



COLAs FOR PERMANENT TOTAL DISABILITY & SURVIVORS' BENEFITS

PTD COLA: SB 377 Amends NRS 616C.473

Survivors' Benefits COLA: AB 370 (Sec. 3.5) - Not yet codified



Why are we here?

- Overview of AB 370 and SB 377: Similarities and Differences
- Review calculation methods and examples
- Overview of Steps for Reimbursement and the monthly Rate Verification Process

COLAs for Permanent Total Disability (PTD) and Survivors' Benefits



The 2019 Nevada Legislature passed two workers' compensation bills that provide for an increase in benefits for some injured workers and their dependents starting January 1, 2020:

- [Senate Bill 377 \(SB 377\)](#), Permanent Total Disability (PTD) Benefits
- [Assembly Bill 370 \(AB 370\)](#), Death (Survivors') Benefits

What is a COLA?

COLA =

Cost of Living Adjustment

- AB 370 and SB 377 do not include “COLA” language.
- We will use “COLA” to refer to the 2.3% annual increases described in the legislation.

Prior COLA Laws

- PTD Claims: Dates of Injury 1/1/04 and later received COLA pursuant to NRS 616C.473
- Survivors' Benefits Claims: Did not receive a COLA

AB 370 & SB 377 Similarities

- Effective date: **July 1, 2019**
- Provide for a 2.3% annual increase in monthly benefits
- Annual increases start January 1, 2020
- Allows insurers to be reimbursed for the additional costs associated with the increase for **certain claims**

AB 370 & SB 377 Differences

AB 370 (Survivors' Claims):

- One-time “catch-up” calculation must be applied to monthly benefit rate prior to the January 2020 increase, if applicable (Secs. 5 & 6).
- Reimbursement applies only to Survivors' claims with dates of injury prior to July 1, 2019 (Sec. 4).

SB 377 (PTD Claims):

- No “catch-up” calculation: PTDs already had either annual payment from DIR (NRS 616C.453) or ongoing 2.3% COLA (NRS 616C.473)
- Reimbursement applies only to PTD claims with dates of injury prior to January 1, 2004.
- Repeals NRS 616C.453

End Result



Beginning January 1, 2020 and every January 1 thereafter:

All Survivors' Claims and PTD Claims receive an annual increase of 2.3% to their monthly benefit rate.

Monthly Rate Calculation

NRS 616C.440 (1)(a) – PTD Claims

NRS 616C.505(2) – Survivors' Benefits

- PTD & Survivors' Benefits – both 66 2/3 percent of the Average Monthly Wage (AMW).
 - ✓ PTD/Survivors' Monthly Rate = $AMW \times 2 \div 3$
- AMW Calculation (NAC 616C.432)
 - ✓ Average Daily Wage (ADW) = $Gross\ Earnings / Days\ in\ Period$
 - ✓ $AMW = ADW \times 30.44\ days$



Survivors' Claims “Catch-up” Calculation Prior to January 1, 2020

AB 370 (Sec. 6)

Claims with Dates of Injury/Occupational Disease Disablement
on or after 1/1/1989 and before 1/1/1994:
2.3% compounded 2 times

Monthly Rate X 2.3% compounded 2 times (4.653%)

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Monthly Rate x 4.6%

Survivors' Claims "Catch-up" Calculation Prior to January 1, 2020

EXAMPLE: 1

Monthly Rate of \$1000

DOI: 1/1/1989 TO 12/31/1993 – ENTITLED TO
COLA OF 2.3% COMPOUNDED 2 TIMES

$\$1000 \times 2.3\% = \1023

$\$1023 \times 2.3\% = \text{new monthly rate of } \1046.53

INCORRECT: $\$1000 \times 4.6\% = \1046.00

Survivors' Claims "Catch-up" Calculation Prior to January 1, 2020

AB 370 (Sec. 5)

Claims with Dates of Injury/Occupational Disease Disablement
before 1/1/1989:

2.3% compounded 3 times

Monthly Rate X 2.3% compounded 3 times (7.06%)

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Monthly Rate x 6.9%

Survivors' Claims "Catch-up" Calculation Prior to January 1, 2020



EXAMPLE : 2

Monthly Rate of \$1000

DOI: PRIOR TO 1/1/1989 – ENTITLED TO COLA
OF 2.3% COMPOUNDED 3 TIMES

$$\text{\$1000} \times 2.3\% = \text{\$1023}$$

$$\text{\$1023} \times 2.3\% = \text{\$1046.53}$$

$$\text{\$1046.53} \times 2.3\% = \text{new monthly rate of } \text{\$1070.60}$$

INCORRECT: $\text{\$1000} \times 6.9\% = \text{\$1069.00}$

Survivors' Claims

"Catch-up" Calculation

Prior to January 1, 2020

DOI Prior to 1/1/1989

Compound 3 times

Monthly Rate x 2.3%
= MR1

MR1 x 2.3% = MR2

MR2 x 2.3% = MR3

MR3 = New Base Rate

DOI 1/1/1989-12/31/1993

Compound 2 times

Monthly Rate x 2.3%
= MR1

MR1 x 2.3% = MR2

MR 2 = New Base Rate

DOI 1/1/1994 and later

Monthly Rate

(No catch –up)

Monthly Rate = Base Rate

Survivors' Claims

2.3% COLA Calculation

January 2020

DOI before 1/1/1989:

MR3 (New Base Rate) x 2.3% =
New Monthly Rate starting Jan 2020

DOI between 1/1/1989 and 12/31/1993:

MR2 (New Base Rate) x 2.3% =
New Monthly Rate starting Jan 2020

DOI on or after 1/1/1994:

MR (Base Rate) x 2.3% =
New Monthly Rate starting Jan 2020

PTD Claims

2.3% COLA Calculation

January 1, 2020



All PTD Claims:

Monthly Rate x 2.3% = New Monthly Rate for 2020

- DOI or Occ Disease Disablement before 1/1/2004:
First 2.3% annual increase pursuant to
NRS 616C.473 (2) (new language)
- DOI or Occ Disease Disablement on or after 1/1/2004:
Continue annual 2.3% increases pursuant to
NRS 616C.473(1)



2.3% COLA Calculation

January 2020

EXAMPLE: 4 Catchup

Monthly Rate of \$1070.60
(monthly rate after 2.3%
compounded 3 times
calculation)

ENTITLED TO 2.3% COLA,
*after being caught up *

$\$1070.60 \times 2.3\% =$ new
monthly rate of \$1095.22

EXAMPLE: 5 No Catchup

Monthly Rate of \$1000

$\$1000 \times 2.3\% =$ new monthly
rate of \$1023

Reimbursement:

(AB 370 – Sec. 3.8)

(SB 377 – Sec. 2.5)

What costs are reimbursable?

- Only amount that is the result of the COLA

Example: Monthly Rate after COLA applied: \$1023

Monthly Rate before COLA applied: \$1000

Reimbursable: \$1023-\$1000 = \$23/month

Reimbursement:

(AB 370 – Sec. 3.8)

(SB 377 – Sec. 2.5)

Which claims are reimbursable?

- Only the claims with certain DOI or Occ Disease Disablement
 - PTD Claims: DOI or Occ Disease Disablement prior to January 1, 2004
 - Survivors' Claims: DOI or Occ Disease Disablement prior to July 1, 2019

Reimbursement:

(AB 370 – Sec. 3.8)

(SB 377 – Sec. 2.5)

When are the costs reimbursable?

- On or before March 31 each year for the prior calendar year costs

For payments made January 1 - December 31, 2020:

On or before 3/31/2021

For payments made January 1 - December 31, 2021:

On or before 3/31/2022

Steps to Reimbursement



Verification

- One-time verification of correct monthly rate calculation by WCS
 - Verification Checklist (Form)
 - Supporting Documentation

Reimbursement Request

- AMW must be verified (one-time)
- Annual submission of reimbursement requests
 - (Complete reimbursement process will be discussed at a later date)

Permanent Total Disability & Survivors' Benefits Verification

Claim documents for verifying PTD and Survivors Monthly Rate Benefits may include but are not limited to:

- D-5 and D-8 Forms
- AMW determination
- Decision and Orders and/or Stipulations regarding PTD or Survivors' Benefits status
- PTD or Survivors' Benefits determination letter
- Permanent Total Disability Report of Employment (D-14) (7/99)
- Any determinations suspending or denying PTD or Survivors' Benefits payments to the injured worker or survivor
- Case notes


AMW/MONTHLY RATE VERIFICATION FORMS

PTD CLAIM - AMW/MONTHLY RATE VERIFICATION FORM (FOR CLAIMS WITH DOI OR DATE OF DISABLEMENT BEFORE 1/1/2004)	
INSURER INFORMATION:	
Insurer Name:	
Nevada Certificate of Authority No.:	
NCCI Carrier Code (Private Carriers):	
Federal Employer Identification Number (FEIN):	
INJURED EMPLOYEE	
Injured Employee Last Name:	
Injured Employee First Name:	
Injured Employee SSN:	
CLAIM INFORMATION	
Date of Injury or Occ Disease Disablement:	
Claim Number:	
TPA (if applicable):	
Employer:	
CALCULATIONS	
Average Monthly Wage (AMW):	
Monthly PTD Rate (prior to offset):	
Date of 1st PTD Payment:	
Date of Last PTD Payment:	
SUPPORTING INFORMATION INCLUDED ("X" all that apply)	
D-5 (Wage Calculation Form)	
D-8 (Wage Verification Form)	
AMW Determination	
PTD Determination	
Decisions/Orders	
Other (Specify)	
OTHER INFO	
Annuity Purchased?	YES OR NO (Y OR N)
Offset (FPD, Subro, Etc) Applied?	YES OR NO (Y OR N)
SUBMITTED BY:	
Place an "X" in one box	TPA: <input type="checkbox"/> Insurer: <input type="checkbox"/> Other: <input type="checkbox"/>
Name:	
Title:	
Company:	
Email:	
Phone:	
Date:	

SURVIVORS' BENEFIT CLAIM - AMW/MONTHLY RATE VERIFICATION FORM (FOR CLAIMS WITH DOI OR DATE OF DISABLEMENT BEFORE 7/1/19)		
INSURER INFORMATION:		
Insurer Name:		
Nevada Certificate of Authority No.:		
NCCI Carrier Code (Private Carriers):		
Federal Employer Identification Number (FEIN):		
INJURED EMPLOYEE		
Injured Employee Last Name:		
Injured Employee First Name:		
Injured Employee SSN:		
CLAIM INFORMATION		
Date of Injury or Occ Disease Disablement:		
Claim Number:		
TPA (if applicable):		
Employer:		
CALCULATIONS		
Average Monthly Wage (AMW):		
Survivors' Monthly Rate (SMR):		
Date of Survivors' 1st Payment:		
Date of Survivors' Last Payment:		
Date of Injury or Occ Disease Disablement	New Rate	Catch Up Calculation
On or after 1/1/1994		No Catch Up
Between 1/1/1989 and 12/31/1993		SMR x 1.04653 (2.3% - 2X)
Before 1/1/1989		SMR x 1.07059 (2.3% - 3X)
SUPPORTING INFORMATION INCLUDED ("X" all that apply)		
D-5 (Wage Calculation Form)		
D-8 (Wage Verification Form)		
AMW Determination		
Survivors' Benefit Determination		
Decisions/Orders		
Other (Specify)		
OTHER INFO		
Annuity Purchased?	YES OR NO (Y OR N)	
Multiple Survivors?	YES OR NO (Y OR N)	
SUBMITTED BY:		
Place an "X" in one box	TPA: <input type="checkbox"/> Insurer: <input type="checkbox"/> Other: <input type="checkbox"/>	
Name:		
Title:		
Company:		
Email:		
Phone:		
Date:		

PROCESS FOR VERIFICATION

A one-time process that is required before a request for reimbursement will be considered

- 
- Submit appropriate Verification Form and supporting documentation to WCS at COLAS@business.nv.gov
 - WCS staff will review documents submitted
 - WCS determine if any additional information is needed
 - WCS will verify AMW and Monthly Rate calculations are correct
 - WCS will provide a response to the verification request
 - If verified, request for reimbursement may be considered

Questions?



Contacting WCS

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