How Workers' Compensation Benefits Are Calculated in Nev

When an injured worker is taken off work by her treating physician, or when the employer does not have temporary light duty work available for the injured worker, the insurer must first determine what the injured worker's average monthly wage was at the time of her accident. The average monthly wage established on the claim will be used to determine all benefits that are payable on the claim, including any benefits payable in the future if the claim is ever reopened.

Regulations in NAC 616C.420 instruct the insurer on how to determine the injured worker's average monthly wage. Usually, the insurer relies on the employer's report of the injured employee's gross earnings for 12 weeks before the date of the accident. However, if it will result in an increased average monthly wage, the injured worker may ask the insurer to instead use a one year earnings history or the full period of employment if the injured worker worked more than 4 weeks before the accident happened. If the injured worker had an unusual payment arrangement with the employer, or had more than one employer at the time of the accident (called concurrent employment), or worked piece work, the regulations provide other ways to fairly calculate the average monthly wage. The state sets a maximum average monthly wage each July. For accidents occurring after July 1, 2009, the maximum average monthly wage is $5,208.60.

The average monthly wage is then used to calculate any temporary total disability (TTD) benefits that are payable if the injured worker is off work for more than 5 days consecutively, or 5 days within a 20-day period of time. TTD benefits are 66 2/3 of the average monthly wage, not to exceed the state maximum average monthly wage. TTD benefits are usually paid every two weeks. An injured worker earning more than the state's current maximum average monthly wage is paid $1,603.88 for a 14-day time period. There is no limit in Nevada law as to how long an injured worker can receive TTD benefits.

The average monthly wage figure that is established on the claim is also used as one of the factors in determining the amount of money that is payable for a permanent partial disability award if the injured worker has a permanent, ratable impairment. It is likewise used to determine how much an injured worker receives each month if he is found to be permanently and totally disabled from ever working again (PT).

The average monthly wage calculation is one of the most important determinations the insurer makes on a Nevada workers' compensation claim. If an injured worker thinks that the benefits he is receiving are much less than 2/3 of what he was earning before his accident, he should consult with an experienced work comp lawyer immediately.