



## OKLAHOMA WORKERS' COMPENSATION REFORM

SB1062 voids Title 85 and creates Title 85A, a new workers' compensation statute. Title 85A would establish an Administrative Workers' Compensation Act, an Oklahoma Employee Injury Benefit Act (aka Oklahoma Option), and a Workers' Compensation Arbitration Act. The effective date is February 1, 2014.

### COMPARISON OF MANDATED MINIMUM BENEFITS UNDER OKLAHOMA WORKERS' COMPENSATION TITLE 85 AND THE ADMINISTRATIVE WORKERS' COMPENSATION ACT (the "WC ACT") TITLE 85A AS PROVIDED BY THE OKLAHOMA INSURANCE DEPARTMENT<sup>1</sup>

**The materials regarding Oklahoma workers' compensation reform are for general informational purposes. Please contact your attorney or other competent advisor regarding any company specific or individual concern.**

	OKLAHOMA WORKERS' COMPENSATION - TITLE 85	WC ACT - TITLE 85A
Types of Covered Injuries	Injury by Accident, Occupational Disease, and Cumulative Trauma.	Injury by Accident, Occupational Disease, and Cumulative Trauma.
Medical -Duration	100% No Limit	100% No Limit
Vocational Rehabilitation	Up to 52 weeks. (+52 weeks additional benefits at same rate as employee's TTD if employee, actively and in good faith, is being evaluated or participating in a retraining or job placement program for PTD evaluation)	Up to 52 weeks. (+52 weeks additional benefits at same rate as employee's TTD if employee, actively and in good faith, is being evaluated or participating in a retraining or job placement program for PTD evaluation)
Temporary Total Disability(TTD) -Benefits Begin	70% of employee's AWW, not to exceed state's AWW. Starting 8th day of disability. If disability extends more than 21 days, payment due from 1st day of disability.	70% of employee's AWW, not to exceed 70% of state's AWW. Starting 4th day of disability.
-Duration Limit	156 weeks (+52 weeks for consequential injury)	104 weeks (+52 weeks for consequential injury)
Partial Disability (TPD)	70% of the difference between employee's AWW and employee's wage-earning capacity thereafter in same employment or otherwise, if less than before the injury, during continuance of partial disability not to exceed 80% of employee's AWW at time of accident.	70% of the difference between employee's AWW and employee's weekly wage for performing alternative work after injury, but only if weekly wage for alternative work is less than TTD rate.
-Duration	156 weeks.	52 weeks.  If employee refuses alternative work, no benefits are paid

<sup>1</sup> Comparative data taken from the Oklahoma Insurance Department's website: [www.ok.gov/oid](http://www.ok.gov/oid)



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<p>Permanent Partial Disability(PPD) (“Impairment”)  -Max Duration</p>	<p>70% of employee’s AWW up to \$323 and not less than \$150 per week for period prescribed for scheduled members.</p> <p>500 weeks maximum.</p> <p>No PPD allowed to part of body not medically treated.</p> <p>The fact that employee suffered previous disability or impairment or received compensation therefor shall not preclude compensation for later accidental personal injury or occupational disease. If existing previous impairment, including non-work-related injury or condition that produced permanent disability and same is aggravated or accelerated by accidental personal injury or occupational disease, compensation for PPD shall be only for such amount as was caused by such accidental personal injury or occupational disease and no additional compensation shall be allowed for the preexisting disability or impairment.</p> <p>Sum of all PPD awards, excluding awards against MITF, shall not exceed 520 weeks, except for awards for amputations and disability to the parts of the body for which surgery was received in the latest injury.</p> <p>No payments on any PPD order shall begin until payments on any preexisting PPD orders have been completed.</p>	<p>70% of employee’s AWW up to \$323.</p> <p>350 weeks maximum. (for body as a whole)</p> <p>No PPD allowed to part of body not medically treated.</p> <p>For amputation or permanent total loss of use of a scheduled member, 70% of AWW up to \$323, multiplied by number of weeks in the schedule of compensation for the member, regardless of whether employee is able to return to pre-injury or equivalent job.</p> <p>Payment of PPD deferred and held in reserve if employee:</p> <ol style="list-style-type: none"> <li>1. Has reached MMI;</li> <li>2. Has been released to RTW; and</li> <li>3. Returns to pre-injury or equivalent job for a term of weeks determined by dividing the total dollar value of award by 70% of AWW.</li> </ol> <p>PPD reduced by 70% of AWW for every week the employee:</p> <ol style="list-style-type: none"> <li>1. Works in the pre-injury or equivalent job; or</li> <li>2. Refuses an offer to return to the pre-injury or equivalent job.</li> </ol> <p>Lump Sum: Employee terminated other than for misconduct or position offered is not the pre-injury or equivalent job, remaining PPD paid in a lump sum.</p> <p>No compensation for preexisting disability or impairment.</p> <p>If employer is the same employer when injury resulting in preexisting disability or impairment was sustained, award against employer shall be reduced by current dollar value of the percentage of preexisting disability.</p>
<p>Permanent Total Disability (PTD) -Duration</p>	<p>70% of employee’s AWW, not to exceed state’s AWW, until SS maximum retirement age or 15 years, whichever is longer</p>	<p>70% of employee’s AWW, not to exceed state’s AWW, until SS maximum retirement age or 15 years, whichever is longer.</p>

*Managed Care for Work Related Injuries*



<b>Disfigurement</b>	Up to \$50,000	Up to \$50,000
<b>Death Benefit</b> -Surviving Spouse -Children	Up to \$8,000 Funeral Expenses. \$100,000 + Lesser of 70% of employee's AWW and state's AWW. Lump Sum + % of employee's AWW depending on number of children.	Up to \$10,000 Funeral Expenses. \$100,000 + Lesser of 70% of employee's AWW and state's AWW. Lump Sum + % of employee's AWW depending on number of children.

**BENEFIT LIMITATIONS  
AS PROVIDED BY THE OKLAHOMA INSURANCE DEPARTMENT<sup>2</sup>**

- No benefits for TTD if the employee receives unemployment benefit unless TTD is greater than unemployment benefit in a disputed claim
- Non-surgical TTD cannot exceed 8 weeks
- No compensation for “ordinary disease of life”
- Age is not considered in determining change of condition
- Employees given 30 day for injury notification (oral or written)
- Claim barred unless filed with the Commission within one year
- Claim barred if no treatment or compensation is received within one year of filing with Commission
- Occupational disease claim barred after two years of last exposure
- Silicosis/asbestosis claims have one year after disablement, which must occur three years from last exposure
- Death claims must be filed within two years
- If death doesn't occur within one year from accident or within three years of receiving compensation benefits then a rebuttable presumption shall arise that the death did not occur from the injury

**FRAUD AND PENALTIES  
AS PROVIDED BY THE OKLAHOMA INSURANCE DEPARTMENT<sup>3</sup>**

- Employees making false statement to receive workers' compensation are guilty of a felony
- The Attorney General's Workers' Compensation Fraud Investigation Unit will be funded through the Commission
- If an injured employee is charged with fraud then all compensation will be halted

<sup>2</sup> Benefit Limitations information provided at Oklahoma Insurance Department's Workers' Compensation Reform seminar

<sup>3</sup> Fraud and Penalties information provided at Oklahoma Insurance Department's Workers' Compensation Reform seminar