



State of Nevada

Division of Industrial Relations

PPDs from a Legal Perspective
(or a View of PPDs
through the Looking Glass)

Workers'
Compensation Section

PRESENTERS

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OVERVIEW OF PRESENTATION

- WHO, WHAT, WHEN, WHERE , WHY AND HOW.
- A PPD IS A PPD, IS A PPD, EXCEPT WHEN IT'S NOT.
- HOW MUCH CAN AN INJURED EMPLOYEE GET?

WHAT IS A PPD?

- Not defined in the NRS or NAC
- Not an “accident benefit.” NRS 616A.035
- IS “compensation.” NRS 616A.090

WHAT IS A PPD? (Continued)

- Under Workers' Compensation law, permanent partial disability is generally defined as an injury that impairs the physical or mental ability of a worker to carry out some part of normal work duties for the rest of his/her life.
- www.disabled-world.com/disability/permanent-partial.php

WHAT IS A PPD? (CONTINUED)

- NRS 616C.485(1) STATES:
- "...every employee, in the employ of an employer within the provisions of [chapters 616A](#) to [616D](#), inclusive, of NRS, who is injured by an accident arising out of and in the course of employment is entitled to receive the compensation provided for permanent partial disability.
..."

WHAT IS A PPD? (CONTINUED)

- NRS 616C.485(5) STATES:
- "...a rating evaluation must include an evaluation of the loss of motion, sensation and strength of an injured employee if the injury is of a type that might have caused such a loss. Except in the case of claims accepted pursuant to [NRS 616C.180](#) [stress claims], no factors other than the degree of physical impairment of the whole person may be considered in calculating the entitlement to compensation for a permanent partial disability.

WHAT IS A PPD? (CONTINUED)

- NRS 616C.485(7) STATES:
- "...Compensation must commence on the date of the injury or the day following the termination of temporary disability compensation, if any, whichever is later, and must continue on a monthly basis for 5 years or until the claimant is 70 years of age, whichever is later."

WHEN?

- When injured employee is “stable.” NAC 616C.103(1)(a)
- When injured employee is “ratable.” NAC 616C.103(1)(b)
- “...within 30 days after receiving a ... report ... shall schedule an appointment with the rating physician or chiropractor. NRS 616C.490(2)

HOW IS PPD SCHEDULED?

- By agreement OR
- Selection from the rotating list of qualified rating physicians and chiropractors designated by the Administrator [DIR]. NRS 616C.490(2)
- Request a rating physician or chiropractor using DIR Form D-35. NAC 616C.103(3)
- Using the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, Fifth Edition. NRS 616C.110

WHO PERFORMS RATING EVALUATION?

- CAVEATS: “A rating evaluation of a permanent partial disability may be performed by a chiropractor only if the injured employee’s injury and treatment are related to his or her neuromusculoskeletal system.” NAC 616C.021(6).
- Ophthalmologist or psychiatrist does not need to be on the rotating list NAC 616c.021(3)

WHO CAN ATTEND A RATING EVALUATION?

- Injured Employee;
- Interpreter, if necessary;
- Rating Physician or Chiropractor;
- IE's Attorney or other representative, IF PERMITTED by the Rater. NAC 616C.109(1).

HOW IS PPD CALCULATED?

- Don't ask us, we're lawyers. If we could do math, we'd be doctors.
- OR You should have attended the DIR: *Ask the Experts on Calculations* presentation at 8:00 a.m. this morning.
- DIR Form D-9a PPD Award Calculation Sheet
- DIR Form D-9b PPD Award Calculation Work Sheet for Disability over 25% Body Basis
- DIR Form D-9c Permanent Work-Related Mental Impairment Rating Report Work Sheet

HOW TO OFFER A PPD AWARD

- Within 14 days must forward a copy of the evaluation (NRS 616C.490(6)) and offer the undisputed portion of the PPD award (NAC 616C.103(7)).
- DIR Form D-10a Election of Method of Payment of Compensation;
- DIR Form D-10b Election of Method of Payment of Compensation for Disability Greater than 25%; and
- DIR Form D-11 Reaffirmation/Retraction of Lump Sum Request. NAC 616C.103(7)&(9).

PPD TIMELINES

	<u>Insurer's receipt of stable (MMI) & ratable report</u>	
w/in 30 days	Insurer submit DIR Form D-35 selecting Rater	NAC 616C.103(3)(a)
w/in 30 days	Insurer shall schedule a rating appointment	NRS 616C.490(2)
At least 3 working days prior to evaluation	Insurer shall provide Rater with documents in insurer's file, including medical reports, previous evaluations, C-4, D-35 and D-36	NAC 616C.103(3)(c)
w/in 30 days of request from an insurer	Rater must schedule and perform rating	NAC 616C.021(4)(b)
	<u>Insurer's receipt of rating evaluation</u>	
w/in 14 days of PPD evaluation	Provide copy of evaluation and make offer to IE, including DIR Forms D-10a, D-10b and D-11	NRS 616C.490(6)

A PPD IS A PPD, IS A PPD, EXCEPT WHEN IT'S NOT.

- Dickinson v. American Medical Response, 124 Nev. 460, 186 P.3d 878, 2008 Nev. LEXIS 49 (2008).
- Since all counsel of record are present, discuss.

HOW MUCH CAN AN INJURED EMPLOYEE GET?

- OR WHAT ARE THE CURRENT LIMITATIONS ON LUMP SUM PPD AWARDS?
- Injured 7/1/1973 and before 7/1/1981, lump sum up to 12%. NRS 616C.495(1)(a)
- Injured 7/1/1981 and before 7/1/1995, lump sum up to 30%. NRS 616C.495(1)(c).

HOW MUCH CAN AN INJURED EMPLOYEE GET?

(Continued)

- Injured 7/1/1995 to present, “lump sum in accordance with regulations adopted by the Administrator [DIR] and approved by the Governor.” NRS 616C.495((1)(d).
- Currently, lump sum up to 25%. NAC 616C.498
- Pending, LCB File No. R059-15, when adopted by DIR, approved by the Governor and approved by the Legislative Commission, lump sum up to 30%.

HOW MUCH CAN AN INJURED EMPLOYEE GET?

(Continued)

- Public Agency Compensation Trust (PACT) v. Blake, 127 Nev. 836, 265 P.3d 694, 2011 Nev. LEXIS 94 (2011)
- NAC 616C.490, amended in LCB File No. R136-14, effective 6/28/16

OTHER PPD ISSUES

- Chappaz v. Golden Nugget, 107 Nev. 938, 822 P.2d 1114, 1991 Nev. LEXIS 200 (1991)

BURNING QUESTIONS?

- “Enquiring minds want to know.”
- OR “Ask now or forever hold your peace.”

Thank You