

MAXIMUM MEDICAL IMPROVEMENT (MMI) is the point at which it is no longer likely that a body part or organ system damaged in a work-related injury will improve. A percentage of permanent partial disability may then be estimated by a physician, so that permanent partial disability benefits

work but makes less than he made in his regular job, he may be eligible for a wage loss benefit. Temporary partial disability benefits may continue until the doctor determines that the patient has “reached the stage of ultimate improvement” or MMI.

only if the injured employee is unable to continue to work in his or her same occupation. In other states, if a person is partially disabled but not totally disabled, indemnity benefits (i.e., payments to the injured worker rather than payments for medical treatment) are available after MMI only if the employee is losing earnings because of the injury.

Maximum Medical Improvement in Workers’ Compensation

By Donna Civitello and Robert F. Carter

can begin. At this point, the employer remains financially responsible for paying for medical care and disability benefits. State laws vary with respect to the extent of that liability; in most states, the employer remains liable to pay for medical treatment related to the compensable injury for the lifetime of the injured employee.

For example, let’s look at a worker whom we will call John. A work-related fracture of his right arm may require surgery, with screws and plates implanted, that leaves him completely disabled for several months. During this time, John will be paid temporary total disability benefits. He may undergo extensive physical therapy to improve the damaged arm and, at a certain point, although the arm may still be healing, the doctor may release John to do light duty or one-handed work. During this period, he may be paid temporary partial disability benefits. If John’s employer does not give him light duty work, he may be required to look for work in order to receive weekly temporary partial disability benefits. If he finds other

At the time of MMI, if John is not completely disabled and is capable of working, either full-time or part-time, his benefits may be changed to permanent partial disability benefits. If the injury to John’s right arm results in a 20% permanent partial disability of the arm and he is right handed, in almost every state he will be paid a certain number of weeks of permanent partial disability benefits, as determined by a statutory schedule that sets a specific number of weeks of benefits for each listed body part or organ system. In Connecticut, 20% permanent impairment of the master arm requires the payment of 41.6 weeks of permanent partial disability benefits at the injured employee’s compensation rate; the statutory schedule provides that 100% loss of use of the arm equates to 208 weeks of disability benefits, so that $20\% \times 208 = 41.6$ weeks of benefits, subject to the state-wide maximum compensation rate.

The legal standards for payment and types of benefits available after an injured employee reaches MMI vary from state to state. In some states, permanent partial disability benefits are payable

Are any weekly benefits available after permanent partial disability benefits have been paid?

The availability of wage loss benefits after the statutory time for permanent partial disability benefits varies a great deal among the states. Wage loss benefits may be payable to the partially disabled employee indefinitely, for a limited period, or not at all. If the compensable condition worsens, so that the injured employee becomes totally disabled, additional temporary total disability benefits are available in most states.

Does reaching MMI mean an injured employee can work?

No—a person with a severe injury may reach MMI but still be totally disabled from working. For example, an injured employee with a significant degree of paraplegia may be unable to work, but may have reached MMI, since his condition is unlikely to improve. Reaching MMI merely means that the employee, in the doctor’s judgment, is unlikely to improve further and may have a permanent impairment of the injured body part. In most states, a person who has reached MMI and who is completely disabled from the injury can continue receiving temporary total disability benefits. Depending on your state, total disability benefits may continue indefinitely or until a state’s statutory time limit has been reached.

Can an injured employee receive medical treatment after reaching MMI?

Yes—if continued medical treatment is

reasonable or necessary, in most states the injured employee may continue to receive appropriate treatment. For example, a person with silicosis, a lung disease, may have reached MMI but requires continued medical care, such as inhalers, respiratory therapy, or oxygen, to continue to function or even to live. A person with complex regional pain syndrome (CRPS) may have reached MMI, but may need continued doctors' visits, psychiatric treatment for depression and anxiety, pain medication, or injections with botulinum toxin. If the workers' compensation commissioner finds that continued treatment is reasonable or necessary, he may order the employer or insurer to continue to pay for medical treatment indefinitely. A few states, however, severely restrict the employer's obligation to supply even necessary medical treatment after MMI, and some even have caps that limit the total dollar amount or time period for which medical benefits must be paid.

The type of medical treatment which may be authorized is ordinarily left to the discretion of the workers' compensation commissioner or judge. Off-label use of drugs or devices and novel or experimental treatments may be authorized. However, states may vary in their liberality, and treatments may be contested in particular cases. Connecticut, for example, by statute permits the authorization of "treatment by prayer or spiritual means" in workers' compensation cases. However, novel or expensive treatments are often contested by employers, and thus the subject of litigation.

How is the date of MMI determined?

The physician may determine a precise date for MMI. However, where a doctor fails to identify in a report the precise MMI date, the injured employee and the employer generally use the date of the

report as the MMI date. Where doctors have different opinions concerning the date of MMI, workers' compensation judges or commissioners are afforded wide discretion to determine the MMI date from the varying opinions.

What happens if doctors disagree?

If a doctor hired by the employer disagrees with the treating physician concerning the date of MMI, the extent of permanent impairment, the employee's ability to work, or the reasonableness of continuing medical treatment, the workers' compensation judge decides the disputed issue. The injured employee may request a hearing with the workers' compensation board to resolve disputes.

What if the injured employee's medical condition declines after MMI?

If a work-related injury has reached MMI but later becomes worse, the treating

benefits. However, if the condition has worsened so much that the injured employee is unable to work; he may be eligible for total disability benefits. Since these issues are usually contested by the employer, the judge can decide whether these additional benefits must be paid. ■

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The firm of Carter & Civitello represents injured employees. Robert Carter was educated at Harvard, Yale and the University of Connecticut School of Medicine. Donna Civitello was educated at Yale and the University of Connecticut. Donna and Bob are authors of the treatise, *Connecticut Workers' Compensation Law* (Thomson-West 2008) and have written and taught extensively on issues of work-related injuries. Donna is the author of *Injured on the Job, A Handbook for Connecticut Workers* (1992). They have both been selected by their peers for inclusion in The Best Lawyers of America for many

Reaching MMI merely means that the employee, in the doctor's judgment, is unlikely to improve further and may have a permanent impairment of the injured body part.

physician may decide that the degree of permanent injury has increased, and increase the degree of permanent impairment. For example, in an injured right master arm with osteomyelitis in which the degree of permanent partial impairment has increased from 20% to 40%, he may be eligible to receive additional permanent partial disability

years. They have represented many hundreds of injured employees.

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