

Cherokee Nation Code Annotated

Title 85: Workers' Compensation

Chapter 1: General Provisions

§ 46. Permanent partial disability—Permanent total disability

Cite as: 85 CNCA § 46

A. Scheduled benefits.

1. A schedule of benefits is hereby established.

2. A total loss of use of a member exists whenever, by reason of injury, such member no longer possesses any substantial utility as a member of the body as determined by a medical provider chosen by the employer.

3. Permanent partial disability benefits are measured by multiplying the gross average weekly wage times the number of weeks reflected as in the benefits for total loss of use in subdivision 4 of this subsection times the percentage of permanent impairment. The gross average weekly wage shall in no case exceed Five Hundred Thirteen Dollars and Twelve Cents (\$513.12).

4. Benefits for total loss of use.

a.	ARM	196.5 weeks
b.	HAND	157.2 weeks
c.	THUMB	47.15 weeks
d.	FIRST FINGER (index finger)	27.87 weeks
e.	SECOND FINGER	23.58 weeks
f.	THIRD FINGER	15.72 weeks
g.	FOURTH FINGER	12.15 weeks
h.	LEG	196.5 weeks
i.	FOOT	157.2 weeks
j.	GREAT TOE	23.58 weeks
k.	ONE TOE	7.86 weeks
l.	EYE—ONE (1) Total blindness	196.5 weeks
m.	EAR (1) Total deafness, one ear (2) Total deafness, both ears	78.6 weeks 235.8 weeks
n.	BODY AS A WHOLE	357.3 weeks

B. Permanent partial disability.

1. Upon the establishment of the percentage of permanent partial disability in accordance with this Title, such evaluation of the permanent partial disability shall be binding for any and all proceedings occurring under this Title. This evaluation of the percentage of permanent partial disability shall be made by a physician selected by the designated Third Party Administrator or the physician of the employer's choice.

2. If an injury has left a claimant with a non-scheduled permanent bodily impairment, indemnity benefits for a specified number of weeks is payable, without regard to presence or absence of wage loss in the future, and such benefits shall be paid weekly or bi-weekly or through a structured settlement or, at the employer's election, as a lump sum. For other non-scheduled permanent impairments, a calculation of percentage of permanent partial disability shall be made by a physician selected by the Third Party Administrator or the physician of the employer's choice.

3. Permanent partial disability benefits, for an injury to a scheduled member, are calculated by multiplying the gross average weekly wage times the number of weeks provided for in the Benefits for Total Loss of Use times the percentage of permanent impairment, but the gross average weekly wage shall in no case exceed Five Hundred Thirteen Dollars and Twelve Cents (\$513.12).

4. Permanent partial disability benefits for injury to the body as a whole are calculated by multiplying the gross average weekly wage times the number of weeks provided in the Benefits for Total Loss of Use times the percentage of permanent impairment. The gross average weekly wage shall in no case exceed Five Hundred Thirteen Dollars and Twelve Cents (\$513.12).

C. Permanent total disability.

An award of permanent total disability shall be in lieu of all lesser indemnity benefits that may be applicable to the injury that created the condition of permanent total disability. Permanent total disability shall be paid at seventy-two percent (72%) of the "average weekly wage" but shall in no case exceed Seven Hundred Seventeen Dollars (\$717.00) per week. Permanent total disability benefits shall be paid only during the period of continuous total disability and shall end upon the claimant's ability to resume gainful employment or death.

Historical Data

LA 08–04, eff. April 21, 2004. Amended LA 31–05, eff. October 16, 2005; LA 21–06, eff. October 19, 2006; LA 20–10, eff. August 15, 2010.