circulatory disturbance further limits the use of an arm or a leg. The removal of a semi-lunar cartilage in a knee with less than a good result would call for an estimate higher than 5% loss of use of the leg at the knee. The same principle would apply to laminectomies or spinal fusions. The schedule of minimum disabilities contained in this section was adopted upon the advice of the orthopedic advisory committee.

(2) *Amputations, upper or lower extremities*

At functional level	Equivalent to amputation at midpoint
Stump unsuitable to accommodate prosthesis	Equivalent to amputation at next most proximal joint
Stump not functional	Grade upward

All ranges of joint motion or degrees of ankylosis not listed below are to be interpolated from existing percent of disability listed.

(3) *Hip*

Ankylosis, optimum position, generally 15° to 30° flexion	50%
Mal position	Grade upward

To compute disabilities for loss of motion relate % of motion lost to average range

Shortening of leg (no posterior or lateral angulation)

No disability for shortening less than 3/4 inch

3/4 inch	5%
1 inch	7%
1-1/2 inches	14%
2 inches	22%

Greater than 2 inches of shortening results in greater proportionate rating than above

Prosthesis Minimum of 50%

(4) *Knee*

Ankylosis, optimum position, 170° 40%

Remaining range, 180° - 135° 25%

Remaining range, 180° - 90° 10%

Prosthesis 40%

Removal of patella To be based on functional impairment

Semi lunar cartilage removal
 Excellent to good result 5%

(5) *Ankle*

Total ankylosis, optimum position 40%

Ankylosis ankle joint 30%

Subtalar ankylosis 15%

(6) *Toes*

Ankylosis great toe at proximal joint 50%

All other toes at proximal 40%

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Ankylosis great toe at distal joint	15%
All other toes at any interphalangeal joint	If no deformity, no disability
Mal position	On merits
Loss of motion	No disability

(7) *Shoulder*

Ankylosis, optimum position, scapula free	55%
In mal position	Grade upward
Limitation of active elevation in flexion and abduction to 45° but otherwise normal	30%
Limitation of active elevation in flexion and abduction to 90° but otherwise normal	20%
Limitation of active elevation in flexion and abduction to 135° but otherwise normal	5%

(8) *Elbow*

Ankylosis, optimum position, 45° angle	
With radio-ulnar motion destroyed	60%
With radio-ulnar motion intact	45%
Rotational ankylosis in neutral position	20%
Any mal position	Grade upward
Limitation of motion elbow joint, radio-ulnar motion unaffected	
Remaining range 180° - 135°	35%
Remaining range 135° - 90°	20%
Remaining range 180° - 90°	10%

Rotation at elbow joint

Neutral to full pronation	10%
Neutral to full supination	15%

(9) *Wrist*

Ankylosis, optimum position 30° dorsiflexion	30%
Mal position	Grade upward

(10) *Complete Sensory Loss*

Any digit	50% Lesser involvement to be graded appropriately - 35% for palmar, 15% for dorsal surface
Total median sensory loss to hand	65-75%
Total ulnar sensory loss to hand	25%
Ulnar nerve paralysis	
Above elbow, sensory involvement	50% at wrist
Below elbow, motor and sensory involvement	45-50% at wrist
Below elbow, motor involvement only	35-45% at wrist
Below elbow, sensory involvement only	5-10% at wrist
Median nerve paralysis	
Above elbow, motor and sensory involvement	55-65% at wrist
Thenar paralysis with sensory loss	40-50% at wrist
Radial nerve paralysis	
Complete loss of extension, elbow wrist and fingers	45-55% at shoulder
Complete loss of extension, wrist and fingers	45-55% at wrist
Paroneal nerve paralysis	
At level below knee	25-30% at knee

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(11) *Back*

Laminectomy, no undue symptomatic complaints or any objective findings	5%
Spinal fusion L5-S1, good results	10%
Spinal fusion L4-S1, good results	10%
Cervical fusion, successful	5%
Compression fractures of vertebrae of such degree to cause permanent disability may be rated 5% and graded upward	

(12) *Fingers*

(a) Complete ankylosis

Thumb	Mid-position	Complete Extension
Distal joint only	25%	35%
Proximal joint only.....	15%	20%
Distal and proximal joints	35%	65%
Distal, proximal and carpometacarpal joints	85%	100%

Fingers

Distal joint only	25%	35%
Middle joint only	75%	85%
Proximal joint only.....	40%	50%
Distal and middle joints	85%	100%
Distal, middle and proximal joints.....	100%	100%

(b) Loss of Motion

Fingers	Loss of Flexion	Loss of Use	Loss of Extension	Loss of Use
Distal joint only	10% -	1%	10% -	2%
	20% -	2%	20% -	4%
	30% -	3%	30% -	6%
	40% -	5%	40% -	8%
	50% -	10%	50% -	15%
	60% -	15%	60% -	20%
	70% -	20%	70% -	30%
	80% -	25%	80% -	40%
		100% -	60%	
Middle joint only	10% -	5%	10% -	2½%
	20% -	10%	20% -	5%
	30% -	15%	30% -	10%
	40% -	25%	40% -	15%

	50% - 40%	50% - 30%
	60% - 50%	60% - 50%
	70% - 60%	70% - 70%
	80% - 70%	80% - 90%
		100% - 100%
Proximal joint only	10% - 5%	10% - 2½%
	20% - 10%	20% - 5%
	30% - 15%	30% - 15%
	40% - 20%	40% - 20%
	50% - 25%	50% - 25%
	60% - 30%	60% - 40%
	70% - 35%	70% - 75%
	80% - 40%	80% - 85%
		90% - 100%

(13) Kidney

Loss of one kidney 5% permanent total disability.

(14) Loss of Smell

Total loss of sense of smell 2-1/2% permanent total disability.

History: Cr. Register, October, 1965, No. 118, eff. 11-1-65; r. and recr. Register, April, 1975, No. 232, eff. 5-1-75; r. and recr. (1), Register, September, 1982, No. 321, eff. 10-1-82; cr. (13) and (14), Register, September, 1986, eff. 369, eff. 10-1-86.

Ind 80.33 Permanent disabilities; fingertip amputations. In estimating permanent disability as a result of fingertip amputations, amputation of the distal one-third or less shall be considered the equivalent of 45% loss of use of the distal phalanx, amputation of not more than the distal two-thirds but more than the distal one-third shall be considered the equivalent of 80% loss of use of the distal phalanx, and amputation of more than the distal two-thirds shall be considered as 100% loss of the distal phalanx, provided there is not added disability as a result of malformed nail or tissue. In no case shall the allowance be greater than it would have been for amputation of the entire distal phalanx.

History: Cr. Register, October, 1965, No. 118, eff. 11-1-65; am. Register, November, 1970, No. 179, eff. 12-1-70.

Ind 80.34 Loss of earning capacity. (1) Any department determinations as to loss of earning capacity for injuries arising under s. 102.44 (2) and (3), Stats., shall take into account the effect of the injured employee's permanent physical and mental limitations resulting from the injury upon present and potential earnings in view of the following factors:

- (a) Age;
- (b) Education;
- (c) Training;
- (d) Previous work experience;
- (e) Previous earnings;
- (f) Present occupation and earnings;
- (g) Likelihood of future suitable occupational change;

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- (h) Efforts to obtain suitable employment;
- (i) Willingness to make reasonable change in a residence to secure suitable employment;
- (j) Success of and willingness to participate in reasonable physical and vocational rehabilitation program; and
- (k) Other pertinent evidence.

History: Cr. Register, September, 1982, No. 321, eff. 10-1-82.

Ind 80.38 Assessment of administrative expenses. (1) For purposes of determining assessment payments under s. 102.75, Stats., "indemnity paid or payable" excludes:

- (a) Payments made for medical, hospital or related expenses.
- (b) Additional payments for penalties and increased compensation.
- (c) Payments made into the work injury supplemental benefit fund.
- (d) Payments made from the work injury supplemental benefit fund other than those paid under s. 102.44 (1), Stats.
- (e) Payments made under ss. 102.475, 102.35, and 102.18 (1) (bp), Stats.
- (f) Payments made under statutory provisions other than those of ch. 102, Stats.
- (g) Payments made pursuant to a compromise agreement to the extent that they cannot be determined to be indemnity paid or payable under sub. (2).

(2) For purposes of determining assessment payments under s. 102.75, Stats., "indemnity paid or payable" includes:

- (a) Supplemental benefit payments made under s. 102.44 (1), Stats., from the work injury supplemental benefit fund if they were determined to be payable prior to the time the case is initially closed.
- (b) Death benefits paid under ss. 102.46, 102.47, 102.48 and 102.50, Stats.
- (c) Portions of social security benefits, sick leave, holiday pay, salary and other wage continuation payments which offset or are paid in lieu of the daily or weekly indemnity due.

History: Cr. Register, September, 1984, No. 345, eff. 10-1-84.

Ind 80.39 Advance payment of unaccrued compensation. (1) The department may order partial or full payment of unaccrued compensation to an employe or his or her dependents pursuant to s. 102.32 (6), Stats., upon consideration of the following factors:

- (a) The length of time since the injury;
- (b) The total income of the employe or the dependent;
- (c) The income of others in the employe's or the dependent's household;

Register, July, 1987, No. 379