

If an employee receives a personal injury causing temporary total disability, or causing a permanent partial disability for which compensation is payable during a healing period, compensation for the temporary total disability or for the healing period shall be upon the basis provided in this section. The weekly benefit amount payable to any employee for any one week shall be upon the basis of eighty percent of the employee's weekly spendable earnings, but shall not exceed an amount, rounded to the nearest dollar, equal to sixty-six and two-thirds percent of the statewide average weekly wage paid employees as determined by the department of workforce development under section 96.19, subsection 36, and in effect at the time of the injury. However, as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent, and two hundred percent, respectively, of the statewide average weekly wage as determined above. Total weekly compensation for any employee shall not exceed eighty percent per week of the employee's weekly spendable earnings. The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever is less.

The defendants are correct that I improperly awarded claimant's healing period benefits at the wrong weekly rate. With the claimant married, with two exemptions and \$175.00 weekly earnings the claimant's weekly workers' compensation rate for healing period benefits is \$161.61.

The arbitration decision is amended to correct the two errors.

Page 14 of the decision is amended by removing the following sentence in strikethrough: ~~Claimant's weekly earnings were \$175.00 at the time of the hearing.~~ The following three sentences are substituted in: Claimant's weekly earnings were \$175.00 at the time of the injury. For healing period benefits, based upon married with two exemptions, claimant's weekly rate is \$161.61. Claimant's gross weekly wages for permanent partial disability are \$175.00.

The order portion of the decision on page 15 is amended by removing the following sentence in strikethrough: ~~Defendants shall pay claimant healing period benefits from May 1, 2017 through July 18, 2017 at the weekly rate of two hundred six and 75/100 dollars (\$206.75).~~ The following sentence is substituted in: Defendants

WHEELER V. M & T INVESTMENTS

Page 3

shall pay claimant healing period benefits from May 1, 2017 through July 18, 2017 at the weekly rate of one hundred sixty-one and 61/100 dollars (\$161.61).

The defendants' motion for rehearing is granted.

SO ORDERED.

Signed and filed this 27th day of April, 2020.


JAMES F. ELLIOTT
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served as follows:

Thomas Currie (via WCES)

Stephen Spencer (via WCES)