

#### 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
- Available reference resource

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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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<ol> <li>General Info — (</li> </ol>	Pay Information — 👩 🤇	iross Wages — 👩 Additions To Cash Wage —	Scheduled Hours/Overtime	🕜 Part Time — 🕜 Summar
Date of Birth (MW/DD/YYYY) 03/10/1982				
	i employee? () Yes () No			
Insurer Contact Name* CLAIMS ADJUSTER	remployeer 🔾 Yes 🥥 No			
(800) 555 1234	Insurer Contact Phone	Insurer Centect Entel* ADJUSTER@TESTINSURER1.COM		
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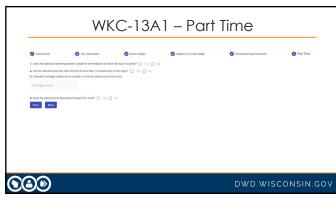
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Hours	\$ <sup>Wapes</sup>				
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Differential per hour					
<ol> <li>Exceptional basis of pay Send</li> </ol>					
Basis of Pay/Wage Comments					
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Number of weeks					

General Info	Pay Information	Oross Wages	Additions To Cash Wage	Scheduled Hours/Overline	Ø Part Ter
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\$ 50300.00					
2. Number of weeks worked	in 52 Week Period Prior To Week Of Inju	ry. Exclude week of injury in the number o	if weeks.		
Weeks' 50					
a. Date of Hire.					
Date of Fire (MM/DD/YYYY)					
06/15/2020	۲				
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<ul> <li>General Info</li> <li>Free Meals: Enter number of a Meals per week</li> </ul>	Pay information means per week.	🖉 Gross Wages	Additions To Cash Wage	Scheduled Hours: Overline	Pat Time
<ol> <li>Daty Room: Enter number of Days per week</li> </ol>	døys per week.				
<ol> <li>Other additions to cash wage: Enter description of item.</li> </ol>		Etler wee	kly value amount.		
4. Did the claimant continue to re	oceive additions to cash wage during	the healing period? () Yes () No			
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General Info     Investigation	Pay information reduled by the employer for this type of wor	Gross Wages	Additions To Cash Wage	Scheduled Hours/Overtime	Part Time
Full time hours 40.00	erone of an entropy of the life of the				
2. If employer scheduled cla	imant to work on a regular alternating week	ly basis, enter the number of hours fo	r the regular alternating schedule.		
Thest one		Thesh two .00			
Hours worked					
	o work full time in this job each week?				
Prev Next					
PTER					





Calculating Average Weekly Wage
Average Weekly Wage will be based on the <b>greater</b> of:
Hourly Rate X Hours per Week
or
Gross Earnings 🛨 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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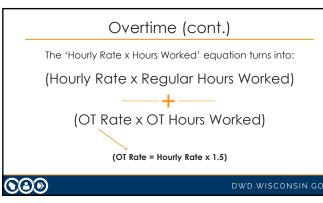
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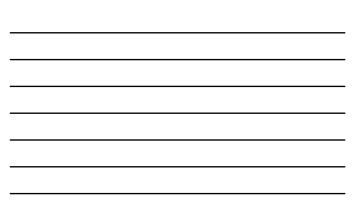
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# Overtime

- 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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# 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

• If the claimant is younger than 27 years old, PPD will automatically be set to max rate.

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Category	Current
Average Weekly Wage	\$1,989.00
Temporary Total Disability	\$1,326.00
Permanent Partial Disability	\$446.00
Current historical wage and rate ch https://dwd.wisconsin.gov/dwd/publication	

	Escalation							
after the	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:	Example: TTD Max TTD Percent							
	2017	\$446	\$961	46.4%				
	2023	\$578.61	\$1247	46.4%				
<ul> <li>In 2017, TTD rate</li> </ul>			te was <b>\$4</b> 4	<b>16</b> , or 46.4	% of the 2017 maximum			
					claim. His TTD rate was e of \$1247, or <b>\$578.61</b> .			

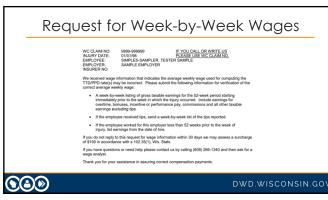
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# Wage Investigation

- 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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# Why Would We Request This?

- Number of weeks worked entered on WKC-13A1 is impossible based on Date of Hire and Date of Injury.
- Quarterly gross earnings employer reported to UI is significantly different than reported on 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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## 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 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
- 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 <u>higher</u> of;
  - Hourly rate for average hours worked,  $\ensuremath{\text{or}}$
  - 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 be more than 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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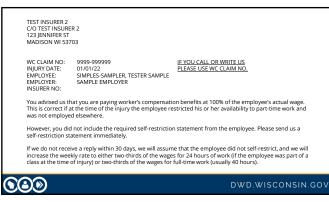
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# Limitations on Self-restriction (cont.)

**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.

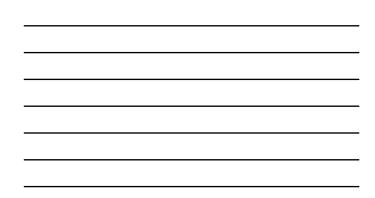
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Statement of Self-Restriction - Part 1 (WKC-12698)	STATEMENT OF BELF-RESTRICTION TO PART-TIME WORK	unanzied, chaim (d'hin, fine, fine, and series d'hink in an angelen de la serie de
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Sta	tement of Self-Restri	ction – Part 2	
:	At the time of your injury, were you also employed by another employer or self-employed?     Yes No     Yes No     Yes please provide us with the name and address of your other employer below:		
	Employer Name: Employer Address:		
	Signed Phone Number: ()	Dated	
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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		

# 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 <u>PocketTravelGuide.pdf</u> (<u>https://dpm.wi.gov/Documents/BCER/Compensation/PocketTravelGuide.pdf?v1</u>)

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# 2022 Change to Wage Calculation

- Gov. Evers signed AB-911, the WC Agreed-Upon Bill on April 9, 2022, making it effective April 10, 2022.
- Part of AB-911 made a change to the wage calculation for part-time employees who were injured after April 10, 2022.
- Wage calculation for part-time employees was covered earlier in this presentation.

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#### Updates: <u>Calculating Wage</u> Binder

- Resources on training page of DWC website include updated <u>Calculating Wage.</u>
- Now includes:
- Clarification of how to figure wage for part-time and selfrestricting employees;
- More detailed explanation of calculating TPD benefits, with examples;
- Deletion of references to part of class.

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