

QUICK GUIDE TO FLORIDA WORKERS' COMPENSATION LAW

Statute of Limitations

Two years from the date of the accident and then one year after the last payment of indemnity benefits or the last provision of medical treatment. This defense must be asserted in the first responsive pleading or it is waived.

Notice

The employee must provide notice within 30 days after the date, or the initial manifestation, of the injury. However, the 30 day notice requirement may be excused if the employer had actual knowledge of the injury or if the cause of the injury could not be identified without a medical opinion and the employer was advised within 30 days after the medical opinion was obtained.

Compensability

The injury must be established within a reasonable degree of medical certainty, based on objective relevant medical findings, and the work-related accident must be the major contributing cause (MCC) of the condition. MCC is defined as the cause which is more than 50% responsible for the injury as compared to all other causes combined for which treatment or benefits are sought. MCC must be demonstrated by medical evidence only. Pain and subjective complaints alone, without objective relevant medical findings, are not compensable.

Choice of Physician

The employer/carrier selects the treating physician. The employee is entitled to a one-time change of physician; however, the employer/carrier has the right to select this physician also as long as it is provided to the employee within 5 days of the employee's written request for same.

Average Weekly Wage (AWW)

The average weekly wage is calculated from wages earned and reported for federal income tax purposes on the job where the employee was injured and any other concurrent employment where the employee is covered by workers' compensation coverage in the 13 weeks preceding the date of accident. The AWW includes fringe benefits (i.e. health insurance, housing, etc.) unless the employer continues to provide these benefits after the date of the accident.

Temporary Indemnity Benefits

The employee is entitled to a maximum of 260 weeks of temporary benefits (TTD/TPD) and is only eligible for temporary indemnity benefits prior to being placed at maximum medical improvement (MMI).

Temporary Total Disability (TTD)

TTD benefits are paid at 2/3 of the AWW.

Temporary Partial Disability (TPD)

If the employee is released to light duty and is not working, TPD benefits shall be paid at 80% of 80% of the AWW. If the employee returns to work and earns less than 80% of the AWW, TPD benefits shall be paid at 80% of the difference between the employee's earning and 80% of the AWW. If the employee earns greater than 80% of the AWW, TPD benefits are not due and owing. TPD benefits are only payable if the employee has not been placed at MMI.

Impairment Benefits

When the employee is placed at MMI, a permanent impairment rating (PIR) shall be assigned and the employee is entitled to 75% of the TTD rate for the following number of weeks:

- 1% - 10%: 2 weeks for each percentage point
- 11% - 15%: 3 weeks for each percentage point
- 16% - 20%: 4 weeks for each percentage point
- 21% or more: 6 weeks for each percentage point

Permanent Total Disability (PTD)

For injuries not defined by statute as catastrophic, an employee is entitled to PTD benefits if one of the following requirements is met: (1) the employee is unable to engage in at least sedentary employment within a 50 mile radius of their home; (2) the employee has permanent work-related physical restrictions coupled with an exhaustive but unsuccessful job search; or (3) the permanent work-related physical restrictions, while not totally disabling alone, preclude the employee from engaging in at least sedentary employment when combined with the employee's vocational factors. PTD benefits are paid at 2/3 of the AWW with annual cost of living adjustments with said adjustment ceasing at age 62. For employees who are injured when 70 years old or younger in an accident which occurred after October 1, 2003, PTD benefits are paid only until age 75. For injuries occurring prior to October 1, 2003, PTD benefits are paid until death.

ABOUT US

Taylor, Day, Grimm & Boyd concentrates exclusively on commercial and insurance defense litigation and offers a team of dedicated, skilled, and highly-respected legal practitioners who help businesses successfully resolve both their day-to-day legal challenges and their most complex legal disputes. We are prepared to litigate in state and federal circuits throughout Florida and—through their affiliation with ALFA International—in courts around the globe.



Christopher P. "Bo" Boyd

Shareholder Christopher P. "Bo" Boyd was admitted to the Florida Bar in 1992. He graduated cum laude from Florida State University in 1989 and with honors from the Florida State University College of Law in 1992. He joined the Taylor, Day Grimm & Boyd in 1992, and his practice involves representing employers, carriers and third-party administrators in the defense of claims brought under the Florida Workers' Compensation Act, the Longshore and Harbor Workers' Compensation Act, and the Defense Base Act.



Tara N. "Nikki" Poole

Tara "Nikki" Poole has been an associate with the firm since she was admitted to the Florida Bar in 2002. In more than twenty years of service at the firm, she has become an important part of the team and history at Taylor, Day, Grimm & Boyd. In 2019, she was named Partner. Her work involves litigation and defense of claims filed under the Florida Workers' Compensation Act and the Longshore and Harbor Workers' Compensation Act.



Heather E. Sosnowski

Heather is admitted to practice law in both the states of Florida and Georgia, and she has been a member of the Taylor Day Law team for over a decade. Her current practice includes state workers' compensation and Longshore and Harbor workers' compensation defense claims. Her contributions to our team make a big impact, including her commitment for keeping quick and constant communication open with her clients and the Taylor Day team.



Matthew S. Letteri

Born and raised in Florida, Matthew attended Florida State University where he received his bachelor's degree in Criminology, followed by his Juris Doctor from Florida Coastal School of Law. Before joining Taylor, Day, Grimm & Boyd, Matthew gained experience in medical malpractice and later specialized in first party property and insurance defense matters at a large insurance defense firm. His practice areas now include litigation and defense of claims filed under the Florida Workers' Compensation Act and the Longshore and Harbor Workers' Compensation Act.