

Proposed

STATE OF KANSAS

DEPARTMENT OF LABOR

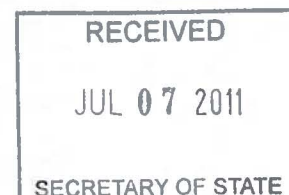
DIVISION OF WORKERS COMPENSATION

NOTICE OF HEARING ON PROPOSED ADMINISTRATIVE REGULATION

A public hearing will be conducted at 1:00 p.m. October 7, 2011 in the 7th floor conference room, 800 SW Jackson, Topeka, Kansas, to consider the adoption of an amendment to a permanent regulation of the Division of Workers Compensation.

The 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rule and regulation. All interested parties may submit written comments prior to the hearing to the Director of the Division of Workers Compensation, 800 SW Jackson, Suite 600, Topeka, KS 66612-1227 or by e-mail to Anne Haught at (785) 296-0845 or anne.haught@dol.ks.gov. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulation during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit oral presentation to 10 minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Request for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Anne Haught at (785) 296-0845 or anne.haught@dol.ks.gov. Parking for individuals with disabilities is located on the second level of 800 SW Jackson's enclosed parking. Also, the west entrance of the building is accessible to individuals with disabilities.



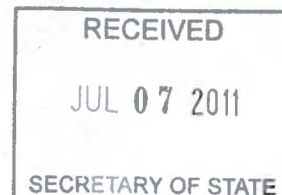
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A complete copy of the regulation and the economic impact statement may be obtained by contacting the division.

The following is a brief summary of the proposed regulation:

K.A.R. 51-7-8, Computation of compensation. The proposed change to this regulation is made in accordance with Section 8 of House Bill 2134 amending K.S.A. 44-510(d). The language now includes not only the loss of a member but the loss of use of a member in determining functional impairment and permanent partial general disability. This language does not extend benefits but clarifies existing language.

Copies of the regulation and its economic impact statement may be obtained from the Division of Workers Compensation, 6th Floor, 800 SW Jackson, Topeka, KS 66612-1227, (785) 296-0845 or through an e-mail request to Anne Haught at anne.haught@dol.ks.gov.



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51-7-8. **Computation of compensation.** (a)(1) If a worker suffers a loss or the loss of use to a member and, in addition, suffers other injuries contributing to the temporary total disability, compensation for the temporary total disability shall not be deductible from the scheduled amount for those weeks of temporary total disability attributable to the other injuries.

(2) The weekly compensation rate for temporary total compensation shall be computed by multiplying .6667 times the worker's ~~gross~~ average weekly wage. This figure shall be subject to the statutory maximum set in K.S.A. 44-510c, and amendments thereto.

(b) If a healing period of 10% of the schedule or partial schedule is granted, not exceeding 15 weeks, ~~it~~ the healing period shall be added to the weeks on the schedule or partial schedule before the following computations are made.

(1) If a loss or the loss of use occurs to a scheduled member of the body, compensation shall be computed as follows:

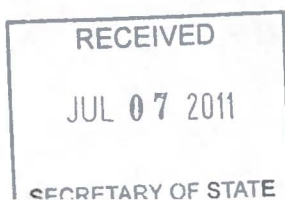
- (A) Deduct the number of weeks of temporary total compensation from the schedule;
- (B) multiply the difference by the percent of loss or the loss of use to the member; and
- (C) multiply the result by the applicable weekly temporary total compensation rate.

(2) If part of a finger, thumb, or toe is amputated, compensation shall be calculated as follows:

(A) Multiply the percent of loss, as governed by K.S.A. ~~1996-Supp.~~ 44-510d, ~~as amended~~ and amendments thereto, by the number of weeks on the full schedule for that member;

(B) deduct the temporary total compensation; and

(C) multiply the remainder by the weekly temporary total compensation rate.



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(3) If a scheduled member other than a part of a finger, thumb, or toe is amputated, compensation shall be computed by multiplying the number of weeks on the schedule by the worker's weekly temporary total compensation rate. The temporary total compensation previously paid shall be deducted from the total amount allowed for the member.

(c)(1) ~~An~~ Each injury involving the metacarpals shall be considered an injury to the hand. ~~An~~ Each injury involving the metatarsals shall be considered an injury to the foot.

(2) If the injury results in loss of use of one or more fingers and also a loss of use of the hand, the compensation payable for the injury shall be on the schedule for the hand. ~~Any~~ The percentage of permanent partial loss of use of the hand shall be at least sufficient to equal the compensation payable for the injuries to the finger or fingers alone.

(3) ~~An~~ Each injury involving the hip joint shall be computed on the basis of a disability to the body as a whole.

(4) ~~An~~ Each injury at the joint on a scheduled member shall be considered a loss to the next higher schedule.

(5) If the tip of a finger, thumb, or toe is amputated, the amputation does not go through the bone, and it is determined that a disability exists, the disability rating shall be based on a computation of a partial loss of use of the entire finger. (Authorized by K.S.A. 1996-Supp. 44-510d and K.S.A. 44-573; implementing K.S.A. 1996-Supp. 44-510d, as amended by 2011 HB 2134, sec. 8; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended, T-88-20, July 1, 1987; amended May 1, 1988; amended May 22, 1998; amended P- _____.)

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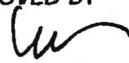
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**KANSAS DEPARTMENT OF LABOR
DIVISION OF WORKERS COMPENSATION
ECONOMIC IMPACT STATEMENT
K.A.R. 51-7-8**

I. Summary of Proposed Regulation, Including Its Purpose.

The 2011 legislature modified the language of K.S.A. 44-510d in House Bill 2134, the language now includes not only the loss of a member but the loss of use of a member in determining functional impairment and permanent partial general disability. This language does not extend benefits but clarifies existing language. K.A.R. 51-7-8 is amended to reflect these changes.

II. Reason the Proposed Regulation is Required, Including Whether or Not the Regulation is Mandated by Federal Law.

The proposed revision to K.A.R. 51-7-8 reflects the changes found in House Bill 2134. This regulation is not mandated by federal law, so the regulation does not exceed the requirements of federal law.

III. Anticipated Economic Impact on Private Individuals and Business and Self-Insured Governmental Units and School Districts.

The proposed amendment to regulation K.A.R. 51-7-8 will have no impact on workers compensation benefits paid by employers or their insurance carriers. The amendment reflects changes that are implemented in House Bill 2134. These changes clarify existing language of the statute without extending benefits.

IV. Economic Impact on the Division of Workers Compensation.

This amendment will have no economic impact on the division of workers compensation or Kansas department of labor. This amendment reflects the changes made in House Bill 2134 and will have no impact on the medical costs for workers compensation claims of state employees.

V. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason for Rejection.

The language change to K.A.R. 51-7-8 reflects the changes made to the statute and therefore no other language was considered.

