

**Benefits Under the  
Defense Base Act**

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U.S. Department of Labor  
Office of Workers' Compensation (OWCP)  
Division of Longshore and Harbor Workers' Compensation (DLHWC)

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**LHWCA and extensions:**

- **Longshore and Harbor Workers' Compensation Act (LHWCA)**  
33 U.S.C. §901 *et seq.*;
- **Outer Continental Shelf Lands Act (OCSLA)**  
43 U.S.C. § 1331 *et seq.*;
- **Non-Appropriated Funds Instrumentality Act (NAFIA)**  
5 U.S.C. § 8171 *et seq.*;
- **Defense Base Act (DBA)**  
42 U.S.C. § 1651 *et seq.*; and
- **War Hazards Compensation Act (WHCA)**  
42 U.S.C. § 1701 *et seq.*

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**Contact Us:**

***National Office***  
***U.S. Department of Labor ESA/OWCP/DLHWC***  
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***Washington, DC 20210***  
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***<http://www.dol.gov/esa/owcp/dlhwc/1stable.htm>***

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**What is Covered?**  
**Benefits Under the DBA**

**Resource:**  
<http://www.dol.gov/esa/owcp/dlhwc/LS-560pam.htm>

- **Disability Compensation**
- **Medical Treatment**
- **Death Benefits**
- **Vocational Rehabilitation**

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**Medical Benefits**  
*Reference: 33 U.S.C. §907*

- **Medical treatment by a physician of the employee's choice**
- **Medical care must be related to the employment injury or illness**
- **Medical treatment is payable for as long as the injury or illness requires**
- **Opinion of treating physician is entitled to greater weight over employer/carrier examination**

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**Compensation Types**

- **What are the types of disability?**  
Temporary Total Disability (TTD), Temporary Partial Disability (TPD), Permanent Total Disability (PTD), Permanent Partial Disability (PPD). PPD can be scheduled or unscheduled.
- **Temporary Total Disability (TTD)**  
 $\frac{2}{3}$  of the Average Weekly Wage (AWW)  
e.g. AWW = \$1500  
TTD =  $\$1500 \times \frac{2}{3} = \$1000$
- **Temporary Partial Disability (TPD)**  
Compensation for Loss of Wage Earning Capacity (LWEC)  
 $\frac{2}{3}$  of employee's loss of wages  
e.g. Earnings prior to injury = \$1500  
Earnings after injury =  $\$500 - \$1000$   
  
TPD =  $\$1000 \times \frac{2}{3} = \$666.67$  per week

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### Compensation Types – cont.

- **Permanent Total Disability**
  - Compensation rate is  $\frac{2}{3}$  of the AWW
- **Permanent Partial Disability**
  - $\frac{2}{3}$  of employee's loss of earning capacity, or
  - Total disability for a defined number of weeks for a percentage of permanent impairment of a scheduled body part under Section 8(c)(1)-(20).

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### Death Benefits

- **Burial Expenses of up to \$3,000.**
- **50% of AWW for the surviving spouse, or if no spouse, for one surviving child.**
- **16 $\frac{2}{3}$ % of AWW for one or more surviving children, shared equally, in addition to the 50% for spouse and one child.**
- **Child benefit is paid up to age 18, student benefit through age 23 if in school full-time.**

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### Average Weekly Wage

- **Determination of AWW is based upon "average annual earnings" divided by 52 weeks.**
- **Preferred method is Section 910(a), which uses claimant's actual earnings for year prior to injury if claimant is a 5- or 6-day worker and has worked "substantially" the whole of the year.**
- **Alternatively, Section 910(b) uses earnings of a similarly situated worker.**
- **The last alternative is Section 910(c), which is the "catch-all" provision.**
- **Compensation rate is calculated by multiplying AWW by 66 $\frac{2}{3}$ % (or  $\frac{2}{3}$ ).**

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### Compensation Rate

- Compensation is subject to a **Maximum Compensation Rate**, which is adjusted annually.
- **Maximum Rate = \$1,073.64 per week effective 10/1/05**
- There is no **Minimum Compensation Rate** under the DBA

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### Annual Adjustment

- **Permanent total disability and death benefits are subject to annual adjustment (increase) based on U.S. national average weekly earnings as reported by the Bureau of Labor Statistics.**
- **Annual adjustments are applied on October 1 of each year.**

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### Lifetime Payments

**Permanent disability is payable as long as disability continues. Spousal death benefit is payable for life, unless remarried.**

**EXAMPLE:**

**A 40 year old earning \$1500/week can expect to receive permanent total disability benefits over his 35 year life expectancy:**

**$\frac{2}{3}(\$1,500) \times 52 \text{ weeks} \times 35 \text{ years} = \$1,820,000$ , not including cost of living adjustments**

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### Widow(er)'s benefits

- If the same employee had been killed, his 30 year old widow and 2 infant children will receive over the life of the claim in excess of \$2,000,000, not including annual adjustments.
- Widow @ \$750 x 52 weeks x 45 years  
= \$1,755,000
- Children @ \$250 x 52 weeks x 21 years  
= \$273,000

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### Commutation

- Permanent disability and death benefits payable to aliens and non-US citizens residing outside the US may be commuted.
- Commuted benefit is equal to one half of the present value of future compensation, paid in one lump sum.

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### Vocational Rehabilitation Benefits

- Vocational Rehabilitation services for permanently disabled employees unable to return to employment without assistance.
- Services can include placement with previous employer in a modified position, placement with a new employer, or retraining.
- Currently rehabilitation services are only available to those permanently disabled employees residing in the United States.
- Cost of vocational rehabilitation is paid for by the U.S. Department of Labor, although claimant may be entitled to Temporary Total Disability during retraining.

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QUESTIONS?

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