



**COMMENTS ON UPDATE TO PROPOSED VERMONT STATUTE
CHANGES REGARDING TEMPORARY PARTIAL DISABILITY BENEFITS**
As Requested on April 27, 2023

Currently in Vermont, weekly Temporary Partial Disability (TPD) benefits are equal to 66 2/3% of the difference between the injured worker's pre-injury and post-injury average weekly wage (AWW). The updated proposed language to Senate Bill 101—which is anticipated to be incorporated into House Bill 217—would amend the TPD benefit calculation to equal the greater of either:

- A. The difference between the calculated temporary total disability (TTD) benefit amount pursuant to (Section 642), including any cost-of-living adjustment (COLA) or dependency benefits due, and the injured worker's AWW during the period of disability; and
- B. 66 2/3% of the difference between the injured worker's pre-injury AWW and the amount the employee earns during the period of disability.

If enacted, this change would increase TPD benefits in some cases, as benefits could be higher under (A) if either the pre-injury AWW is less than 75% of the state average weekly wage (SAWW), or if the injured worker has multiple dependent children. In essence, this proposed change would effectively establish a minimum weekly benefit for TPD injuries as a consequence of the existing minimum TTD weekly benefit. While this change could put upward pressure on system costs in Vermont by increasing TPD indemnity benefits in certain cases, NCCI anticipates that this would impact a limited number of claims and would result in a relatively small increase in indemnity benefits, on average, for those affected claims.

NCCI estimates that TPD indemnity benefit costs represent less than 10%¹ of all temporary disability (i.e., combined TPD and TTD) indemnity benefit costs in Vermont. Since temporary disability indemnity benefits comprise approximately 36.1%² of total indemnity benefit costs, and total indemnity benefits are projected to comprise approximately 53%³ of total WC benefit costs, TPD indemnity benefits are estimated to represent less than 1.9% = (10% x 36.1% x 53%) of total WC benefit costs in Vermont. **NCCI is not able to explicitly estimate the impact of this proposed change because sufficiently detailed information about the distribution of TPD injury durations and wage loss is not readily available. However, due to the limited share of overall WC benefits attributable to TPD indemnity benefits in the state, the potential increase on total WC system costs resulting from this provision, if enacted, is expected to be minimal.**⁴

¹ Based on data from NCCI's Indemnity Data Call (IDC) data for Vermont from Accident Years 2017 to 2021.

² Based on NCCI Workers Compensation Statistical Plan data for Vermont policies becoming effective during the 60-month period ending 6/30/2020 brought to the current benefit level and developed to ultimate.

³ Based on NCCI Financial Call data for Vermont for Policy Years 2018, 2019, and 2020, projected to 7/1/2023.

⁴ Minimal is defined in this context to be an impact on overall system costs of less than +0.2%.

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