

Nevada Workers' Compensation Law Blog

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How to Contest Your Nevada PPD Award

Under Nevada workers' compensation law, the final settlement, called a permanent partial disability award (PPD) is based on 3 factors: 1) the percentage of impairment found by a rating doctor, 2) the average monthly wage of the injured worker, and 3) the age of the injured worker when the award is calculated. If the average monthly wage was calculated correctly on the claim, and the insurer has the correct age for the claimant, the percentage of impairment offered by the insurer is the only basis an injured worker has for challenging the amount of the PPD award. Both the injured worker and the insurer can disagree with the percentage of impairment the rating doctor finds. However, injured workers who file appeals of their PPD awards, arguing only that the amount of money offered is too low, almost always lose their appeals.

An injured worker must be able to show a specific error in how the rating doctor determined the percentage of impairment in order to win an appeal regarding the amount of the PPD award. Or, if the insurer is refusing to offer the PPD percentage recommended by the rating doctor, the injured worker needs to be able to argue why that percentage is correct. A review of the PPD award by an experienced Nevada workers' compensation attorney is necessary to help an injured worker with a serious, permanent injury decide whether an appeal should be filed or not, and whether money should be spent getting a second rating report. Many workers' compensation lawyers in Las Vegas will review a rating report for free as part of a free initial consultation.

Rating doctors must use a book called the AMA Guides to Evaluation of Permanent Impairment (currently the 5th edition) to determine the PPD percentage. The Guides are complex. Many rating physicians, especially new doctors added to the list, make mistakes. While the Division of Industrial Relations is supposed to check PPD reports, it is really up to the injured worker and her work comp lawyer to find any errors, and to then file an appeal and get a second rating within 70 days. Injured workers frequently think that the rating doctor has made a math error in adding the percentages in the last section of the report. An experienced work injury lawyer can explain to an injured worker that the Guides have charts requiring that numbers be **combined** rather than added to arrive at the right percentage.

If the injured worker' decides to contest the PPD award, he must first file a timely appeal on the request for hearing form provided with the PPD offer. Next, his attorney obtains the name of a

rating doctor from the [rotating list](#) from DIR. The attorney then sends a complete copy of the client's medical records to the assigned rating doctor, schedules an appointment for the rating exam, and pre-pays the current fee for a rating. The fee for a rating, effective 2/1/09 through 1/31/10 is \$630.80. (When hiring a work comp attorney, an injured worker should ask whether the lawyer goes with his or her clients to rating evaluations.)

If the second rating doctor finds a higher percentage of impairment, the report is sent to the insurer. If the insurer won't pay the higher PPD, the hearing officer may, or may not, award the higher PPD when the appeal is heard. There is no guarantee that the second rating doctor will find a greater percentage of impairment. If the second rating is lower than the first, the injured worker simply withdraws the appeal, and accepts the amount that the insurer has previously offered. The hearing officer may, or may not order the insurer to pay any higher percentage, and the hearing officer can order the insurer to reimburse the injured worker for the cost of the second rating. Both the insurer and the injured worker have the right to appeal the hearings officer's decision to an appeals officer.

A hearings officer or appeals officer may order a third rating with either a mutually agreeable rating doctor or the next assigned rating doctor from the rotating list. An injured worker is usually prevented from receiving any portion of his PPD award in a lump sum if the amount of the PPD is appealed, so the injured worker will want to make sure that he or she has been advised by an experienced Nevada workers' compensation attorney before deciding to litigate this issue. Once the injured worker elects to receive a PPD award in a lump sum and is paid, there is nothing that can be done to correct any wrong percentages of impairment. As it costs the injured worker nothing to have the PPD offer reviewed by a knowledgeable attorney in Nevada workers' compensation law, it would be unwise to accept an award without first knowing whether it is correct or not.

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