

5223.0250 PREEXISTING IMPAIRMENTS.

Where a disability is subject to apportionment under Minnesota Statutes, section 176.101, subdivision 4a, the rating for the disabled condition under a category of the schedules of this chapter must be reduced as provided in this part. As used in this part, the term disabled condition includes the preexisting disability.

A. This part applies where the preexisting disability has not been rated and neither item B nor C is applicable.

(1) The preexisting disability must be rated under a category of the schedules of this chapter.

(2) The whole body disability rating assigned to the disabled condition of the member by the schedules of this chapter must be reduced by the rating assigned to the preexisting disability of the member in subitem (1).

(3) For example, the medical report establishes a preexisting impairment of amputation of the index finger at the metacarpophalangeal joint. This injury is a 13.5 percent preexisting disability to the body as a whole under part 5223.0080, subpart 1, item L, subitem (1). The disabled condition is amputation of all fingers except the thumb at the metacarpophalangeal joint, a 32.5 percent disability under part 5223.0080, subpart 1, item J, 32.5 percent less 13.5 percent gives the disability (adjusted for the preexisting impairment) of 19 percent. Payment is made for the 19 percent disability at the rate appropriate for a 32.5 percent disability. Thus, if economic recovery benefits are paid, 19 percent is multiplied by 680 weeks; for impairment benefits, 19 percent is multiplied by \$85,000.

B. This item applies where the preexisting disability of a member has been rated in another proceeding or state and the rating represents a percentage of disability to the whole body. The rating of the disabled condition under a category of these schedules shall be reduced by the rating assigned to the preexisting disability of the member.

C. This item applies where the injury producing the preexisting disability occurred prior to January 1, 1984, and the preexisting disability has been rated under Minnesota Statutes, section 176.101, subdivision 3; or where Minnesota Statutes, chapter 176 is inapplicable and the rating represents a percentage of disability of a member.

(1) From Table 1, determine the maximum whole body disability assignable to the preexisting disability. Use Table 2 where disability to an internal organ is rated as a percentage of disability to the particular organ rather than a percentage of disability to internal organs. Where the preexisting disability is not listed in Table 1 or Table 2, the maximum whole body disability is the maximum disability assigned to the affected member by the schedules of this chapter.

Table 1

Member	Maximum Whole Body Disability (Percent)
Thumb	16
Index finger	11
Middle finger	9
Ring finger	4
Little finger	2
Great toe	5
Lesser toe	1
Hand	54
Hand and wrist	54
Arm	60
Foot	21
Foot and ankle	28
Leg	40
Eye	24
Eyes (both)	85
Hearing loss, (one ear)	6
Hearing loss (both ears)	35
Back	71
Voice	70
Burns and skin impairments, including disfigurement	70
Internal organs, excluding brain	85
Brain	100
Head	20

Table 2

Member	Maximum Whole Body Disability (Percent)
Stomach	65
Pancreas	65

Colon	50
Spleen	0
Bladder	30
Sexual organs or function	20
Circulatory system	90
Heart	85
Lungs	85
Liver	75
Solitary kidney	10
Kidney, excluding solitary kidney	77

(2) Multiply the prior rating of the member's preexisting disability by the maximum whole body disability determined in subitem (1). Where a disputed rating has been closed out to a stipulated rating but payments were made on a different rating, the rating for purposes of this part is the closed-out rating.

(3) Subtract the percentage amount determined in subitem (2) from the whole body disability rating assigned to the disabled condition of the member by the schedules of this chapter. The remainder is the amount due for the disabled condition after apportionment for the preexisting disability.

(4) For example, a pre-1984 back injury was rated at 25 percent of the back. The whole body disability attributable to this injury is 25 percent by 71 percent equals 17.75 percent. After 1984, a second back injury is rated at 24.5 percent under this chapter (24.5 percent minus 17.75 percent equals 6.75 percent). Six and three-fourths (6.75) percent is the amount assigned to the disabled condition after apportionment.

D. Where both Minnesota Statutes, sections 176.101, subdivision 4a, and 176.105, subdivision 4, paragraph (c) apply, apportionment must be determined as follows:

(1) For each member, determine the percentage of whole body disability under items A to C, as appropriate.

(2) Combine the percentages obtained in subitem (1) in the manner set forth in Minnesota Statutes, section 176.105, subdivision 4, paragraph (c). Prior to the next application of the formula, the result of an application of the formula must be stated as a decimal, not as a percentage, that is rounded up or down to four decimal places.

Statutory Authority: *MS s 176.105*

History: *10 SR 1124*

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