

**5223.0315 PREEXISTING IMPAIRMENTS.**

This part may be used only for the rating of preexisting impairments for determining apportionment under Minnesota Statutes, section 176.101, subdivision 4a. Ratings of permanent partial disability under Minnesota Statutes, section 176.101, subdivisions 3a and 3b, shall be determined under parts 5223.0300 to 5223.0310 and 5223.0320 to 5223.0650. If an impairment is subject to apportionment under Minnesota Statutes, section 176.101, subdivision 4a, the rating for the impaired condition under a category of the schedules of parts 5223.0300 to 5223.0650 must be reduced as provided in this part. As used in this part, "impaired condition" includes the preexisting impairment.

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

(1) The preexisting impairment must be rated under a category of the schedules of parts 5223.0300 to 5223.0650.

(2) The whole body disability rating assigned to the impaired condition of the member by the schedules of parts 5223.0300 to 5223.0650 must be reduced by the rating assigned to the preexisting impairment of the member in subitem (1).

(3) For example, the medical report establishes a preexisting amputation of the great toe at the metatarsophalangeal joint. This condition is a five percent preexisting disability to the body as a whole under part 5223.0550, subpart 1, item K, subitem (2). The new work-related condition is an amputation of the rest of the toes of the same foot at the metatarsophalangeal joints, best rated at eight percent disability to the body as a whole under part 5223.0550, subpart 1, item J, which rates the disability for amputation of all toes at metatarsophalangeal joint. The disability rating of eight percent must therefore be adjusted for the preexisting condition, which is a lesser included category. This is done by subtracting five percent for the preexisting condition from eight percent for the overall condition. Payment is made for the resulting three percent disability rating at the rate appropriate for the overall disability rating of eight percent in this example.

B. This item applies if the preexisting impairment 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 impaired condition under a category of these schedules shall be reduced by the rating assigned to the preexisting impairment of the member.

C. This item applies if the injury producing the preexisting impairment occurred prior to January 1, 1984, and the preexisting impairment is governed by Minnesota Statutes, section 176.101, subdivision 3; or if Minnesota Statutes, chapter 176, is inapplicable, the

rating represents a percentage of disability of a member, and the rating was made prior to the current injury.

(1) From Table 1, determine the maximum whole body disability assignable to the preexisting impairment. Use Table 2 if impairment to an internal organ is rated as a percentage of disability to the particular organ rather than a percentage of disability to the internal organs as a whole. If the preexisting impairment 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 parts 5223.0300 to 5223.0650.

**Table 1**

<b>Member</b>	<b>Conversion Factor for Maximum Whole Body Disability (Percent)</b>
Thumb	16
Index finger	9
Middle finger	9
Ring finger	4
Little finger	4
Great toe	5
Lesser toe	1
Hand	54
Hand and wrist	54
Arm	60
Foot	21
Foot and ankle	26
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**

<b>Member</b>	<b>Conversion Factor for Maximum Whole Body Disability (Percent)</b>
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 impairment by the maximum whole body disability determined in subitem (1). If 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 impaired condition of the member by the schedules of parts 5223.0300 to 5223.0650. The remainder is the amount due for the impaired condition after apportionment for the preexisting impairment.

(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 multiplied by 71 percent, which equals 17.75 percent. After 1984, a second back injury is rated at 24.5 percent under parts 5223.0300 to 5223.0650 (24.5 percent minus 17.75 percent equals 6.75 percent). Six

and three-fourths (6.75) percent is the amount assigned to the impaired condition after apportionment.

D. If Minnesota Statutes, sections 176.101, subdivision 4a, and 176.105, subdivision 4, paragraph (c), apply, apportionment must be determined according to subitems (1) and (2).

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

(2) Combine the percentages obtained in subitem (1) as described in part 5223.0300, subpart 3, item E. Before 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:** *17 SR 3364*

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