

Jurisdiction (K.S.A. 44-505, 44-506)

1. Contract of hire
2. Location where hurt
3. Where employee does majority of work

Coverage

1. Any employment that has gross payroll of at least \$20,000.00. 44-505(a)(2).
2. Any personal injury caused by accident arising out of and in the course of employment. 44-501.
 - a. Burden of proof on claimant to show claimant's right to benefits

Statute of Limitations

Application for hearing must be filed within three years of the date of injury or two years of the date of last payment of compensation, whichever is later. 44-534(b).

Notice

Notice must be given by the earliest of the following dates: (1) 30 days from the date of accident, (2) if the employee is working for the employer against whom treatment is sought, 20 days from the day treatment is sought, (3) if the employee no longer works for the employer against whom benefits are sought, 20 days from the last day actually worked. 44-520(a)(1).

Injury

1. The injury must be the prevailing factor in causing the injury. 44-508(d).
2. Prevailing factor means the "primary factor." 44-508(g).
3. An injury that just aggravates, accelerates, or exacerbates a pre-existing condition is not compensable. 44-508(f)(2).

Report of accident (287.380)

Required to be filed with the State within 28 days if injury "sufficient wholly or partially to incapacitate the person injured from labor or service for more than remainder of day, shift, or turn on which such injuries were sustained." 44-557.

AWW/Rate (287.250)

1. 26 weeks preceding the DOA. 44-511(b).
2. Comp rate is lower of 66 2/3% of the AWW or max rate. Only one rate for both TTD and PPD.

Benefits

1. Medical – Employer directs medical and selects physicians. Fee Schedule dictates how much providers can charge.
 - a. Unauthorized medical – Claimant can receive up to \$500 unauthorized medical care (not for rating).
 - b. Mileage – Owed for anything over 5 miles (medical only).
2. TTD – Employee is "completely and temporarily incapable of engaging in any type of substantial and gainful employment." 44-510c(b)(2).
 - a. Up to \$130,000.00. 44-510f(a)(2).
 - b. Waiting period of 1 week. If TTD lasts for 3 weeks, then first week retroactive. 44-510c(b)(1).
 - c. Return to or release by treating physician to any substantial and gainful employment terminates TTD. 44-510c(b)(3).
 - d. No TTD for weeks unemployment received. 44-510c(b)(4).
3. PTD – Employee has been "rendered completely and permanently incapable of engaging in any type of substantial and gainful employment." Cap of \$155,000.00 in compensation.
4. PPD
 - a. According to schedule of 44-510d(a).
 - b. Impairment to be determined according to Guides to Evaluation of Permanent Impairment, 4th Edition.
 - c. Impairment to be reduced by the amount of pre-existing impairment. 44-501(e).
 - d. Up to \$130,000.00, including TTD paid. 44-510f(a)(2).
5. TPD – 2/3 of difference between AWW and actual earnings. 44-510d(a).

Kansas Workers' Compensation At-A-Glance Continued

Occupational Disease

1. Date of injury is earliest of: (1) the date the employee, while employed for the employer against whom benefits are sought, is taken off work or placed on modified duty by a physician due to the alleged repetitive trauma, or told by a physician that the condition is work related, or (2) the last day worked, if the employee no longer works for the employer against whom benefits are sought. 508(e)
2. Last employer solely responsible for occupational disease.

Work Disability

1. If claimant injures head, neck, back, or parallel extremities and has permanent restrictions employer cannot accommodate, then work disability triggered.
2. Can defeat claim if claimant finds work that pays 90% or more of pre-injury wage.
3. Requires more than 7.5% impairment to the body as a whole, 10% impairment to the body as a whole if pre-existing impairment.
4. Work Disability equals (Wage Loss + Task Loss)/2. Wage loss based on wages employee is capable of earning.
5. Task Loss based on 5 years preceding date of accident.
6. Must be able to legally enter employment contract to receive work disability.

Penalties

Employer is not liable when injury, disability, or death was contributed to by the use of drugs or alcohol. If impaired at the time of the injury, rebuttable presumption that the impairment contributed to the accident. 44-501(b).

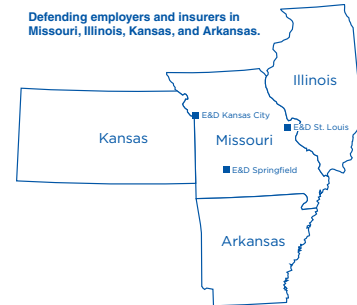
Future Benefits

1. Future medical awarded if ALJ finds it is more probable than not that future medical treatment will be required as a result of the work injury. 44-525(a). If future medical treatment has not been requested within two years from the award, application can be made to terminate future medical benefits. 44-510k(a)(3).

Death

1. Benefits payable to dependents of deceased claimant. 44-510b(a).
 - a. Initial payment of \$40,000.00 to any surviving spouse or wholly dependent child. 44-510b(a).
 - b. Weekly compensation to all dependents not to exceed PTD limits. 44-510b(a).
 - c. Surviving spouse's benefits capped at \$300,000.00.
2. Burial expense to not exceed \$5,000.00. 44-510b(f).

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