

Chapter Ind 80

WORKMEN'S COMPENSATION

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Ind 80.01 General. The rules of practice at hearings before the department will conform generally to the rules of practice before courts of equity. The aim is to secure the facts in as direct and simple a manner as possible.

History: 1-2-56; am. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.02 Reports. (1) Employers under the provisions of the workmen's compensation act within one day after the fatal termination of an accident or industrial disease shall make a brief report of this occurrence to the department by telegraph, telephone or by letter. They shall also make a report on form WC-12 on the fourth day after the accident or beginning or disability from occupational disease upon every accident or disease causing death or a disability which exists beyond the third day after the employe leaves work as a result of the accident.

(2) Self-insured employers and insurance companies on all accidents which require a first report must:

(a) Make a supplementary report on form WC-13 on the eleventh day following that on which the accident occurred.

(b) Make another supplementary report immediately when payments are stopped for any reason. This report must be accompanied by an explanatory memorandum, a copy being furnished to the injured claimant if there is a dispute with the injured man.

(c) Make a final report on form WC-13 when final payment of compensation has been made, which must be accompanied by a copy of the final receipt signed by the injured employe, and a report from a physician, if the disability exceeds 3 weeks or if there is any permanent disability, unless there has been a hearing before the department.

(d) Supply to the employe copy of final report on form WC-13 in all cases at the time of final payment, and final physician's report in cases where disability has extended beyond 3 weeks following the date of injury, or where permanent disability has resulted.

(e) Make immediate report of any amputation which requires an artificial member or appliance.

History: 1-2-56; am. (1) and (2), Register, October, 1965, No. 118, eff. 11-1-66; am. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.03 Compromise. In any case where an accident and injury to an employe occurs of which the department has jurisdiction under the compensation act, and a compromise of liability thereunder is made directly by such employer and employe, the same shall be made in writing in the presence of one or more disinterested witnesses who shall sign such compromise, and copies of all such compromises shall be mailed immediately to the department by the employer. All compromises may be reviewed, set aside, modified or confirmed by the department upon application of either party within one year from the date of the compromise. (section 102.16, Wis. Stats.)

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.04 Place of hearing. The department at its discretion may from time to time hold public sessions other than in the state capitol.

History: 2-1-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.05 Procedure on claim. (1) In case of disputes in matters coming under the jurisdiction of the department, either party to the disput may apply to the department for relief and the department shall make such order or award as shall be lawful and just in the premises.

(2) In all such cases the party complaining shall file his application with the department, with copies to be served on the adverse party. The department shall thereupon serve such adverse party with a copy of such application and such adverse party shall file his answer thereto with the department with 10 days after such service and likewise serve a copy of such answer on the party making application. The department will thereupon notify the parties of the time and place of hearing, at least 10 days prior to such hearing. (section 102.17, Wis. Stats.)

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.06 Parties. The parties to the controversy shall be known as the applicant and the respondent. The party filing the application for relief shall be known as the applicant and the adverse party as the respondent. Either party may appear in person or by an attorney or agent.

Ind 80.07 Service. All service of papers, unless otherwise directed by the department or by law, may be made by mail and proof of such mailing shall be prima facie proof of such service. Time within which service shall be made shall be the same as in courts of record unless otherwise specified by rule or order of the department.

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.08 Amendments. Amendment may be made to any pleading upon application to the department and cause shown. The department may on its own motion, modify or change its order, finding or award at any time within 20 days from the date thereof if it shall discover any mistake therein.

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.09 Extension of time and postponement. The department may grant extensions of time in which to comply with any rule when it shall deem such extension of time reasonable and it may likewise grant adjournments of hearings.

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.10 Stipulations. Parties to a controversy may stipulate the facts in writing, and the department may thereupon make its order or award. Stipulations must set forth in detail the manner of computing the compensation due and must be accompanied by a report from a physician stating the extent of the disability.

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.11 Depositions. At the discretion of the department depositions may be taken and used upon any hearing where the convenience of the witness or parties may so require. Such depositions shall be taken in the same manner as in courts of record. Depositions for the purpose of discovery before hearing are specifically prohibited by law, with certain exceptions as provided by section 102.17 (1) (bm), Wis. Stats.

History: 1-2-56; am., Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.12 Designated carrier wrap-up. Where the department by one or more written orders specifically consents to the issuance of one or more policies covering only the liability incurred on a construction project, and where the owner designates the insurance carrier and pays for each such policy, the owner shall reimburse the department within 30 days after written request or requests by the department a sum determined in the discretion of the department not to exceed 2% of the total audited worker's compensation premium charged, with payment not to exceed 1% of the estimated worker's compensation premium upon initial request. If additional levy is determined necessary, request shall be made for a sum that results in a total charge not to exceed 2% of the total audited worker's compensation premium charged. The department shall be reimbursed for those expenses incurred because of the designated carrier wrap-up program.

History: Cr. Register, August, 1976, No. 248, eff. 9-1-76.

Ind 80.14 Transcripts. (1) Transcripts of testimony taken or proceedings had before the department will be furnished to the applicant or respondent or their attorneys in accordance with the following provisions:

(a) After the commencement of an action to review its order a copy of such testimony will be furnished to plaintiff or his attorney upon payment of the sum of 40 cents per folio and 10 cents per folio for each additional copy thereof and all other parties will be furnished copies upon payment of 10 cents per folio.

(b) In other cases transcript may be provided under such conditions and terms as are mutually agreed upon.

(c) Upon proper showing of financial inability to pay for copies of such testimony or proceedings, the department in its discretion will furnish copies of the same on such terms as may be agreed upon.

History: 1-2-56; am. (1) (a) and (b), Register, October, 1965, No. 118, eff. 11-1-65; am. Register, November, 1970, No. 179, eff. 12-1-70; am. (1) (a), Register, April, 1971, No. 184, eff. 5-1-71.

Ind 80.15 Exemption from insurance; conditions. **History:** 1-2-56; r. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.16 Exemptions from insurance; automatic. The state and all of its political subdivisions and all state and national banks are exempt from insurance of their liability under the compensation act, without further order of this commission, if such liability is not insured in some company authorized to insure such liability. Partial insurance or divided insurance of the risk of the state and any of its political subdivisions may also be carried without further order of this commission, including agreements entered into for the joint operation of a fire or police department of other unit engaged in rescue or in the enforcement of peace or in the pursuit and capture of those charged with crime, whether composed wholly or partly of volunteers, provided the arrangement for such partial or divided insurance coverage will not result in confusion as between the separately insured and exempted portions of the employer's liability. In the event that dispute arises as to the responsibility for payment, the employer assumes full responsibility to immediately make all payments of compensation and medical expenses as may be required in any given injury case pending a final determination as to the liability.

History: 1-2-56; r. and recr. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.17 Excess insurance. An employer who has been granted exemption from insuring his risk under the workmen's compensation act may carry excess insurance in accordance with rules of the insurance commissioner without further order of this department, and such excess insurance shall not be deemed full coverage.

History: 1-2-56; am. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.18 Procedure in state cases. (1) The following reports and statements are required in claims for compensation or medical aid by an employe of the state.

(a) In all cases where disability extends beyond the three-day waiting period or permanent disability results, the first report of injury on form WC-12 is to be submitted to the department by the employing department.

(b) In all cases in which any disability results or medical expense is involved, a statement by the employe on form to be supplied by the department that he was injured in the course of his employment, reciting time and place of injury, the reasons for its occurrence, the nature of injury and stating all expenditures incurred for medical, surgical, hospital treatment, and medicines, to the time of the claim; whether claim is made for disability; if so, what period of temporary disability and what permanent disability is claimed, and what salary

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has been paid by the state during the period of disability. If bills have been paid by the injured, receipts are to be attached.

(c) A report from the attending physician showing the nature of injury and the extent of disability. This may be made on form supplied by the department.

(d) Bill from physician and/or hospital itemizing services rendered and charges made. This need not be verified.

(e) A statement from the employing department stating whether injury occurred in the course of employment, and whether treatment is believed necessary as claimed. This will be made in conjunction with employe's statement and on the same form. If the department is unable to make statement, the reason is to be stated.

(f) A state employe who sustains an accidental injury may select his own physician; and if the case is compensable, the department will order reimbursement for reasonable medical, surgical, and hospital care, including charges for necessary medical examinations and reports. The employing department has no authority to incur any liability for medical or surgical treatment or hospital care. The

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employing department is not a party to a claim for compensation; the state of Wisconsin is considered the employer, and the attorney general represents the state in such cases.

(2) If the statements supplied and inquiry or investigation by the department and/or attorney general leave doubt as to legitimacy of the claim, hearing will be scheduled.

(3) The attorney general will appear for the state if hearing is set.

(4) Where payment of medical expense is authorized by the employing department under the provisions of section 102.42(8) Wis. Stats. up to a gross of \$500 plus compensation for not to exceed 3 weeks for temporary disability for each injury, form AD-PE-S2 is to be sent to the department enumerating thereon the amounts of the expenses being authorized for payment and a voucher is to be sent to the bureau of finance with itemized statement of expenses incurred thereto.

History: 1-2-56; am. (1) (a) and (f) and cr. (5), Register, October, 1965, No. 118, eff. 11-1-65; r. (4), Register, November, 1970, No. 179, eff. 12-1-70; am. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.19 Procedure on review by commission. (1) The following shall govern proceedings on petition for review by the commissioners from an order of an examiner.

(a) The party appealing shall file his petition with the department, setting forth separately the particular finding or findings as to which it is claimed error has been made.

(b) If the commission affirms or modifies the original decision, or directs the taking of further testimony, notice to that effect will be served upon all parties in interest.

(c) If the commission sets aside the original decision, it shall forthwith notify the opposing party, who shall have 10 days from date of notice in which to make answer. Time for answering may be extended upon order of the department. The answer shall meet separately each contention of the petitioner by a concise statement of the opposing party in support of his contention.

(d) Brief may be filed by either party with its petition or answer, but not thereafter unless permitted by the commission. Oral argument shall not be permitted except upon request of the commission. Transcript of testimony shall not be furnished except upon order of the commission.

History: 1-2-56; am. Register, November, 1970, No. 179, eff. 12-1-70; am. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.20 License to appear. (1) The following rules shall govern the issuance, suspension, or revocation of licenses to appear before the department in compensation matters under the provisions of section 102.17 (1) (am), Wis. Stats.

(a) Permission to appear at a single hearing may be issued by the department through any examiner upon application evidencing qualifications provided by statute and the department's rules. Such permission may be given to appear in 3 cases before the issuing of license. When appearance has been made in 3 cases, license shall be required, which shall be issued only upon execution and filing with

the department of application upon form prescribed by the department.

(b) Before license shall be issued applicant shall have appeared in representation of a party before the department on at least 3 formal hearings.

(c) The following conditions shall operate as grounds for refusal, suspension, or revocation of license.

1. Charging of excessive or unconscionable fees, misrepresentation of clients, dishonesty, fraud, sharp practice, neglect of duty, or other improper conduct in the representation of a party before the department, unless satisfactorily explained or excused by the department on the grounds of subsequent good conduct.

2. Disbarment from the practice of law, or resignation by request of properly constituted authorities, unless there has been subsequent reinstatement and continuance in good standing.

3. Contumacious conduct in hearing, gross discourtesy toward department representatives, or failure to conform to rulings or instructions of the department of its representatives.

4. Intentional or repeated failure to observe provisions of the compensation act or rules of procedure adopted by the department.

5. Any other gross evidence of lack of good moral character, fitness or act of fraud, or serious misconduct.

History: 1-2-56; am. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.21 Physician's reports. Upon the request of the department, any party in interest to a claim under the workmen's compensation act shall furnish the department with copies of all physicians' reports in their possession or procurable by them. When deemed advisable by the department, copies of such reports may be furnished to the other parties in interest.

History: 1-2-56; am. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.22 Use of physicians' reports as evidence. See section 102.17 (1) (as), Wis. Stats.

(1) Matters stated in such report which would not be competent or material evidence if given as oral testimony shall not be competent or material as prima facie evidence if objection is made, except as corroborated by competent and material oral testimony.

(2) Use of reports shall be permitted in any case in which claim for compensation is made, provided the reporting doctor is available for cross examination.

(3) An applicant shall be informed of the provisions of section 102.17 (1) (as), Wis. Stats., and the department's rules and also that form for reporting will be supplied to him upon request.

(4) Report shall be submitted to the department upon a form prescribed by the department and shall be verified or certified. The department may require additional or supplementary reports. Upon failure of the applicant to submit such reports within the time

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specified prior to hearing, all reports previously filed may, in the discretion of the department, be excluded as evidence.

(5) Reports shall be filed with the application for adjustment of claim or as soon thereafter as possible. Reports not filed with the department 15 days prior to the date of hearing shall not be acceptable as evidence except upon good cause for failure so to file, established to the satisfaction of the department.

(6) Upon receipt of report the department shall promptly serve copy upon the employer or carrier.

History: 1-2-56; am. (intro. par.), (7) and (4), Register, October, 1965, No. 118, eff. 11-1-65; am. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.23 Common insurance of employer and third party. In all cases where compensation becomes payable and the insurance carrier of an employer and of a third party shall be the same, or if there is common control of the insurer of each, the insurance carrier of the employer shall promptly notify the parties in interest and the department of that fact.

History: 1-2-56; am. Register, April, 1975, No. 232, eff. 5-1-75.

Ind 80.24 Statement of employe. When an employe gives a statement signed by him, which in any way concerns his claim, a copy of such statement must be given to the employe. When such statement is taken by a recording device and is not immediately reduced to writing, a copy of the entire statement must be given to the employe or to his attorney within a reasonable time after application for hearing is filed, and the actual recording must be available as an exhibit if formal hearing is held. Failure on the part of the employer or insurance carrier to comply with the above will preclude the use of such statement in any manner in connection with that claim.

History: Cr. Register, March, 1956, No. 3, eff. April 1, 1956; am. Register, October, 1965, No. 118, eff. 11-1-65.

Ind 80.25 Loss of hearing; determined. The report of the medical committee which has revised and updated the report of 1954 is adopted. Such report is as follows:

(1) **HARMFUL NOISE.** Hearing loss resulting from hazardous noise exposure depends upon several factors, namely, the overall intensity (sound pressure level), the daily exposure, the frequency characteristic of the noise spectrum and the total lifetime exposure. Noise exposure level of 90 decibels or more as measured on the A scale of a sound level meter for 8 hours a day is considered to be harmful.

(2) **MEASUREMENT OF NOISE.** Noise shall be measured with a sound level meter which meets ANSI standard S1.4-1971 and shall be measured on the "A" weighted network for "slow response." Noise levels reaching maxima at intervals of one second or less shall be classified as being continuous. The measurement of noise is primarily the function of acoustical engineers and properly trained personnel. Noise should be scientifically measured by properly trained individuals using approved calibrated instruments which at the present time include sound level meters, octave band analyzers and oscilloscopes, the latter particularly for impact-type noises. See Wisconsin

Administrative Code sections Ind 11.03-11.06, inclusive. Register, July 1971, No. 187.

(3) MEASURE OF HEARING ACUITY. The use of pure tone air conduction audiometry performed under proper testing conditions is recommended for establishing the hearing acuity of workers. The audiometer should be one which meets the specifications of ANSI standard 53.6-1969 (4). The audiometer should be periodically calibrated. Preemployment records should include a satisfactory personal and occupational history as they may pertain to hearing status. Otological examination should be made where indicated. See Wisconsin Administrative Code section Ind 11.10. Register, August 1972, No. 200; Ind 11.11. Register, July 1971, No. 187; and Ind 11.12. Register, August 1972, No. 200.

(4) FORMULA FOR MEASURING HEARING IMPAIRMENT. For the purpose of determining the hearing impairment, pure tone air conduction audiometry is used, measuring all frequencies between 500 and 6,000 Hz. This formula uses the average of the three speech frequencies of 1,000, 2,000, and 3,000 Hz. Audiometric measurement for these three frequencies averaging 35 decibels or less on the ANSI calibration does not constitute any practical hearing impairment. A table for evaluating hearing impairment based upon the average readings of these three frequencies follows below. No deduction is made for presbycusis.

(5) DIAGNOSIS AND EVALUATION. The diagnosis of occupational hearing loss is based upon the occupational and medical history, the results of the otological and audiometric examinations and their evaluation.

(6) TREATMENT. There is no known medical or surgical treatment for improving or restoring hearing loss due to hazardous noise exposure.

(7) ALLOWANCE FOR TINNITUS. In addition to the above impairment, if tinnitus has permanently resulted due to work exposure, an allowance of 5% loss of hearing impairment for the affected ear or ears shall be computed.

(8) HEARING IMPAIRMENT TABLE

Average Decibel Loss ANSI	Percent of Compensable Hearing Impairment	Average Decibel Loss ANSI	Percent of Compensable Hearing Impairment
35	0	66	54.25
36	1.75	67	56.00
37	3.50	68	57.75
38	5.25	69	59.50
39	7.00	70	61.25
40	8.75	71	63.00
41	10.50	72	64.75
42	12.25	73	66.50
43	14.00	74	68.25
44	15.75	75	70.00

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45	17.50	76	71.75
46	19.25	77	73.50
47	21.00	78	75.25
48	22.75	79	77.00
49	24.50	80	78.75
50	26.25	81	80.50
51	28.00	82	82.25
52	29.75	83	84.00
53	31.50	84	85.75
54	33.25	85	87.50
55	35.00	86	89.25
56	36.75	87	91.00
57	38.50	88	92.75
58	40.25	89	94.50
59	42.00	90	96.25
60	43.75	91	98.00
61	45.50	92	99.75
62	47.25		
63	49.00		
64	50.75		
65	52.50		

(9) METHOD FOR DETERMINING PERCENT OF HEARING IMPAIRMENT. (a) Obtain for each ear the average hearing level in decibels at the three frequencies, 1,000, 2,000 and 3,000 Hz.

(b) See Table for converting to percentage of hearing impairment in each ear.

(c) To determine the percentage of impairment for both ears, multiply the lesser loss by 4, add the greater loss and divide by 5.

Example: Hearing levels in dbs (ANSI reference level):

Frequencies	250	500	1000	2000	3000	4000	6000
Right ear	20	25	40	50	60	65	70
Left ear	30	40	45	55	65	65	70
Right ear—	1000 -	40		Left ear—	1000 -	45	
	2000 -	50			2000 -	55	
	3000 -	60			3000 -	65	
	Total -	150			Total -	165	

$$150 \div 3 = 50 \text{ db}$$

$$165 \div 3 = 55 \text{ db}$$

$$50 \text{ db} = 26.25\% \text{ impairment, right ear}$$

$$55 \text{ db} = 35\% \text{ impairment, left ear}$$

To determine bilateral percentage of impairment:

Multiply the less loss 26.25% by 4 = 105%

Add greater loss $\frac{35\%}{140\%}$

Divide 140 by 5 =

28% bilateral impairment

History: 1-2-56; am. Register, January, 1960, No. 49, eff. 2-1-60; am. Register, October, 1965, No. 118, eff. 11-1-65; r. and recr. Register, September, 1972, No. 201, eff. 10-1-72; am. (1) to (4), r. (5), renun. (6) and (7) to be (5) and (6), cr. (7) and am. (8), Register, September, 1975, No. 237, eff. 10-1-75.

Ind 80.26 Loss of vision; determination. The following rules for determining loss of visual efficiency shall be applicable to all cases settled after December 1, 1941, irrespective of the date of injury, except that, in the examples for computations of compensation payable and of the percentage of permanent total disability, the computation of the percentage of visual impairment must be applied to the provisions of the workmen's compensation act as they existed at the date of the injury.

(1) **MAXIMUM AND MINIMUM LIMITS OF THE PRIMARY COORDINATE FACTORS OF VISION.** In order to determine the various degrees of visual efficiency, (a) normal or maximum, and (b) minimum, limits for each coordinate function must be established; i.e., the 100% point and the 0% point.

(a) *Maximum limits.* The maximum efficiency for each of these is established by existing and accepted standards.

1. **Central Visual Acuity.** The ability to recognize letters or characters which subtend an angle of 5 minutes, each unit part of which subtends a 1 minute angle at the distance viewed is accepted as standard. Therefore a 20/20 Snellen or A.M.A. and a 14/14 A.M.A. are employed as the maximum acuity of central vision, or 100% acuity for distance vision and near vision respectively.

2. **Field Vision.** A visual field having an area which extends from the point of fixation outward 65 degrees, down and out 65 degrees, down 55 degrees, down and in 45 degrees, inward 45 degrees, in and up 45 degrees, upward 45 degrees, and up and out 55 degrees is accepted as 100 % industrial visual field efficiency.

3. **Binocular Vision.** Maximum binocular vision is present if there is absence of diplopia in all parts of the field of binocular fixation, and if the 2 eyes give useful binocular vision.

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(b) *Minimum limits.* The minimum limit, or the 0% of the coordinate functions of vision, is established at that degree of deficiency which reduces vision to a state of industrial uselessness.

1. Central Visual Acuity. The minimum limit of this function is established as the loss of light perception, light perception being qualitative vision. The practical minimum limit of quantitative visual acuity is established as the ability to distinguish form. Experience, experiment and authoritative opinion show that for distance vision 20/200 Snellen or A.M.A. Chart is 80% loss of visual efficiency, 20/380 is 96% loss, and 20/800 is 99.9% loss, and that for near vision 14/141 A.M.A. Reading Card is 80% loss of visual efficiency, 14/266 is 96% loss, and 14/560 is 99.9% loss. Table 1 shows the percentage loss of visual efficiency corresponding to the Snellen and other notations for distant and for near vision, for the measurable range of quantitative visual acuity.

2. Field Vision. The minimum limit for this function is established as a concentric central contraction of the visual field to 5 degrees. This degree of contraction of the visual field of an eye reduces the visual efficiency to zero.

3. Binocular Vision. The minimum limit is established by the presence of diplopia in all parts of the motor field, or by lack of useful binocular vision. This condition constitutes 50% motor field efficiency.

TABLE 1
Percentage of Central Visual Efficiency Corresponding to
Specified Readings for Distant and for Near Vision for
Measurable Range of Quantitative Visual Acuity

A.M.A. Test Chart or Snellen Reading for Distance	A.M.A. Card Reading for Near	Percentage of Visual Efficiency	Percent- age Loss of Vision	A.M.A. Test Chart or Snellen Reading for Distance	A.M.A. Card Reading for Near	Percentage of Visual Efficiency	Percent- age Loss of Vision
20/20	14/14	100.0	0.0	20/122.5	—	40.0	60.0
20/25	14/17.5	95.7	4.3	20/137.3	—	35.0	65.0
20/25.7	—	95.0	5.0	20/140	14/98	34.2	65.8
20/30	14/21	91.5	8.5	20/155	—	30.0	70.0
20/32.1	—	90.0	10.0	20/160	14/112	28.6	71.4
20/35	14/24.5	87.5	12.5	20/175	—	25.0	75.0
20/38.4	—	85.0	15.0	20/180	14/126	23.9	76.1
20/40	14/28	83.6	16.4	20/200	14/141	20.0	80.0
20/44.9	14/31.5	80.0	20.0	20/220	14/154	16.7	83.3
20/50	14/35	76.5	23.5	—	14/168	14.0	86.0
20/52.1	—	75.0	25.0	—	14/178	12.3	87.7
20/60	14/42	69.9	30.1	20/260	14/182	11.7	88.3
20/60.2	—	70.0	30.0	20/280	14/196	9.7	90.3
20/68.2	—	65.0	35.0	20/300	14/210	8.2	91.8
20/70	14/49	64.0	36.0	20/320	14/224	6.8	93.2
20/77.5	—	60.0	40.0	20/340	14/238	5.7	94.3
20/80	14/56	58.5	41.5	20/360	14/252	4.8	95.2
20/86.8	—	55.0	45.0	20/380	14/266	4.0	96.0
20/90	14/63	53.4	46.6	20/400	14/280	3.3	96.7
20/97.5	—	50.0	50.0	20/450	14/315	2.1	97.9
20/100	14/70	48.9	51.1	20/500	14/350	1.4	98.6
20/109.4	—	45.0	55.0	20/600	14/420	0.6	99.4
20/120	14/84	40.9	59.1	20/700	14/490	0.3	99.7
—	14/89	38.4	61.6	20/800	14/560	0.1	99.9

(c) Where distance vision is less than 20/200 and the A.M.A. Chart is used, readings will be at 10 feet. The percentage of efficiency and loss may be obtained from this table by comparison with corresponding readings on the basis of 20 feet, interpolating between readings if necessary. In view of the lack of uniform standards among the various near vision charts, readings for near vision, within the range of vision covered thereby, are to be according to the American Medical Association Rating Reading Card of 1932.

(2) MEASUREMENT OF CORRINATE FACTORS OF VISION AND THE COMPUTATION OF THEIR PARTIAL LOSS.

(a) *Central visual acuity.* 1. Central visual acuity shall be measured both for distance and for near, each eye being measured separately, both with and without correction. Where the purpose of the computation is to determine loss of vision resulting from injury, if correction is needed for a presbyopia due to age or for some other condition clearly not due to the injury (see section on miscellaneous regulations), the central visual acuity "without correction", as the term is used herein, shall be measured with a correction applied for

such presbyopia or other preexisting condition but without correction for any condition which may have resulted from the injury. The central visual acuity "with correction" shall be measured with correction applied for all conditions present.

2. The percentage of central visual acuity efficiency of the eye for distance vision shall be based on the best percentage of central visual acuity efficiency obtainable with correction, less one half of the difference between the percentage of central visual acuity with and without correction. However, in no case shall such subtraction for glasses be taken at more than 25%, or less than 5%, of total central visual acuity efficiency. If a subtraction of 5%, however, reduces the percentage of central visual acuity efficiency below that obtainable without correction, the percentage obtainable without correction shall be adopted unless correction is nevertheless necessary to prevent eye strain or for other reasons.

3. The percentage of central visual acuity efficiency of the eye for near vision shall be based on a similar computation from the near vision readings, with and without correction.

4. The percentage of central visual acuity efficiency of the eye in question shall be the result of the weighted values assigned to these 2 percentages for distance and for near. A onefold value is assigned to distance vision and a twofold value to near vision. Thus, if the central visual efficiency for distance is 70% and that for near is 40%, the percentage of central visual efficiency for the eye in question would be:

Distance (taken once)	70%
Near (taken twice)	40
	<u>40</u>
	150 ÷ 3 = 50% central visual acuity efficiency

5. The Snellen test letters or characters as published by the Committee on Compensation for Eye Injuries of the American Medical Association and designated "Industrial Vision Test Charts" subtend a 5 minute angle, and their component parts a 1 minute angle. These test letters or the equivalent are to be used at an examining distance of 20 feet for distant vision (except as otherwise noted on the Chart where vision is very poor), and of 14 inches for near vision, from the patient. The illumination is to be not less than 3 foot candles, nor more than 10 foot candles on the surface of the chart.

6. Table 1 shows the percentage of central visual acuity efficiency and the percentage loss of such efficiency, both for distance and for near, for partial loss between 100% and zero vision for either eye.

(b) *Field vision.* 1. The extent of the field of vision shall be determined by the use of the usual perimetric test methods, a white target being employed which subtends a 1 degree angle under illumination of not less than 3 foot candles, and the result plotted on the industrial visual field chart. The readings should be taken, if possible, without restriction to the field covered by the correction worn.

2. The amount of radial contraction in the 8 principal meridians shall be determined. The sum of the degrees of field vision remaining on these meridians, divided by 420 (the sum of the 8 principal radii of the industrial visual field) will give the visual field efficiency of one eye in per cent, subject to the proviso stated in the section on "Minimum Limits" that a concentric central contraction of the field to a diameter of 5 degrees reduces the visual efficiency to zero.

3. Where the impairment of field is irregular and not fairly disclosed by the 8 radii, the impaired area should be sketched upon the diagram on the report blank, and the computation be based on a greater number of radii, or otherwise, as may be necessary to a fair determination.

(c) *Binocular vision.* 1. Binocular vision shall be measured in all parts of the motor field, recognized methods being used for testing. It shall be measured with any useful correction applied.

2. Diplopia may involve the field of binocular fixation entirely or partially. When diplopia is present, this shall be plotted on the industrial motor field chart. This chart is divided into twenty rectangles, 4 by 5 degrees in size. The partial loss due to diplopia is that proportional area which shows diplopia as indicated on the plotted chart compared with the entire motor field area.

3. When diplopia involves the entire motor field, causing an irremediable diplopia, or when there is absence of useful binocular vision due to lack of accommodation or other reason, the loss of coordinate visual efficiency is equal to 50% loss of the vision existing in one eye (ordinarily the injured, or the more seriously injured, eye); and when the diplopia is partial, the loss in visual efficiency shall be proportional and based on the efficiency factor value of one eye as stated in table 2. When useful correction is applied to relieve diplopia, 5% of total motor field efficiency of one eye shall be deducted from the percent of such efficiency obtainable with the correction. A correction which does not improve motor field efficiency by at least 5% of total will not ordinarily be considered useful.

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TABLE 2
Loss in Binocular Vision

No loss	equals	100.0%	Motor	Field	Efficiency
1/20	"	99.0	"	"	"
2/20	"	97.7	"	"	"
3/20	"	96.3	"	"	"
4/20	"	95.0	"	"	"
5/20	"	93.7	"	"	"
6/20	"	92.3	"	"	"
7/20	"	90.7	"	"	"
8/20	"	89.0	"	"	"
9/20	"	87.3	"	"	"
10/20	"	85.7	"	"	"
11/20	"	83.7	"	"	"
12/20	"	81.7	"	"	"
13/20	"	79.7	"	"	"
14/20	"	77.3	"	"	"
15/20	"	75.0	"	"	"
16/20	"	72.7	"	"	"
17/20	"	69.7	"	"	"
18/20	"	66.0	"	"	"
19/20	"	61.0	"	"	"
20/20	"	50.0	"	"	"

(3) **INDUSTRIAL VISUAL EFFICIENCY OF ONE EYE.** The industrial visual efficiency of one eye is determined by obtaining the product of the computed coordinate efficiency values of central visual acuity, of field of vision, and of binocular vision. Thus, if central visual acuity efficiency is 50%, visual field efficiency is 80% and the binocular vision efficiency is 100%, the resultant visual efficiency of the eye will be $50 \times 80 \times 100 = 40\%$. Should useful binocular vision be absent in all of the motor field so that binocular efficiency is reduced to 50%, the visual efficiency would be $50 \times 80 \times 50 = 20\%$.

(4) **COMPUTATION OF COMPENSATION FOR IMPAIRMENT OF VISION.** When the percentage of industrial visual efficiency of each eye has been thus determined, it is subtracted from 100%. The difference represents the percentage impairment of each eye for industrial use. These percentages are applied directly to the specific schedules of the Workmen's Compensation Act.

(5) **TYPES OF OCULAR INJURY NOT INCLUDED IN THE DISTURBANCE OF COORDINATE FACTORS.** Certain types of ocular disturbance are not included in the foregoing computations and these may result in disabilities, the value of which cannot be computed by any scale as yet scientifically possible of deduction. Such are disturbances of accommodation not previously provided for in these rules, of color vision, of adaptation to light and dark, metamorphopsia, entropion, ectropion, lagophthalmos, epiphora, and muscle disturbances not included under diplopia. For such disabilities additional compensation shall be awarded, but in no case shall such additional award make the total compensation for loss in industrial visual efficiency greater than that provided by law for total permanent disability.

(6) **MISCELLANEOUS REGULATIONS.** (a) Compensation shall not be computed until all adequate and reasonable operations and treatment

known to medical science have been attempted to correct the defect. Further, before there shall be made the final examination on which compensation is to be computed, at least 3 months shall have elapsed after the last trace of visible inflammation has disappeared, except in cases of disturbance of extrinsic ocular muscles, optic nerve atrophy, injury of the retina, sympathetic ophthalmia, and traumatic cataract; in such cases, at least 12 months and preferably not more than 16 months shall intervene before the examination shall be made on which final compensation is to be computed. In case the injury is one which may cause cataract, optic atrophy, disturbance of the retina, or other conditions, which may further impair vision after the time of the final examination, note thereof should be made by the examining physician on his report.

(b) In cases of additional loss in visual efficiency, when it is known that there was present a preexisting subnormal vision, compensation shall be based on the loss incurred as a result of eye injury or occupational condition specifically responsible for the additional loss. In case there exists no record or no adequate and positive evidence of preexisting subnormal vision, it shall be assumed that the visual efficiency prior to any injury was 100%. In order to effect the above purpose, the examining physician should carefully distinguish, in regard to each of the coordinate factors, between impairments resulting from the injury and impairments not so resulting as established by the type of proof here stated. Such other impairments should, however, be also reported, separately. Computation must occasionally also be made of impairment of vision not resulting from the injury, as, for instance, for the purpose of computing additional indemnity due under the provisions of the Workmen's Compensation Act on account of preexisting disability of one or both eyes.

Note I—Example of computation covering partial disability to a single eye

A. Central Visual Acuity:

Distance—Reading of 20/32.1 with glasses equals visual efficiency of.....	90.0%
Reading of 20/200 without glasses equals visual efficiency of.....	20.0%
Difference	70.0%
Rated efficiency is 90.0% minus 25% (Because one-half of 70.0% exceeds 25) or 65.0%	
Near—Reading of 14/21 with glasses equals visual efficiency of	91.5%
Reading of 14/35 without glasses (except that correction is applied for presbyopia due to age) equals visual efficiency of	76.5%
Difference	15.0%
Rated efficiency is 91.5% minus 7.5% (which is one-half of 15%) or 84.0%	
Final Central Visual Acuity Efficiency is:	
65.0 + 84.0 + 84.0 = 233.0 ÷ 3 = 77.7%	

B. Field Vision:

Sum of eight principal meridians of the field remaining divided by 420 is:

40
50
50
50
40
40
40
40

420) 350 (83.3%

C. Binocular Vision:

Diplopia in 3 rectangles (3/20) is 96.3% motor field efficiency.

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D. Industrial Visual Efficiency of the one eye is:

$77.7\% \times 83.3 \times 96.3\%$ or 62.3%

E. Impairment of the one eye for industrial use is:

$100.0\% - 62.3\% = 37.7\%$

F. Compensation payable is (under major schedule since amendments of 1931):

Total impairment of one eye (age 50 or less) 250 weeks. $250 \text{ weeks} \times 37.7\% = 94.25 \text{ weeks}$ (Reduce the number of weeks by $2\frac{1}{2}\%$ for each year that the age at time of injury exceeds 50.)

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:

$92.5\% \times 100\% \times 100\%$ or 92.5%

E. Impairment of right eye for industrial use is:

$100.0\% - 92.5\% = 7.5\%$

3. Compensation payable is (under major schedule since amendments of 1931, and at age 50 or less):

Left eye (Example I):	94.25 weeks
Right eye: 250 weeks $\times 7.5\% = 18.75$	56.25 weeks

Total 150.5 weeks
(Reduce the number of weeks by $2\frac{1}{2}\%$ for each year that the age at time of injury exceeded 50.)

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), which results, at age 50 or less, in indemnity payable for 88.2 weeks

2. Right eye is enucleated, which, at said ages, results in indemnity payable for 275 weeks

3. Total payable: $88.2 \text{ weeks} \times 3 \text{ (multiple injury)} = 264.6 + 275 = 539.6 \text{ weeks}$ (Subject to deduction of $2\frac{1}{2}\%$ for each year over age of 50)

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. (1) The following forms are listed in accordance with section 227.013, Wis. Stats. Each form is issued by the workmen's compensation division and may be obtained in limited quantity from the Department of Industry, Labor and Human Relations, P.O. Box 2215, Madison.

- (a) WC-7 Application for Adjustment of Claim.
- (b) WC-7b Application for Review of Compromise.
- (c) WC-12 Employer's First Report of Injury or Disease.
- (d) WC-13 Supplementary Report on Accident or Industrial Disease.
- (e) WC-13a Supplementary Wage Information.
- (f) WC-16 Physician's report of Accident or Industrial Disease.
- (g) WC16a Physician's Report on Eye Injuries.
- (h) WC-16b Physician's Certified report on Accident or Industrial Disease pursuant to section 102.17 (1) (as).
- (i) WC-28 Petition for Review of Findings and Order of Examiner.

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.

Ind 80.28 **History:** Cr. Register, January, 1960, No. 49, eff. 2-1-60; r. Register, November, 1970, No. 179, eff. 12-1-70.

Ind 80.29 Value of room or meals. For the purpose of determining the value of lodging and meals for wage purposes under chapter 102 the allowance provided under chapter 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 section 102.11, Wis. 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 section 102.07 (7), Wis. 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 chapter 66, Wis. Stats. The department shall observe the same rules and procedures and may use the same forms in processing and determining claims made under chapter 66, Wis. Stats. as are used under chapter 102.

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

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

(1) The evaluation of permanent disability is at best difficult. The final evaluation is a composite of elements which can be objectively measured and others that cannot. Believing that a guideline for minimum disabilities associated with certain loss of motion or common medical conditions would assist, the commission sought the advice of an orthopedic advisory committee. On its recommendation the department adopts the schedule of minimum disabilities set out below. In adopting this schedule the department emphasizes that findings of additional disabling elements would result in an estimate

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higher than the minimum. An example would be where in addition to a described loss of motion, pain and circulatory disturbance further limited 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 minimum also assumes that the member, the back, etc., was previously without disability. Appropriate reduction should be made for any pre-existing disability.

(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) <i>Ankle</i>	
Total ankylosis, optimum position	40%
Ankylosis ankle joint	30%
Subtalar ankylosis	15%
(6) <i>Toes</i>	
Ankylosis great toe at proximal joint	50%
All other toes at proximal	40%
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) <i>Shoulder</i>	
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) <i>Elbow</i>	
Ankylosis, optimum position, 45° angle	
With radio-ulnar motion destroyed	60%
With radio-ulnar motion intact	45%

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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
Pareneal nerve paralysis	
At level below knee	25-30% at knee

(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%

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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%

History: Cr. Register, October, 1965, No. 118, eff. 11-1-65; r. and recr. Register, April, 1975, No. 232, eff. 5-1-75.

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.