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MISSOURI WORKERS' COMPENSATION ACT (Quick Reference)

Jurisdiction - §287.110

- Place of injury; Contract for hire in Missouri; Principal place of employment.

Injuries and Accidents - §287.020

- "Accident" is defined as an unexpected traumatic event or unusual strain identifiable by time and place of occurrence and producing at the time objective evidence of an injury caused by a specific event during a single work shift. An injury is not compensable because work was a triggering or precipitating factor.
- "Injury" is defined to be an injury which has arisen out of and in the course and scope of employment. An injury by accident is compensable only if the in the accident was the prevailing factor in causing both the resulting medical condition and disability. The "prevailing factor" is defined to be the primary factor, in relation to any other factor, causing both the resulting medical condition and disability
- Idiopathic Injuries – an injury resulting directly or indirectly from idiopathic causes is not compensable
- Psychiatric injury and mental stress - §287.120.8 & 9 – In order for a mental stress claim to be compensable, the stress in question must be of a greater magnitude than the day-to-day mental stresses experienced by other workers employed at the same or similar jobs.

Occupational Disease - §287.067

- An occupational disease is compensable only if the occupational exposure was the prevailing factor in causing both the resulting medical condition and disability. Ordinary, gradual deterioration or progressive degeneration of the body caused by aging or by the normal activities or day-to-day living shall not be compensable.

Alcohol and Drug Abuse - §287.120.6

- Where an employee fails to obey any rule or policy adopted by the employer relating to a **drug-free workplace**, benefits shall be reduced **50%** if the injury was sustained in conjunction with the use of alcohol or non-prescribed controlled drugs. If, however, the use of alcohol or non-prescribed controlled drugs is the proximate cause of the injury, then the benefits for death or disability shall be forfeited.
- If the employee's blood alcohol level is above 0.08% there exists a rebuttable presumption that the use of alcohol was the proximate cause of the injury. An employee's refusal to take a test for alcohol or a non-

prescription controlled substance at the request of the employer shall result in the forfeiture of benefits if the employer had sufficient cause to suspect use of alcohol or a non-prescription controlled substance by the claimant or if the employer's policy clearly authorized post injury testing.

Failure to Use Safety Devices - §287.120.5

- When the injury is caused by failure of the employee to use **safety devices** provided by the employer, or from the employee's failure to obey any reasonable rule adopted by the employer for the safety of the employees, benefits shall be reduced **at least 25% but not more than 50%**. The employee must have actual knowledge of the rule adopted by the employer and the employer must make a reasonable effort to cause the employees to use the safety device(s) and to obey or follow the rule so adopted for the safety of the employees.

Notice requirement - §287.240

- Written notice of the time, place, and nature of the injury, and the name and address of the person injured, must be given to the employer no later than thirty days after the accident. For occupational disease or repetitive trauma claims, written notice must be provided within 30 days after the **diagnosis** of the condition.

Average weekly wage - §287.250

- Calculated by using the 13 weeks prior to the date of injury.

Benefits

- Medical Treatment - §287.140
 - Employer/insurer has the right to control medical treatment.
 - Employee has a right to select their own physician, but it is at their own expense.
- Temporary Total Disability - §287.170
 - Definition: Total disability shall mean inability to return to any employment and not merely the inability to return to the employment in which the employee was engaged at the time of the accident.
 - Amounts Payable – TTD benefits are paid based on two-third of the average weekly wage up to the State maximum.
 - Waiting period – the waiting period is three “regularly scheduled” work days before payment of benefits begin. If the disability lasts longer than 14 days, then the claimant is entitled to payment for the first three days as well.
- Permanent Partial Disability - §287.190
 - Permanent partial disability benefits are calculated based upon two-thirds of the average weekly wage up to the State maximum.
 - Disfigurement – the maximum of 40 weeks is payable for serious and permanent disfigurement about the head, neck, hands or arms and is allowable in conjunction with PPD.
- Permanent Total Disability - §287.200
 - Definition: Permanent total disability is an inability of the claimant to compete in the open labor market. A claimant seeking such an award must present expert testimony on this issue.
 - Permanent total disability benefits are paid based upon two-thirds of the average weekly wage up to the State maximum.
- Death Benefits - §287.240
 - Burial expenses – limited to a maximum of \$5,000.00.
 - The employee's death benefit is based upon the employee's average weekly wage during the year preceding the injury that results in death of the employee. The amount is paid based upon two-thirds of the employee's average weekly wage up to the State maximum.

Procedure and Proceedings

- Report of Injury – §287.380 – Form 1 – must be filed within 30 days after knowledge of injury
- Answer - the employer/insurer must file an answer to the Claim for Compensation within 30 days from the date of the Division's acknowledgement of receipt of the formal claim. If a timely answer is not filed, the factual allegations contained in the Claim for Compensation will be deemed admitted.
- Affirmative Defenses
 - Notice

- Statute of Limitations – 2 years from the date of injury, death or last payment of medical expenses. However, if a report of injury or death is not filed pursuant to §287.380 (e.g., in 30 days) the Claim for Compensation may be filed within 3 years after the date of injury, death or last payment.

Discovery – can include depositions, including of the claimant, statement of the employee, medical examinations and receipt of medical records.

Division Settings

- Voluntary Conference - reserved for pro se matters and those in which a Claim for Compensation has not been filed.
- Pre-Hearing Conferences – occur when a party seeks to move the case forward.
- Mediations – occur when the parties have reached an impasse with regard to the issues in dispute or are unable to reach a mutually agreeable settlement.
- Hearings - held before an Administrative Law Judge who will hear all issues which are placed in dispute.

Voluntary Settlement Agreements - §287.390.1