



The Vermont Legislative Research Shop

A Comparison of Worker's Compensation Policies for Arkansas, Colorado, Indiana, Maine, New Hampshire, Oregon, and Vermont

Workers compensation serves as an insurance program to cover any injury or illness that originated from a work-related event. A tabular comparison of worker's compensation policies between Vermont and six other strategically selected states will reveal the complexity of the policies and the variation among the states. States were selected based on their geographic location, population size, and state industries. Information for this report was derived from charts posted by the United States Department of Labor, at: <http://www.dol.gov/dol/esa/public/regs/statutes/owcp/stwclaw/stwclaw.htm>. Some of the differences include:

Coverage of agricultural workers

Unlike Colorado, New Hampshire, and Oregon, Vermont does not consider agricultural workers the same as all other employees. Vermont's policy covers all agricultural workers except those working for an employer whose aggregate payroll is less than \$2000 in one calendar year. Arkansas and Indiana permit voluntary coverage and Maine covers all agricultural workers except seasonal or casual.

Numerical exemptions

All surveyed states, except Arkansas, have no exemptions based on the number of employees. Arkansas policy allows exemptions when an employer has three or less employees.

State workers compensation method of payment

Vermont, unlike the other survey states, relies on a method of payment through agreement as opposed to direct payment methods.

Medical benefits and method of physician selection provided by workers compensation statutes in the U.S.

Vermont in accordance with all other surveyed states, except Arkansas, provides benefits with no time or monetary limits. Arkansas benefits cease six months after the injury or a maximum of \$10,000 has been paid.

Methods of payment

All surveyed states schedule awards paid in addition to TTD (temporary total disability) benefits.

Vermont, Arkansas, Colorado, Indiana, and Oregon all schedule awards paid upon termination of TTD benefits. Maine pays directly after the accident, while New Hampshire pays concurrently.

Vermont, Arkansas, Colorado, Indiana, and Maine do not schedule reduced awards because of receipt of TTD benefits. New Hampshire and Oregon both schedule reduced awards with Oregon only scheduling if the TTD was overpaid.

Additional and more detailed information can be found in the attached charts.

- Rehabilitation benefits provided for injured workers under state workers compensation laws. [Chart 1](#)
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Chart 1

Rehabilitation Benefits Provided for Injured Workers Under State Workers Compensation Laws

Arkansas

Physical rehabilitation is covered under medical services

There is no workers compensation rehabilitation unit

Employer/Carrier Responsibilities: 1. Vocational rehab. Costs and Permanent Partial Disability for a maximum of 72 weeks. 2. Pays maximum six weeks additional compensation while employee is being evaluated for rehabilitation and receiving no income.

Employee Responsibilities: 1. Accept physical rehabilitation. 2. Not required to accept vocational rehabilitation.

Penalties to Employees: Compensation suspended.

Employee Benefits During Vocational Rehabilitation: Permanent Partial Disability plus travel and maintenance expenses.

Colorado

Workers Compensation Rehabilitation Unit: Provides monitoring

Employer/Carrier Responsibilities: 1. Major medical insurance fund pays during vocation rehabilitation, tuition, travel, maintenance expenses equivalent to temporary total disability.

Employee Responsibilities: Accept physical rehabilitation.

Penalties to Employees: Compensation reduced or suspended.

Employee benefits during vocational rehabilitation: Weekly maintenance equal to temporary total disability. Vocational rehabilitation may be terminated by any party upon fourteen days of written notice to all parties.

Indiana

Workers Compensation Rehabilitation Unit: Direct.

Employer/Carrier Responsibilities: 1. Travel expenses associated with physical rehabilitation. 2. Individualized vocational rehabilitation plan developed by office of vocational rehab.

Employee responsibilities: Accept physical and vocational rehabilitation.

Penalties to Employees: Lose compensation, no compensation for increased disability during refusal period.

Employee benefits during vocational rehabilitation: Determined by the office of the vocational rehabilitation.

Maine

Workers Compensation Rehabilitation Unit: Provides direct and monitoring services.

Employer/Carrier Responsibilities: 1. Vocational Rehabilitation costs. 2. Pays temporary total disability plus maximum of \$35/wk during vocational rehabilitation, for maximum of two years of cost of \$5,000 unless special circumstances demonstrated.

Employee responsibilities: Accept physical and vocational rehabilitation.

Penalties to employees: Compensation suspended.

Employee benefits during vocational rehabilitation: Temporary total disability plus \$35/wk for sustenance and travel.

New Hampshire

Physical rehabilitation is covered under medical services.

Workers Compensation Rehabilitation Unit: Provides monitoring.

Employer/Carrier Responsibilities: Vocational rehabilitation costs including books, tools, board, and lodging.

Employee Responsibilities: Accept vocational rehabilitation.

Penalties to employees: Compensation loss.

Employee benefits during vocational rehabilitation: Temporary total disability, plus books, tools, board, lodging and travel.

Oregon

Workers Compensation Rehabilitation Unit: Provides monitoring.

Employer/Carrier responsibilities: 1. State administrative fund pays vocational rehabilitation costs for injuries prior to 1986. 2. Insurer responsible for costs of post 1985 injuries. 3. Workers compensation department certifies private rehabilitation counselors and authorizes companies. 4. Insurer provides all assistance for rehabilitation.

Employee responsibilities: Accept vocational and physical rehabilitation. Appeal of an insurer's decision must be filed with the department within sixty days.

Penalties to employees: Compensation reduced or suspended. Forfeiture of vocational rehabilitation benefits.

Employee benefits during vocational rehabilitation: Temporary total disability for sixteen months while in training; may be extended to twenty-one months under certain conditions.

Vermont

Physical rehabilitation is covered under medical services.

Employer/Carrier responsibilities: Vocational rehabilitation costs, books, tools; board, lodging and travel – if travel is required.

Employee responsibilities: Accept vocational rehabilitation

Penalties to employees: Compensation suspended

Employee benefits during vocational rehabilitation: Temporary total disability plus books, tools, board, lodging – if away from home, and travel



Chart 2: Benefits for Surviving Spouses and Children

States	% of Employee's Wage		Payments per Week		% of SAWW	Maximum Period	
	Spouse Only	Spouse w/Children	Minimum	Maximum		Child until 18	Widow/widowhood
Arkansas ¹	35	66 2/3	\$20.00	\$348.00	85	x	x
Colorado ²	66 2/3	66 2/3	\$128.69	\$468.44	91	x	x
Indiana ³	66 2/3	66 2/3	\$50.00	\$428.00	n/a	n/a	n/a
Maine ⁴	80 % of after tax earnings		n/a	\$441.00	90	x	n/a
New Hampshire ⁵	60	66 2/3	\$151.20	\$756.00	150	x	x
Oregon ⁶	66 2/3	66 2/3	n/a	\$347.75 to \$691.45*	133 1/3	x	x
Vermont ⁷	66 2/3	76 2/3	\$226.00	\$674.00	150	x	until age 62

*according to number of dependents

¹Spouse receives two year lump sum upon remarriage. Children receive benefits beyond 18 if physically or mentally disabled, or until 25 if full time students.

²2 year lump sum upon marriage if no dependent children; Children compensated beyond 18 w/disability or until 21 if full time student; Workers compensation is subject to social security offsets(excluding widows 60 years and older)

³Children receive benefits beyond 21 if disabled; 2 year lump sum payable upon remarriage if no children are dependent; Total maximum: \$214,000

⁴Children beyond 18 if disabled.

⁵Children beyond 18 if disabled and until 25 if full time students.

⁶Children beyond 18 if disabled.; until 23 if attending college within 6 months of High School graduation; Spouse receives 24 times the monthly benefit amount in a lump sum upon remarriage; Spouse receives 4.35 times 10% of SAWW a month per child under 18; If the surviving spouse dies before all children are 18, each child under 18 receives 4.35 times 25% of SAWW each month until their 18th birthday.

⁷Children receive benefits beyond 18 if disabled or a full time student.



Chart 3: Benefits for Permanent Partial Disability

States	% of workers wage	Minimum per Week	Maximum per Week	Maximum period for unscheduled injuries	% of SAWW
Arkansas	66 2/3	\$20	\$261.00	450 weeks	n/a
Colorado	n/a	\$150 scheduled \$120 unscheduled	\$257.00	208 weeks	n/a
Indiana	66 2/3	payable but not presently prescribed	\$428.00	n/a	n/a
Maine	80% after tax earnings	90% of state average weekly wage (SAWW)	\$441.00	260 weeks	n/a
New Hampshire	60	\$150 (30% of SAWW not to exceed employee's after tax earnings)	\$756.00	n/a	150
Oregon	66 2/3	\$25.00	\$548.00	262 weeks	100
Vermont	66 2/3	\$226.00 (50% of SAWW if less)	\$674.00	330 weeks	150



Chart 4: Disfigurement Benefits

State	Nature of Disfigurement	Compensation Received
Arkansas	Serious and permanent head or facial	Max. of \$3,500; No award 12 mo.'s after injury
Colorado	Serious facial, head, or exposed body parts.	Max. of \$2,000: In addition to accident benefits provided by law.
Indiana	Permanent, which may impair future usefulness or opportunities for employment.	A discretion of the Industrial Board, except where benefits are payable elsewhere; Max. of 200 wks
Maine	Serious facial or head; neck if it effects earning capacity.	An amount not exceeding 2/3 of the state average weekly wage multiplied by 50.
Oregon	N/A	No set dollar amount; Payable only if disfigurement results in psychological adjustment problems.
Vermont	N/A	Shall be determined by the commissioner of labor and industry.



Chart 5: Waiting Periods

State	Waiting Periods	Compensation retroactive if disability continues for period indicated from date of injury
Arkansas	7 days	2 weeks
Colorado	3 days	more than 2 weeks
Indiana	7 days	more than 21 days (for temporary disability only)
Maine	7 days	more than 14 days (except fireman receive compensation from incapacity)
Vermont	3 days	ten days (total disability only)



Chart 6: Type of Law and Insurance Requirements for Private Employment

State	Type of Law	Waivers Permitted	State Funding	Self Insured By:		
				Private Carrier	Individual Employer	Group of Employers
Arkansas	Compulsory	Yes	No	Yes	Yes	Yes
Colorado	Compulsory	Yes	Competitive	Yes	Yes	Yes
Indiana	Compulsory	No	No	Yes	Yes	No
Maine	Compulsory	Yes	Competitive	Yes	Yes	Yes
New Hampshire	Compulsory	No	No	Yes	Yes	Yes
Oregon	Compulsory	No	Competitive	Yes	Yes	Yes
Vermont	Compulsory	Yes	No	Yes	Yes	No

**Chart 7: Attorney's Fees in Workers Compensation**

State	Attorney fee established	Determined by	Statutory provision whereby attorney fees are added to award in certain cases	Statutory provision making unlawful acceptance of unapproved fees	Laypersons permitted to represent claimants	Attorney fees, upon approval, become liens against awards
Arkansas	30% first \$1,000; 20% next \$2,000; 10% on balance, statute	agency	yes	none	yes	no
Colorado	20% statute	agency	none	none	no	yes
Indiana	individual case basis	agency	yes	none	no	no
Maine	individual case basis	agency	yes	yes	no	no
New Hampshire	20-25% policy	agency	yes	none	no	no
Oregon	25% not to exceed \$2,800, rule	agency	yes	none	yes	yes
Vermont	20% max \$3,000 policy	agency	yes	none	no	yes

**Chart 8: Benefits for PTD Provided by Worker's Compensation in the U.S.**

State	% of Wage	Minimum	Maximum	% of SAWW	Maximum period
Arkansas	66 2/3	\$20	\$348.00	85	Duration
Colorado	66 2/3	no minimum	\$468.44	91	Life
Indiana	66 2/3	\$50 or workers average wage	\$428.00	n/a	Duration
Maine	80% of workers spendable earnings	no minimum	\$441.00	90	Duration
New Hampshire	60	\$151.20-30% of SAWW	\$756.00	150	Duration
Oregon	66 2/3	\$50 or 90% of actual wage	\$518.60	100	Duration
Vermont	66 2/3	\$226 or 50% of SAWW	\$674.00	150	Duration with minimum of 330 wks

**Chart 9: Benefits for TTD Provided by Workers Compensation in the U.S.**

States	% of workers wage	Minimum	Maximum	Maximum Period of Coverage
Colorado	66 2/3	No minimum	\$468.44	Duration
Indiana	66 2/3	\$50 or Average if less	\$428.00	500 weeks
Maine	80	No minimum	\$441.00	Duration
New Hampshire	60	\$151.20-30% of SAWW not to exceed employee's after tax earnings	\$756.00	Duration
Oregon	66 2/3	\$50 or 9% of wage	\$518.00	Duration
Vermont	66 2/3	\$226-50% of SAWW not to exceed employee's after tax earnings	\$674.00	Duration
Arkansas	not available			

**Chart 10: Maximum Benefits and Periods of Payment for Selected Permanent Partial Disabilities**

States	Scheduled Injuries							Unscheduled Injuries
	Arm at Shoulder	Hand	Leg at Hip	Foot	Eye	Both Ears	One Ear	Non-Specific
Arkansas	\$54,000/210 wks	\$41,000/158 wks	\$48,024/184 wks	\$34,191/131 wks	\$27,405/105wks	\$41,238/158 weeks	\$10,962/42 wks	\$117,450
Colorado	\$53,535/208 wks	\$26,768/104 wks	\$53,535/208 wks	\$26,768/104 wks	\$35,776/139 wks	\$35,776/139 weeks	\$9,008/35 wks	\$53,535
Indiana	\$48,00	\$34,000	\$41,000	\$27,000	\$27,000	\$35,000	\$8,500	No maximum
Maine	\$118,629/269 wks	\$94,815/215 wks	\$94,815/215 wks	\$71,442/162 wks	\$71,442/162 wks	\$88,200/200 weeks	\$22,050/50 wks	\$114,660
New Hampshire	\$158,760/210 wks	\$142,884/189 wks	\$105,840/140 wks	\$74,088/98 wks	\$63,504/84 wks	\$92,988/123 weeks	\$22,680/30 wks	\$198,072
Oregon	\$80,640	\$63,000	\$63,000	\$56,700	\$42,000	\$80,640	\$25,200	\$130,400
Vermont	\$144,910/215 wks	\$117,950/175 wks	\$144,910/215 wks	\$117,950/175 wks	\$84,250/125 wks	\$121,320/180 weeks	\$35,048/52 wks	\$222,420

Completed by Paul Kapsch, Matt Landi, and Sarah Schwartz on March 2, 1999