



LHWCA BULLETIN NO. 22-02

Issue Date: September 9, 2022

Subject: National Average Weekly Wage, Minimum/Maximum Rates, and Annual Adjustment under Section 10(f), Effective October 1, 2022.

Background: Under Section 6(b)(3) of the LHWCA, the Secretary has determined that the National Average Weekly Wage (NAWW) for the three consecutive calendar quarters ending June 30, 2022 is \$916.99. This amount is the applicable NAWW for the period October 1, 2022, through September 30, 2023.

In accordance with Section 2(19) of the Act, the NAWW of \$916.99 is based on the national average earnings of production or nonsupervisory workers on private nonagricultural payrolls. Such earnings during the three consecutive calendar quarters ending June 30, 2022, as obtained from the Bureau of Labor Statistics, are \$906.44, \$914.96, and \$929.58. The average of these three quarterly figures is \$916.99.

Under Section 6(b)(1) of the Act, the maximum compensation for disability or death is "200 per centum of the applicable national average weekly wage." Given the NAWW of \$916.99, the maximum compensation rate for the 12-month period beginning October 1, 2022, is \$1,833.98 per week.

The minimum compensation rate under Section 6(b)(2) is "50 per centum of the applicable national average weekly wage," or \$458.50 per week for the period October 1, 2022, through September 30, 2023.

Section 10(f) provides that, effective October 1 of each year, compensation for permanent total disability or death shall be increased by (1) a percentage equal to the percentage by which the current NAWW exceeds the preceding NAWW or (2) 5 percent, whichever is less. The NAWW of \$916.99 exceeds the preceding NAWW of \$863.49 by 6.20 percent. Therefore, the increase provided by Section 10(f) for October 1, 2022, is 5.0 percent.

In summary, the following amounts and percentage are applicable during the period October 1, 2022, through September 30, 2023:

National Average Weekly Wage.....	\$916.99
Maximum Compensation Rate.....	\$1,833.98
Minimum Compensation Rate	\$458.50
Percentage increase.....	6.20%

Purpose: To provide the national average weekly wage, the minimum and maximum compensation rates, and the percent of adjustment under Section 10(f) applicable to the period beginning October 1, 2022, and to provide information and guidance on their application.

References: Chapters 3-202 and 3-203 of the Longshore (LHWCA) Procedure Manual.

Applicability: All District Directors, Claims Examiners, and Claims Clerks in the Longshore District Offices.

Action:

1. Effective October 1, 2022, compensation for disability incurred during the period 10/1/2022 - 9/30/2023 is to be computed at 66 2/3% of the employee's average weekly wage as determined under Section 10, subject to the maximum compensation rate of \$1,833.98. The minimum compensation rate in total disability cases is \$458.50. However, if an employee's average weekly wage is less than this amount, compensation should be paid at 100% of the employee's average weekly wage. The minimum rate does not apply to employees covered by the Defense Base Act.

2. In computing death benefits covered by this period, the AWW of the deceased employee shall not be less than the national average weekly wage (\$916.99) as prescribed in section 6(b), and the total weekly death benefit should not initially exceed the maximum compensation rate of \$1,833.98. Death benefits can subsequently exceed the initial maximum limitations by virtue of Section 10(f) adjustments.

3. In accordance with the provisions of Section 10(f) of the LHWCA, the compensation being paid in cases of permanent total disability or death arising out of injuries subject to the Act which existed prior to October 1, 2022, is to be increased by 5 percent.

For most cases, the adjusted weekly amount will be fixed at the nearest dollar. Figures ending in \$.50 or more will be raised to the next whole dollar; figures ending in less than \$.50 will be rounded to the preceding dollar amount. No adjustment of less than \$1.00 will be made.

The new maximum rate should be used rather than rounding to the nearest dollar if the AWW yields a rate equal to or greater than the maximum rate.

Disposition: This Bulletin should be retained until the indicated expiration date or until the necessary changes have been made to the Longshore (LHWCA) Procedure Manual.

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Workers' Compensation

Attachments

Distribution: List No. 1

(Deputy Director, DFELHWC; District Directors, DLHWC; All Claims Examiners; National Office DLHWC Professional Staff; Director, OWCP; Director, DCMWC; Director, DEEOIC; Solicitor's Office, Division of Black Lung, and Longshore Legal Services)