

## **CHAPTER 65-05.2 SUPPLEMENTARY BENEFITS**

### **65-05.2-01. Eligibility for supplementary benefits.**

1. For claims filed before January 1, 2006, a workforce safety and insurance claimant who is receiving temporary total disability benefits, permanent total disability benefits, or death benefits, and who has been receiving disability or death benefits for a period of three consecutive years is eligible for supplementary benefits. Eligibility for supplementary benefits under this subsection lasts as long as the claimant is entitled to temporary total disability benefits, permanent total disability benefits, or death benefits.
2. For claims filed after December 31, 2005, a workforce safety and insurance claimant who is receiving permanent total disability benefits or death benefits and who has been receiving disability or death benefits for a period of at least three consecutive years is eligible for supplementary benefits. Eligibility for supplementary benefits under this subsection lasts as long as the claimant is entitled to permanent total disability benefits or death benefits.

### **65-05.2-02. Supplementary benefits - Amount.**

1. A claimant whose weekly benefit rate is less than sixty percent of the state's average weekly wage, who is eligible for supplementary benefits and who is receiving temporary total disability benefits, permanent total disability benefits, or death benefits regardless of the date of death, is entitled to receive a weekly supplementary benefit that, when added to the weekly temporary total disability benefit, permanent total disability benefit, or death benefit, equals the ratio of that claimant's weekly benefit to the state's average weekly wage on the date of the claimant's first disability, times the state's average weekly wage in effect at the date eligibility for supplementary benefits is achieved. The organization shall determine on an annual basis, for a claimant who receives a supplementary benefit under this subsection, supplementary benefit increases equal to a percentage of that claimant's combined weekly benefit. That percentage is equal to the annual percentage change in the state's average weekly wage. For purposes of this section, combined weekly benefit means the weekly benefit for which the claimant is eligible before any applicable social security offset plus the amount of weekly supplementary benefits for which the claimant is eligible.
2. A claimant whose weekly benefit rate is greater than or equal to sixty percent of the state's average weekly wage, who is eligible for supplementary benefits and who is receiving temporary total disability benefits, permanent total disability benefits, or death benefits regardless of the date of death, is entitled to receive a weekly supplementary benefit equal to a percentage of that claimant's weekly benefit. That percentage is equal to the annual percentage change in the state's average weekly wage. The organization shall determine on an annual basis, for that claimant, supplementary benefit increases equal to a percentage of that claimant's combined weekly benefit. That percentage is equal to the annual percentage change in the state's average weekly wage.
3. An annual recalculation of supplementary benefits may not result in a rate less than the previous rate. If a claim has been accepted on an aggravation basis under section 65-05-15 and the claimant is eligible for supplementary benefits, the claimant's supplementary benefit must be proportionally calculated.

### **65-05.2-03. Payment of supplementary benefits from the supplementary benefit fund.**

The payment of supplementary benefits to eligible recipients shall be made by the organization from the supplementary benefit fund. If the supplementary benefit fund is inadequate to pay the full amount of supplementary benefits to an eligible recipient, the levels of supplementary benefits shall be prorated for all eligible recipients. The organization shall not be

required to provide a reserve in the fund to pay liability incurred as a result of such supplementary benefits.

**65-05.2-04. Supplementary benefit fund.**

The organization periodically shall determine the amount of money earned on reserves in the workforce safety and insurance fund necessary to provide for the payment of supplementary benefits under this chapter and periodically shall transfer an adequate amount from the earnings on the reserves of the workforce safety and insurance fund to the supplementary benefit fund.