§212. Compensation for total incapacity

1. Total incapacity; date of injury prior to January 1, 2013. If the injured employee's date of injury is prior to January 1, 2013, while the incapacity for work resulting from the injury is total, the employer shall pay the injured employee a weekly compensation equal to 80% of the employee's after-tax average weekly wage, but not more than the maximum benefit under section 211. Compensation must be paid for the duration of the incapacity.

Any employee who is able to perform full-time remunerative work in the ordinary competitive labor market in the State, regardless of the availability of such work in and around that employee's community, is not eligible for compensation under this section, but may be eligible for compensation under section 213.
[PL 2011, c. 647, §4 (AMD).]

1-A. Total incapacity; date of injury on or after January 1, 2013. If the injured employee's date of injury is on or after January 1, 2013, while the incapacity for work resulting from the injury is total, the employer shall pay the injured employee a weekly compensation equal to 2/3 of the employee's gross average weekly wages, earnings or salary, but not more than the maximum benefit under section 211. Compensation must be paid for the duration of the incapacity.

Any employee who is able to perform full-time remunerative work in the ordinary competitive labor market in the State, regardless of the availability of such work in and around that employee's community, is not eligible for compensation under this section, but may be eligible for compensation under section 213.
[PL 2011, c. 647, §5 (NEW).]

2. Presumption of total incapacity. For the purposes of this Act, in the following cases it is conclusively presumed for 800 weeks from the date of injury that the injury resulted in permanent total incapacity and that the employee is unable to perform full-time remunerative work in the ordinary competitive labor market in the State. Thereafter the question of permanent and total incapacity must be determined in accordance with the facts, as they then exist. The cases are:

A. Total and permanent loss of sight of both eyes; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

B. Actual loss of both legs or both feet at or above the ankle; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

C. Actual loss of both arms or both hands at or above the wrist; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

D. Actual loss of any 2 of the members or faculties in paragraph A, B or C; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

E. Permanent and complete paralysis of both legs or both arms or one leg and one arm; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

F. Incurable insanity or imbecility; and [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

G. Permanent and total loss of industrial use of both legs or both hands or both arms or one leg and one arm. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

For the purpose of this subsection such permanency may be determined no later than 30 days before the expiration of 500 weeks from the date of injury.
[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

3. Specific loss benefits. In cases included in the following schedule, the incapacity is considered to continue for the period specified, and the compensation due is calculated based on the date of injury

subject to the maximum benefit set in section 211. Compensation under this subsection is available only for the actual loss of the following:

A. Thumb, 65 weeks; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

B. First finger, 38 weeks; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

C. Second finger, 33 weeks; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

D. Third finger, 22 weeks; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

E. Fourth finger, 16 weeks; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

F. The loss of the first phalange of the thumb, or of any finger, is considered to be equal to the loss of 1/2 of that thumb or finger, and compensation is 1/2 of the amounts specified in paragraphs A to E. The loss of more than one phalange is considered as the loss of the entire finger or thumb. The amount received for more than one finger may not exceed the amount provided in this schedule for the loss of a hand; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

G. Great toe, 33 weeks; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

H. A toe other than the great toe, 11 weeks. The loss of the first phalange of any toe is considered to be equal to the loss of 1/2 of that toe, and compensation is 1/2 of the amounts specified in paragraphs F and G. The loss of more than one phalange is considered the loss of the entire toe; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

I. Hand, 215 weeks. An amputation between the elbow and wrist that is 6 or more inches below the elbow is considered a hand; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

J. Arm, 269 weeks. An amputation above the point specified in paragraph I is considered an arm; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

K. Foot, 162 weeks. An amputation between the knee and the foot 7 or more inches below the tibial table, or plateau, is considered a foot; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

L. Leg, 215 weeks. An amputation above the point specified in paragraph K is considered a leg; and [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

M. Eye, 162 weeks. Eighty percent loss of vision of one eye constitutes the total loss of that eye. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

[PL 2011, c. 647, §6 (AMD).]

4. Annual adjustment. For dates of injury on or after January 1, 2020, beginning after the receipt of 260 weeks of benefits under this section, for an injury or injuries that contribute to benefits under this section, weekly compensation benefits under this section must be adjusted annually. The adjustment is equal to the actual percentage increase or decrease in the state average weekly wage, as computed by the Department of Labor, for the previous year or 5%, whichever is less.

The annual adjustment must be made after the receipt of 260 weeks of benefits under this section and on each succeeding anniversary date of the injury, except that when the effect of the maximum benefit

under section 211 is to reduce the amount of compensation to which the claimant would otherwise be entitled, the adjustment must be made annually on July 1st.
[PL 2019, c. 344, §5 (NEW).]

In case of the loss of one member while compensation is being paid for the loss of another member, compensation must be paid for the loss of the 2nd member for the period provided in this section. Payments for the loss of the 2nd member begin at the conclusion of the payments for the first member.
[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

SECTION HISTORY

PL 1991, c. 885, §A8 (NEW). PL 1991, c. 885, §§A9-11 (AFF). PL 2011, c. 647, §§4-6 (AMD). PL 2019, c. 344, §5 (AMD).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 132nd Maine Legislature and is current through October 1, 2026. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.