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Overview

- Wisconsin wage statute and WKC 13-A1
- Calculating wages
- Temporary total disability (TTD), permanent partial disability (PPD), and escalation
- Wage investigation
- Part-time employees and self-restriction
- Wage variants

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Where Do Our Wage Rules Come From?

- Almost all wage "rules" are derived from Wisconsin statute 102.11.
- Wage Information Supplement (WKC-13A1) is the required form that asks for the information needed to calculate the wage based on these rules.
- To avoid a surcharge, WKC-13A1 must be filed within 30 days of the first WKC-13. If an "expect by" date is given, this deadline can be pushed back 90 days.

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WKC-13A1 – General Info

1 General Info 2 Pay Information 3 Gross Wages 4 Additions To Cash Wage 5 Scheduled Hours/OverTime 6 Part Time 7 Summary

Date of Birth: 03/18/1982

Is the claimant an agricultural employee? Yes No

Insurer Contact Name: CLAIMS ADJUSTER

Insurer Contact Phone: (800) 555-1234 Insurer Contact Email: ADJUSTER@TESTINSURER1.COM

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WKC-13A1 – Pay Information

1 General Info 2 Pay Information 3 Gross Wages 4 Additions To Cash Wage 5 Scheduled Hours/OverTime 6 Part Time 7 Summary

You will answer at least 1 of the questions.
If your claimant is not liable for compensation coverage, or some other method, where scheduled hours are not used, skip question 1 and go on to answer any of questions 2 through 8 that may apply.

1. Hourly Rate Weekly Rate Monthly Rate

2. Pay Included Type

3. Paid by Piece Rate: Enter the total hours worked and wages earned in the 52-week period prior to the injury (excluding overtime hours).
Hours: Wages:

4. Values Included Differential: If the claimant's hours values included differential on the day of the loss or on any other day when the claimant worked, enter differential per hour.
Differential per hour:

5. Conceptual Rate of Pay
Rate:

6. Basis of Pay/Wage Computation

7. Seasonal employee: If the claimant's occupation is seasonal, enter the number of weeks in the season (enter number).
Number of weeks:

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WKC-13A1 – Gross Wages

1 General Info 2 Pay Information 3 Gross Wages 4 Additions To Cash Wage 5 Scheduled Hours/OverTime 6 Part Time 7 Summary

1. Gross Weekly Wages in a 52 Week Period Prior To Week Of Injury: Exclude weeks of injury and loss. Include annual commission, overtime, and bonuses.
Gross Wages:

2. Number of weeks worked in 52 Week Period Prior To Week Of Injury: Exclude week of injury or the number of events.
Weeks:

3. Date of loss:
Date of Loss: 06/15/2020

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WKC-13A1 – Additions to Cash Wage

General Info **Pay Information** **Gross Wages** **Additions To Cash Wage** **Scheduled Hours Overtime** **Part Time**

1. **Free Allow.** Enter number of meals per week.
Meals per week:

2. **Daily Hours** Enter number of days per week.
Days per week:

3. **Other additions to cash wage**
 Enter description of item: Enter weekly value amount:

4. **Did the claimant continue to receive additions to cash wage during the waiting period?** Yes No

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WKC-13A1 – Scheduled Hours Overtime

General Info **Pay Information** **Gross Wages** **Additions To Cash Wage** **Scheduled Hours Overtime** **Part Time**

1. **Normal full time hours scheduled by the employer for this type of work.**
Full time hours:

2. **If employer scheduled claimant to work on a regular alternating weekly basis, enter the number of hours for the regular alternating schedule.**
 Hours per week: Hours per week:

3. **Time and a half pay**
 If the employer paid time and a half, enter the number of hours worked before time and a half was paid.
 Hours worked:

4. **Overtime time pay**
 If the employer paid overtime time, enter the number of hours worked before overtime time was paid.
 Hours worked:

5. **Was claimant scheduled to work full time in the job each week?** Yes No

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WKC-13A1 – Part Time

General Info **Pay Information** **Gross Wages** **Additions To Cash Wage** **Scheduled Hours Overtime** **Part Time**

1. **Does the claimant have employment outside of the employer at which the injury occurred?** Yes No

2. **Did the claimant work less than full time for less than 12 months prior to the injury?** Yes No

3. **Claimant's average weekly hours (rounded up to the 22 weeks prior to the injury)**
Average hours:

4. **Does the claimant seek themselves as part-time work?** Yes No

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Calculating Average Weekly Wage

Average Weekly Wage will be based on the **greater** of:

Hourly Rate \times Hours per Week

Gross Earnings \div Weeks Worked



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Hourly Rate

- Hourly Rate entered should be the rate the employee was earning **at the time of injury**.
- Break down any set rates of pay (weekly, monthly, salary) to an hourly rate.
- Include shift differential (additional amounts employer pays for working nights and weekends) in hourly rate if employee was earning it at time of injury.
- Hourly rate must be at least minimum wage.
 - \$7.25 per hour or \$2.33 per hour with tips



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Hours Per Week

- Number of hours the employee is regularly scheduled each week.
- Full-time workers are assumed to be working 40 hours per week.
- For employees working more or less than 40 hours per week, expect a request for hours worked in the 13 weeks prior to the injury.



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Gross Earnings

- Total gross taxable earnings the claimant earned in the 52-week period immediately prior to the week of injury.
- Do not include earnings from week of injury unless claimant was injured on a Friday or Saturday - then include those earnings.
- Include any bonuses.



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Gross Earnings (cont.)

Do not include in gross earnings:

- Any weeks where the claimant has disability earnings, FMLA, Temporary Total Disability (TTD), or Temporary Partial Disability (TPD) from a previous claim;
- Tips (added in separately); or
- Non-taxable earnings (reimbursements, per diem, etc.)



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Weeks Worked

- Total number of weeks worked in the 52 weeks prior to the week of injury.
- Weeks start on Sunday and end on Saturday.
- A week should be counted if any part of a week was worked (except the week of injury.)
- Hours paid in lieu of work, such as vacation, holiday, or personal time, should be included as "worked."



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Less Than Six Weeks

- If an employee has worked less than six (6) weeks, gross earnings cannot be used to determine average weekly wage (AWW.)
- AWW will only be based on the Hourly Rate x Hours per Week.



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Overtime

- Overtime (OT) should be paid at time and a half to employees if they have worked more than 40 hours in one week.
- Overtime should only be included in 'Hours Per Week' if employee regularly works that schedule.
- If random amounts of overtime are worked each week, overtime would **not** be included in 'Hours Per Week,' but all overtime earnings would still be included in 'Gross Earnings.'



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Overtime (cont.)

The 'Hourly Rate x Hours Worked' equation turns into:

(Hourly Rate x Regular Hours Worked)

+

(OT Rate x OT Hours Worked)

(OT Rate = Hourly Rate x 1.5)



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Alternating Schedule

- If the claimant works an alternating schedule every two weeks (with no overtime either week,) the hours per week entered would be the average of the two weeks.
- If the claimant works an alternating schedule with overtime, the regular hours would be averaged separately from the overtime hours.



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TTD and PPD Rates

- Temporary Total Disability (TTD) and Permanent Partial Disability (PPD) rates will be set at 2/3 of the AWW until it gets to the max rate.
- If the claimant is younger than 27 years old, PPD will automatically be set to max rate.



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Maximum TTD and PPD Rates - 2024

Category	Current
Average Weekly Wage	\$1,944.00
Temporary Total Disability	\$1,296.00
Permanent Partial Disability	\$438.00

Current historical wage and rate chart:
<https://dwd.wisconsin.gov/dwd/publications/wc/wkc-9572-p.pdf?v3>



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Escalation

If there is a renewed period of TTD or TPD two or more years after the original period of disability ended, the TTD rate used will be escalated in proportion to the current max rate.

Example:

	TTD	Max TTD	Percent
2017	\$446	\$961	46.4%
2023	\$578.61	\$1247	46.4%

- In 2017, claimant's TTD rate was **\$446**, or 46.4% of the 2017 maximum TTD rate of \$961.
- In 2023, claimant resumed TTD for the same claim. His TTD rate was escalated to 46.4% of 2023 maximum TTD rate of \$1247, or **\$578.61**.



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Wage Investigation

- About 30% of WKC-13A1s (roughly 8,000 claims per year) filed will be put into "Wage Investigation."
- Of that 30%, about half will stay the same.
- Don't panic: we will let you know if we need more information.
- Once a claim is in Wage Investigation, only we can take it out of investigation. Submitting more WKC-13A1s will not change that.



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Request for Week-by-Week Wages

WC CLAIM NO: 9999-999999 IF YOU CALL OR WRITE US
 INJURY DATE: 01/01/98 PLEASE USE WC CLAIM NO.
 EMPLOYER: SIMPLER-SAMPLER, TESTER SAMPLE
 EMPLOYER: SAMPLE EMPLOYER
 INSURER NO:

We received wage information that indicates the average weekly wage used for computing the TTD/PPD rate(s) may be incorrect. Please submit the following information for verification of the correct average weekly wage:

- A week-by-week listing of gross taxable earnings for the 52-week period starting immediately prior to the week in which the injury occurred. Include earnings for overtime, bonuses, incentive or performance pay, commissions and all other taxable earnings excluding tips.
- If the employee received tips, send a week-by-week list of the tips reported.
- If the employee worked for this employer less than 52 weeks prior to the week of injury, list earnings from the date of hire.

If you do not reply to this request for wage information within 30 days we may assess a surcharge of \$100 in accordance with s.102.35(1), Wis. Stats.

If you have questions or need help please contact us by calling (808) 266-1340 and then ask for a wage analyst.

Thank you for your assistance in assuring correct compensation payments.



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Why Would We Request This?

- The number of weeks worked entered on the WKC-13A1 is impossible based on Date of Hire and Date of Injury.
- The quarterly gross earnings the employer reported to UI is significantly different than what was reported on the WKC-13A1.
- Something just doesn't look right:
 - Gross is very high or low
 - Weeks are very high or low
 - No tips reported for a job that typically gets tips
 - Earnings fluctuate across quarters in UI database



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Questions?



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Part-Time Employees

STEVEN McKINNEY
Wage Analyst

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Everyone Gets Paid Full-time...

- 102.11(1)(a)3: "The average weekly earnings shall be arrived at by multiplying the employee's hourly earnings by the hours in the normal full-time work week as established by the employer."
- Full time employees are those who are regularly scheduled to work more than 35 hours per week.
- For those employees who work less than full time, the above statute expands their wages to full time.



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Everyone Gets Paid Full-time...

- **As of 4/10/22:** For part-time employees, wage expansion to a 40-hour work week is limited to part-time employees who are:
 - Employed by another employer, **or**
 - Who have been employed part-time less than 12 months before the injury, unless they have submitted a signed and dated self-restriction form. (Repeal of s. 102.11 (1)(am) and (f)1 and creation of s. 102.11(1)(ap))



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...Except Self-Restricting PT Employees

Employees are self-restricted to part-time employment when:

- There is documentation from the employer confirming the job is only for part-time work, **or**
- The employee states on the employment application that they only want to work part-time, **or**
- Before the injury, the employee has voluntarily completed a self-restriction form. ([WKC-12698-e](#))



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Self-restriction

- Employees who restrict themselves to part-time work on the **labor market** are eligible to have restricted claims.
- Self-restriction form must be signed and dated by employee (or legal guardian.)
- Can only be applied by a wage analyst after all requirements have been met.



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Why Would an Employee Self-Restrict?

- **TTD for part-time employees who self-restrict will be paid at 100% of actual AWW – not .6667%!**
- Self-restricting to a part-time schedule is a way to reduce expanded hours to the higher of their hourly rate for average hours worked or their actual weekly gross earnings.
- Self-restriction does not affect the PPD rate. PPD will be calculated based on a non-restricted AWW.



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Limitations on Self-restriction

- Employee cannot have more than one job.
- TTD rate cannot exceed what it would be if hours were expanded to full time.
 - Newly-hired part-time workers, or those who work more than 27 hours per week may not be eligible.
 - If you receive an error that an employee cannot restrict, this is usually why.



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Limitations on Self-restriction (cont.)

Cannot accept self-restriction forms that:

- Reference the injury as a reason.
 - "Doctor said I couldn't work full time"
- Reference not being able to find full time work.
 - "Employer only had part-time work available"



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Limitations on Self-restriction (cont.)

Cannot accept self-restriction forms that:

- Aren't signed and dated by employee or employee's legal guardian.
- Are coercive or misleading.
 - Must give an option to select yes or no.
 - Cannot imply stoppage of benefits if not filled out.



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TEST INSURER 2
C/O TEST INSURER 2
123 JENNIFER ST
MADISON WI 53703

WC CLAIM NO: 9999-999999
INJURY DATE: 01/01/22
EMPLOYEE: SIMPLESAMPLER, TESTER SAMPLE
EMPLOYER: SAMPLE EMPLOYER
INSURER NO:

IF YOU CALL OR WRITE US
PLEASE USE WC CLAIM NO.

You advised us that you are paying worker's compensation benefits at 100% of the employee's actual wage. This is correct if at the time of the injury the employee restricted his or her availability to part-time work and was not employed elsewhere.

However, you did not include the required self-restriction statement from the employee. Please send us a self-restriction statement immediately.

If we do not receive a reply within 30 days, we will assume that the employee did not self-restrict, and we will increase the weekly rate to either two-thirds of the wages for 24 hours of work (if the employee was part of a class at the time of injury) or two-thirds of the wages for full-time work (usually 40 hours).



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Statement of Self-Restriction - Part 1 (WKC-12698)

Department of Workforce Development
Workers' Compensation Division
201 E. Washington Ave., Rm. C100
F.O. Box 7801
Madison, WI 53707
Telephone: (608) 266-1340
Toll-Free: 1-800-222-2533
Fax: (608) 261-1134
http://dwd.wisconsin.gov/wc
e-mail: DWD2010@dwd.wisconsin.gov

STATEMENT OF SELF-RESTRICTION TO PART-TIME WORK

*Provision of your Social Security Number (SSN) is voluntary. Failure to provide it may result in an information processing delay. The Department of Workforce Development (DWD) administers Wisconsin's Compensation Act, Chapter 102 Wis. Stats. The purpose of this form is to assist with the procurement of information related to coverage by Chapter 102. Completion of this form is voluntary and failure to complete said form may result in a delay in the administration of Chapter 102. DWD may use the personally identifiable information (PII) it obtains from you on this form for purposes other than those for which it is being collected.

EMPLOYEE NAME:
EMPLOYEE S.S. #*:
DATE OF INJURY:

This form is needed to properly compute the wage for your Worker's Compensation benefits. Please answer the following questions, sign, date and return to your insurance carrier or self-insured employer.

1. At the time of your injury, did you limit your availability in the labor market to part-time work or to work only with the employer where you were injured?
 Yes No

If Yes, explain your limitation:

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Statement of Self-Restriction - Part 2

2. At the time of your injury, were you also employed by another employer or self-employed?
 Yes No

If Yes, please provide us with the name and address of your other employer below:

Employer Name: _____
Employer Address: _____

Signed _____ Dated _____
Phone Number: (____) _____-_____
Area Code

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Questions?

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Exceptional Basis of Pay

- Specific careers may have particular rules that calculate their average weekly wage (AWW) differently from other jobs.
- On the WKC-13A1, select the "Exceptional Basis of Pay" option from the drop-down box in Section 1, Number 5.

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All the "Exceptional" Categories

Coach - Only	Newspaper Carrier - PT	School Bus Driver - PT
Commission Only - FT	Other	School Crossing Guard - PT
Commission Only - PT	Paid By The Mile - FT	Sheltered Employee - PT
Flight Attendant - PT	Paid by The Mile - PT	Sole Proprietor (Business Owner)
K-12 Cafeteria Worker - PT	Prisoner	Taxicab Driver
K-12 Teacher and Coach	Pro & Semi-Pro Athlete	Trucker - Owned Truck
K-12 Teacher Only	Pulp Cutter	Volunteer Fire Fighter/ EMT

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Teachers/School Workers

- The typical school year lasts 38 weeks. The number of weeks entered on the WKC-13A1 is the weeks worked.
- Teachers can opt to have their contract paid during the school year (38 weeks) or throughout the whole year (52 weeks), so paychecks might not reflect total earnings for the weeks worked.
- AWW is based on annual salary and percentage of contract fulfilled.



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Business Owners

- AWW based on Net Profit reported on business owners' taxes for the tax year prior to year of injury.
- Typically reported on either Schedule C or Schedule K-1. We will ask you to provide a copy of this.
- Minimum wage (AWW: \$290) is the lowest we will set business owners' AWW.
- If owners refuse to furnish the proper tax documents, wage will be set to minimum wage.



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Commission-Only or Paid by the Mile

- These workers have no set rate of pay – they are paid on commission or by the mile.
- If they work full time, AWW is based on their gross/weeks worked. Hourly rate x hours would not be considered.
- If they have worked fewer than six (6) weeks (i.e., cannot use gross), send similar wages of a like employee.
- If they work part-time, hourly rate is calculated by dividing gross earnings by hours worked.



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Volunteer/Paid On-Call Firefighters

- AWW set to the maximum rate for the year of injury, or we will accept full-time wages from the nearest full-time/ career fire department.
- When submitting WKC-13A1, note which fire department you contacted to obtain the full-time wages.
- Refer to Calculating Wage binder for more detailed information on why we handle volunteer rescue worker wages this way.



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Other Exceptional Categories

- Piecework
- Seasonal Employment
- Tips
- Room and Board
 - Refer to PocketTravelGuide.pdf
<https://dpm.wi.gov/Documents/BCER/Compensation/PocketTravelGuide.pdf?v1>



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Questions?

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