

# 2017 New York Workers Compensation Law Changes

Law Change	Expected Impact on Claim Costs
<p><b>Credit for Temporary Disability:</b> A credit will apply to the statutory cap for permanent partial disability claims if temporary partial benefits are paid beyond 2.5 years. However, there is a “safety valve” whereby the temporary partial disability benefits can be extended beyond 2.5 years if the WCB determines that the claimant has not yet reached maximum medical improvement. If diligently enforced by the WCB, this provision has the potential to generate a cost savings.</p> <p><i>This provision applies to accidents after April 9, 2017.</i></p>	<p> Intent: Material Decrease. However, Magnitude Will Depend on Adjudication of Claims Under New Statute</p>
<p><b>Labor Market Attachment:</b> A claimant who is entitled to benefits at the time of permanent partial disability classification is no longer required to demonstrate ongoing labor market attachment under the new statute. Previously, claimants receiving PPD benefits were required to remain attached to the labor market by continuing to search for employment within their restrictions. Carriers and employers will no longer be able to use attachment to the labor market as a defense, and a relatively small cost increase is expected to result.</p> <p><i>This provision is effective immediately.</i></p>	<p> Small Increase</p>
<p><b>Extreme Hardship:</b> When the duration caps were introduced in 2007, a safety net was included to provide claimants with more than 80% LWEC an avenue for applying for total industrial disability as they reached their capped duration. The revised statute lowers the threshold for determining eligibility for extreme hardship from 80% to 75% LWEC. While the 80% threshold has not yet been tested, reducing this threshold is expected to increase costs, all else being equal.</p> <p><i>This provision is effective immediately and also applies to claimants whose claims were previously adjudicated with a loss of wage earning capacity greater than 75%.</i></p>	<p> Anticipated Increase</p>
<p><b>Mandatory Full Board Review:</b> Any request for Full Board Review when a Board Panel reduces a claimant’s LWEC from above the safety net threshold to below the safety net threshold will be considered a request for Mandatory Full Board Review.</p> <p><i>This provision is effective immediately.</i></p>	<p> Small Increase</p>
<p><b>New Impairment Guidelines:</b> The current schedule for determining compensation for injuries to body parts listed on the schedule was created long before significant advances in medicine were achieved. A revised schedule was not agreed upon during the budget negotiations, but the WCB is required to adopt new Permanent Impairment Guidelines by January 1, 2018. The new guidelines are expected to consider the impact of these advances in medicine on healing time and outcome when determining schedule loss of use awards. If the guidelines reduce the number of weeks of benefits granted for schedule awards, this could act to reduce costs.</p>	<p> Intent: Decrease Costs. However, Will Depend on Revised Guidelines</p>
<p><b>Defenses Limited in First Responder Stress Claims:</b> In stress claims involving first responders, employers were previously allowed to argue that the stress was not greater than that which occurs in the normal work environment. The revised statute eliminates this defense.</p> <p><i>This provision is effective immediately.</i></p>	<p> Increase</p>
<p><b>Adoption of Pharmacy Prescription Drug Formulary:</b> The Board is required to adopt a comprehensive pharmacy prescription drug formulary by December 31, 2017. Any non-preferred drugs may only be prescribed when a variance has been granted.</p> <p><i>This provision will be effective on December 31, 2017.</i></p>	<p> Anticipated Decrease</p>

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