

# Self-Insurance Quarterly Workshop

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# Permanent Total Disability

- ORC 4123.58 and OAC 4121-3-34 govern permanent total disability awards and rate calculations
- Permanent Total Disability means the inability to perform sustained remunerative employment due to the allowed conditions in the claim

# Permanent Total Disability

- PTD Rate Calculations
  - For PTD awards prior to 1998, the Industrial Commission hearing officer generally established the initial PTD rate. Any changes to the established PTD rate would require an IC order to execute the change.
  - After 1998, a Self-Insured employer assumed the responsibility to set and adjust the PTD rate once PTD benefits were awarded.

# Permanent Total Disability

- Factors to consider when calculating the PTD rate:
  - AWW rate for the date of the injury
    - Minimum and Maximum PTD rate
    - Offset Rate
  - Social Security Disability
  - Claimant's age
  - Lump Sum advancement
    - Can not recover more than 20% of weekly benefit
  - Disabled Workers' Relief Fund

# Permanent Total Disability

- Calculating the PTD Rate
  - BWC's PTD rate Calculation Job Aid
  - BWC's PTD Calculation Worksheet
    - These will be posted on the Self-Insured site on [Ohiobwc.com](http://Ohiobwc.com)
    - Previously sent out with communication addressing SI audits of PTD claims
  - BWC rate chart

# Permanent Total Disability

- Weekly Workers' Compensation Amount
  - Compares four variables
    - Claimant's Average Weekly Wage
    - 50% of Statewide AWW, which is the minimum PTD rate for the year of the injury
    - 2/3 of Claimant's AWW
    - 2/3 of SAWW, PTD offset rate

This information is available on the rate chart

# Permanent Total Disability

- PTD Rate compares four variables
  - Weekly Workers' Compensation Amount
  - Weekly Social Security Disability
  - Statewide Average Weekly Wage (Max PTD Rate)
  - Claimant's AWW rate
  - PTD offset rate (2/3 of SAWW)

# Permanent Total Disability

- PTD Calculation tool
  - Weekly Workers' Compensation Amount (WWCA):  
Calculating the weekly workers' compensation amount pursuant to Ohio Revised Code 4123.58 (A). Variables required:
    - \_\_\_\_\_ AWW
    - \_\_\_\_\_ 50% SAWW (minimum PTD from Rate Chart for DOI)
    - \_\_\_\_\_ 2/3 AWW
    - \_\_\_\_\_ 2/3 SAWW ("PTD offset" amount from Rate Chart for DOI)



# Permanent Total Disability

- Options (Yes or No):

\_\_\_\_\_ a) If  $\frac{2}{3}$  of AWW \_\_\_\_\_  $\leq$   $\frac{2}{3}$  of SAWW \_\_\_\_\_ then WWAC =  $\frac{2}{3}$  of SAWW \_\_\_\_\_

\_\_\_\_\_ b) If AWW \_\_\_\_\_  $<$  50% SAWW \_\_\_\_\_ then WWCA = AWW \_\_\_\_\_

\_\_\_\_\_ c) If AWW \_\_\_\_\_  $\geq$  50% SAWW \_\_\_\_\_ then WWCA = but  $\frac{2}{3}$  of SAWW \_\_\_\_\_, 50% SAWW

\_\_\_\_\_ d) If  $\frac{2}{3}$  of AWW \_\_\_\_\_  $>$  50% of SAWW but  $\frac{2}{3}$  of AWW \_\_\_\_\_  $<$   $\frac{2}{3}$  SAWW \_\_\_\_\_ Then WWCA  $\frac{2}{3}$  of AWW \_\_\_\_\_

**Weekly workers' compensation amount equals: \_\_\_\_\_**

# Permanent Total Disability

- Determining PTD Rate
  - Calculations pursuant to ORC 4123.58 (B). Variables required:

\_\_\_\_\_ WWCA

\_\_\_\_\_ Weekly SSD ( \_\_\_\_\_ Monthly SSD X 12/52)

\_\_\_\_\_ SAWW (maximum PTD from rate chart for year of injury)

\_\_\_\_\_  $\frac{2}{3}$  AWW

\_\_\_\_\_  $\frac{2}{3}$  SAWW

# Permanent Total Disability

- Options:

\_\_\_\_\_ a) If  $WWCA + SSI$  \_\_\_\_\_  $\geq$   $SAWW$  then PTD rate = **WWCA** \_\_\_\_\_

\_\_\_\_\_ b) If  $WWCA + SSD$  \_\_\_\_\_  $<$   $SAWW$  \_\_\_\_\_ and  $2/3 AWW$  \_\_\_\_\_  
 $\leq 2/3 SAWW$  \_\_\_\_\_ then PTD rate = **WWCA** \_\_\_\_\_

\_\_\_\_\_ c) If  $WWCA + SSD$  \_\_\_\_\_,  $SAWW$  \_\_\_\_\_ but  $2/3 AWW$  \_\_\_\_\_  $\leq$   
 $SAWW$  \_\_\_\_\_ but  $< SAWW$  \_\_\_\_\_ the PTD rate = **2/3 AWW** \_\_\_\_\_

\_\_\_\_\_ d) If  $WWCA+SSD$  \_\_\_\_\_  $<$   $SAWW$  \_\_\_\_\_, but  $2/3 AWW$  \_\_\_\_\_  $>$   
 $SAWW$  \_\_\_\_\_ then PTD rate = **SAWW** \_\_\_\_\_

**PTD Rate Equals \_\_\_\_\_ (if PTD paid 100% in this claim)**

# Permanent Total Disability

- For Split PTD
  - Input the % for this specific claim at the bottom of the sheet and it will calculate the PTD rate for this claim.
  - PTD rate will be the designated percentage of the PTD rate for each claim.

# Permanent Total Disability

- DWRF
  - Disabled Workers' Relief Fund (DWRF) is a separate supplemental fund established to provide relief to an injured worker who is receiving permanent total disability (PTD) compensation benefits by raising the cost of living level. [R.C. 4123.412](#)
  - Eligible injured workers are entitled to receive payments, when the PTD benefits are below the annual DWRF Entry Level Rate

# Permanent Total Disability

- DWRF Orders
  - DWRF Orders are issued on all initial determinations regarding DWRF benefits. An Order is issued even when the injured worker is found to be ineligible for the receipt of DWRF benefits. The Order will contain the weekly PTD declared rate, as well as the weekly amount of social security disability benefits for DWRF orders.
  - Either the employer or claimant may appeal a DWRF order to the Industrial Commission for adjudication.

# Permanent Total Disability

- DWRF Annual Processing
  - Special Claims department will review all PTD claims annually for Social Security disability.
  - DWRF order will be issued annually
  - Communication with employer to verify AWW and PTD rates
  - Communication with claimant to verify payment rates
  - Special claims also completes a monthly cross match with SSA to address any changes.

# Permanent Total Disability

- PTD rate adjustments
  - Lump Sum advancements
    - Pre 12/1/2004
      - Life of the claim
    - Post 12/1/2004
      - Until advancement is repaid
      - Must have agreement in file, no more than 25% of weekly benefit can be recovered each week



# Permanent Total Disability

- PTD Adjustments
  - Claimant reaches retirement age
  - Social Security disability stops
  - If PTD rate set at offset rate it should be adjusted when claimant reaches retirement age

# Permanent Total Disability

- Beginning 8/1/12 the SI department began auditing PTD claims as part of the Level 2 Compliance audit.
  - Verifying that the correct PTD rate is being used
  - Underpayments
  - Overpayments
    - Self-Insured Department will address any underpayments or overpayment directly with employers when identified during an annual review by the Special Claims department for DWRF benefits.
- Notify Special Claims unit of any PTD claims not being evaluated annually for DWRF benefits

# Questions related to PTD calculations?

# OAC Rule Changes

- Proposed rule changes
  - All proposed changes have been developed in conjunction with Self-Insured stakeholders
  - Proposed changes presented to the BWC Board of Directors in February and March 2013

# OAC Rule Changes

- OAC 4123-19-03 (H)
  - Grants BWC greater flexibility related to obtaining a contract of guaranty from the ultimate U.S. parent
    - If another or parent corporation or entity owns fifty percent or more of the stock of an employer, **the bureau may, in its discretion, require the employer to furnish a contract of guaranty executed by the ultimate domestic parent corporation or entity.** The bureau shall require an alternative form of security if it does not require a contract of guaranty executed by the ultimate domestic parent corporation or entity.

# OAC Rule Changes

- OAC 4123-19-15 (C)
  - Modify requirements related to assessments for the SIEGF
    - New self-insuring employers, for each of the first three years of self-insurance, shall be assessed six per cent of base rate premium as reported on the total of the last two full six-month semi-annual payroll reports submitted as a subscriber to the state insurance fund. **This assessment shall not apply to entities added to the coverage of an existing self-insuring risk after the first three years of self-insurance of the existing risk.**

# OAC Rule Changes

- OAC 4123-17-32 (H)
  - Grants BWC greater flexibility to collect assessments from an employer who is no longer self-insured
    - The bureau may, in its discretion, permit an employer to pay its total assessment obligation under this paragraph in a single payment, discounted for present value at a rate determined by BWC. An employer electing to pay its assessment obligations in a single payment must continue to administer self-insured claims and pay compensation and benefits pursuant to paragraph (C) of rule 4123-19-05 of the Administrative Code.

# OAC Rule Changes

- OAC 4123-17-66 (G)
  - Grants BWC the authority to use self-insured experience (payroll/claims) when calculating a state fund experience rate
    - When an individual employer which has returned to the state insurance fund from self-insured status and has used the self-insured experience in calculating the experience rate becomes a member of a group for the purpose of experience rating, **the self-insured experience shall be included in the experience of the group for experience rating purposes. Upon returning to the state insurance fund the employer shall provide the bureau with its payroll, a list of all claims incurred while the employer was self-insured and all payments made with respect to those claims, and any additional information required by the bureau to calculate the employer's experience.**



# Proposed Law Changes

- Proposed law changes
  - ORC 4123.82
    - Would increase, from \$50,000 to \$300,000, the level in excess of which a self-insuring employer may seek insurance against liability for workers' compensation benefits arising from a single disaster or event
  - ORC 4123.353
    - Would remove the requirement of public employer to provide an independent actuarial study certifying its reserve funds each year

# SI-7 Renewal Application

- Beginning with the July 2013 renewals, all SI employers will be requested to complete the SI-7 renewal application on-line at [www.ohiobwc.com](http://www.ohiobwc.com)
  - Renewal packets will no longer be sent via mail
- All data fields will be housed and in subsequent years an employer will update appropriate information rather than completing entire form
- Additional information requested on the SI-7 application:
  - The administrator information page will be incorporated into the SI-7
  - Claims currently being paid by excess insurance
  - Locations of claim housing

# SI-40 Report of Paid Compensation and Reserves

- Beginning with the 2012 SI-40 report employers will be required to submit a detailed backup report. The report will validate each paid compensation category.
- Information should be submitted to the following email: [BWCSIAuditing@bwc.oh.state.us](mailto:BWCSIAuditing@bwc.oh.state.us)

# SI-40 Report

- The report should at a minimum provide the following information:
  - Payment Category (ex. Temporary Total, Wage Loss, Permanent Total...etc)
  - Individual Claims with claim number that had payments in each category
  - Individual payments within each claim in each category, with date of payment and amount
  - Total for each category
  - Grand Total combined from each category's totals

## Example: Temporary Total

Claimant	Claim#	Payment Type	Date of check	Check Number	Amount
Joe Smith	123	TT	6/12/2012	1045	\$458.00
Joe Smith	123	TT	7/7/2012	1081	\$458.00
Tom Jones	214	TT	7/8/2012	3588	\$862.00
Frank Anderson	604	TT	8/3/2012	4001	\$632.00
<b>Total</b>					<b>\$2,410.00</b>

# On-line Tutorial

- Developed an on-line tutorial for the external SI community
- Purpose is to make relevant information available primarily to new self-insuring employers or new SI administrators
  - Available to any self-insuring employer or authorized representative
- May require all new SI Administrators complete the tutorial
- Instructions on how to access this tutorial are at [www.ohiobwc.com](http://www.ohiobwc.com)
  - Login to the BWC Learning Center

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