# How Is Average Weekly Wage Calculated for New York Workers' Comp?

## Why the Number on Your Employer's Wage Statement Shapes Every Benefit Check

Workers' compensation can be a financial lifeline for injured workers in New York. After a serious workplace injury, these state-mandated insurance benefits help pay everyday expenses while an injured employee recovers and can't work.

How much an injured worker receives depends largely on one figure, the average weekly wage, which New York calculates with a formula set out in state law. Mistakes in that calculation can happen, and when they do, injured workers can miss out on compensation they rightfully deserve.

At Pasternack Tilker Ziegler Walsh Stanton & Romano, LLP, our New York workers' compensation attorneys review pay stubs, tax records, and wage statements to make sure the numbers match the formulas in state law. Knowing how that math works can help you spot an error before it costs you months of reduced benefits.

**Key Takeaways**

- **Gross Pay Over 52 Weeks** – Your average weekly wage starts with gross earnings, including overtime, from the 52 weeks before your injury.
- **Multipliers, Not Simple Averages** – New York multiplies your average daily pay by 260 for a five-day week or 300 for a six-day week, then divides by 52.
- **The 200 Multiplier Is a Floor** – Seasonal and part-time workers can't get less than 200 times their daily wage, but courts have said 200 isn't automatic.
- **More Than Base Pay Counts** – Tips, employer-provided housing, and wages from other covered jobs can raise the figure.
- **Errors Can Be Challenged** – You can submit your own pay records and ask the judge to correct a wage figure that's wrong.

### What Does Average Weekly Wage Mean in a New York Comp Claim?

New York workers' comp benefits are based on how much the injured employee earned. Specifically, the New York State Workers' Compensation Board calculates its payments from the worker's average weekly wage (AWW). That figure is based on gross pay, meaning earnings before taxes and deductions, including overtime, for the 52 weeks before the injury.

Your weekly benefit for lost time equals two-thirds of your AWW times your percentage of disability. That percentage is based on your doctor's opinion of how much the injury limits you.

For example, a worker with a $900 AWW who's classified as 50 percent disabled would receive $300 a week.

Because the AWW is built from the year before your injury, the figure set early in the claim carries into every payment that follows unless someone challenges it. A wage statement that looks like routine paperwork can decide the value of your benefits for years.

## Is There a Maximum for Workers' Compensation Payments?

Yes. There are limits on the weekly benefit at both ends. The weekly maximum equals two-thirds of the New York State average weekly wage and changes each July 1. For injuries from July 1, 2026, through June 30, 2027, the maximum is $1,281.50 a week.

The minimum is one-fifth of that statewide figure, which is $384.45 for the same period, or your actual wages if they're lower. That statewide figure isn't your AWW, since it reflects the average pay of all New York workers. Your benefit rate is tied to your date of injury, so it doesn't rise when a new maximum takes effect.

The cap means an AWW mistake won't always show up, since a check already at the maximum can't go higher. But if you can still do some work and get partial benefits, every dollar of AWW counts.

## How Do the 260 and 300 Multipliers Work?

The 260 and 300 multipliers are how the Workers' Compensation Board turns daily pay into a yearly figure. A multiplier is the number of workdays the law counts as a full working year. For someone who works five days a week, that number is 260, or five days times 52 weeks, and for someone who works six days a week, state law sets it at 300.

Here's how the Board uses those numbers to figure your AWW:

- **Find Your Daily Wage** – The Board divides your gross pay from the year before the injury by the number of days you were paid, counting paid vacation and sick days as days paid.
- **Multiply by 260 or 300** – If you worked five days a week for substantially the whole year, your daily wage is multiplied by 260, and a six-day worker's is multiplied by 300.
- **Divide by 52** – The result is divided by the 52 weeks in a year, and that final number is your AWW.

Why not simply divide a year's pay by 52? Few people are paid for every workday in a year, and unpaid sick days or a short layoff would drag down a simple average even though your earning power didn't change. There's no set day count for "substantially the whole year," so the Board decides from your work record.

## Average Weekly Wage Example for an Injured Carpenter

Here's how the math works for a carpenter from Queens who's hurt in a fall at work. He was paid for 236 days of work and earned $70,800 in the year before his workplace injury:

- **Daily Wage** – $70,800 divided by 236 days equals $300 a day.
- **Yearly Figure** – $300 times 260 equals $78,000.
- **AWW** – $78,000 divided by 52 equals an AWW of $1,500.
- **Simple Average** – Dividing his actual pay of $70,800 by 52 would give only about $1,362.
- **The Difference** – If he's totally disabled, the multiplier method puts about $92 more in every weekly check.

The carpenter's example shows why the method matters as much as the pay stubs. His pay records were accurate, but a simple average would have cost him about $92 every week, or about $4,800 over a year of total disability. Always check which multiplier was used to figure your AWW.

## When Does the 200 Multiplier Apply?

The 200 multiplier works like the 260 and 300 multipliers, but it assumes a shorter working year of about four days a week for 50 weeks. Before using it, the law looks at the pay of a full-year worker in the same or a similar job. That's why your wage statement may list a coworker's pay if you were recently hired.

When no fair comparison exists, a backup rule applies, and your AWW can't be lower than 200 times your daily wage, divided by 52. This often comes up for seasonal jobs, school-year work, and temporary positions. But 200 is the lowest number allowed, not an automatic choice, and it's meant for workers who were fully available for work.

Section 14 of the Workers' Compensation Law sets out several paths to an AWW, and the right one depends on your work history. Two less common rules can also apply.

Recent military service can raise the minimum to 240 times your daily wage, and if you were under 25 when injured, the Board may consider expected raises, mainly for permanent injuries. Here's how they compare:

| Your Situation | How AWW Is Figured |
|---|---|
| Five-day worker for substantially the whole year | Daily wage × 260 ÷ 52 |
| Six-day worker for substantially the whole year | Daily wage × 300 ÷ 52 |

| Your Situation | How AWW Is Figured |
|---|---|
| Less than a full year in the job | A similar full-year worker's daily wage × 260 or 300 ÷ 52 |
| Seasonal, part-time, or no fair comparison | An amount reflecting what you could reasonably earn in that job, but at least daily wage × 200 ÷ 52 |
| Military service within 12 months before injury | At least daily wage × 240 ÷ 52, if the first two methods can't fairly apply |
| Under 25 with expected raises | Likely wage growth may be considered |
| Two or more covered jobs at once | Wages from all covered jobs held at the same time are combined |

## How Have New York Courts Handled the 200 Multiplier?

In *Matter of Whittaker v Central Sq. Cent. School Dist.*, a school bus driver worked 220 days over 10 months and earned about $34,000. The Board used the 200 multiplier because it thought the law required it. That produced an AWW of about $594, though his actual yearly pay worked out to about $654 a week, a gap of about $60 every week.

In 2011, the Appellate Division, the state appeals court that reviews Board decisions, overturned that ruling and held that 200 is only a minimum. The court said 200 had no real connection to the 220 days he actually worked, so the result didn't fairly reflect his earnings. The case went back to the Board to recalculate the driver's wage.

The 200 multiplier can also protect workers. In *Matter of Bain v New Caps, LLC*, a production assistant had worked just 16 days for the employer in the year before his injury, and the employer wanted to divide his total earnings for that year by 52. That produced an AWW of about $98.

The Board used the 200 multiplier instead and set it at $709.15, and the Appellate Division upheld that decision in 2018. No evidence showed the worker had chosen to limit his availability for work, so the 200 multiplier fit his situation.

## What Counts as Wages Besides Your Hourly Rate?

Gross earnings mean more than your base hourly pay. Overtime counts, and the wage statement asks whether you also got board (meals your employer provides), rent, housing, or tips. Employer payments for your health insurance don't count as wages, according to *Matter of Kellish v Kellish Tire Sales, Inc.*.

Employer-provided housing or meals can count toward your AWW. The Board's Subject Number 150-13, a formal policy notice, counts their reasonable value when they're part of your pay. That can matter for building superintendents, live-in workers, and others who get housing with the job, so make sure that value appears on your wage statement.

Bonuses and commissions aren't singled out in the Board's guidance. The wage statement asks for total gross pay from the 52 weeks before the injury, and a bonus paid in that window belongs in that total. If yours is missing, bring the check stub or bank record showing when it was paid.

### Do Tips and Second Jobs Count Toward Your AWW?

Yes, in most cases. Tips are a common blind spot for restaurant and food service workers. In *Matter of Yu Ping Jin v Chen Dun Kai*, a food delivery worker was killed on the job, and his family sought death benefits. His employer had paid him off the books and first reported a weekly wage of only $350.

The employer later reported that he earned $780 a week, including tips, and the Board set his AWW at that higher figure. In 2011, the Appellate Division upheld that decision and ruled that tips had to be included. It also noted that employers must keep payroll records, which this employer hadn't done.

Wages from a second job can count, too, if you held more than one job when you were hurt. The law combines wages from every covered job, meaning a job with an employer that must carry New York workers' comp. The employer where you were hurt still pays your benefits and all of your medical costs.

### What If the Insurer Uses the Wrong Pay Records?

Your employer reports your pay on the Employer's Statement of Wage Earnings, known as Form C-240. It lists gross earnings and days paid for each of the 52 weeks before the injury. Employers must file it within 10 days of a Board request, and its figures are usually where the AWW calculation begins.

Wage statements tend to go wrong in predictable ways. Before you accept the figure in your case, check for these problems:

- **Missing Overtime** – Gross pay should include overtime, not just your base hourly rate, so compare the weekly totals with your pay stubs.
- **Wrong Day Count** – Too few or too many days paid changes your daily wage, and paid time off should be counted as days paid.
- **Unreported Tips or Housing** – Cash tips and employer-provided lodging are easy to leave off, especially when part of your pay was informal.
- **Wrong Multiplier** – A simple average of your yearly pay over 52 weeks, or a 200 multiplier where 260 or 300 fits, can shrink the figure even when the pay records are accurate.

- **Missing Second Job** – Wages from another covered employer won't appear on the form filed by the employer where you were hurt.
- **Too Little Work History** – A recent hire's statement should show a comparable coworker's pay rather than only the few weeks you worked.

If the numbers look wrong, gather your own proof, such as pay stubs, W-2s, tax returns, and bank deposit records. You can submit those records at a workers' comp hearing, where a judge decides your AWW. Your testimony about how you were paid can matter too, especially when the employer kept poor records.

If you disagree with the judge's decision, you can ask the Board to review it within 30 days. The application has to be in writing and explain why the decision is wrong. A wage finding that goes unchallenged can stay with your claim for as long as you collect benefits.

## Why a Small Wage Error Can Become a Large Loss

Your AWW sets the rate for schedule loss of use awards, which pay for the permanent loss of use of a body part. It also drives reduced earnings benefits, which cover up to two-thirds of lost pay after you return to lower-paying work, and it's the basis for death benefits paid to a family when a work injury is fatal.

Imagine an AWW that's $150 a week too low because overtime was left out. At total disability, that's $100 less in each check, or about $5,200 over a year. If you later take a light-duty job at lower pay, the same error shrinks your reduced earnings benefit, too.

The sooner a wage error is caught, the easier it is to fix. Once months of checks have gone out at the wrong rate, correcting it may take hearings and Board review. Raising the problem early, with pay records in hand, gives the judge what's needed to set the right figure and keeps a low number from shaping your claim for years.

## Getting Your AWW Right With a New York Workers' Comp Lawyer

Your AWW is often set early in a New York workers' comp claim, sometimes before you've seen your employer's wage statement. It deserves the same attention as your medical evidence, because it decides what each benefit payment is worth. Checking the multiplier, the day count, and every source of pay helps protect your income while you recover.

Pasternack Tilker Ziegler Walsh Stanton & Romano, LLP has stood up for injured New Yorkers for over 90 years. Our workers' compensation lawyers can review your wage statement and help gather the pay records your employer left out. Our fees are approved by the Board and come out of your award, so you don't pay anything up front.

If your weekly check seems lower than your paychecks suggest, schedule a free consultation with our team. Having your pay stubs, W-2s, and Board notices handy will help us check the numbers quickly. You worked for every dollar of those earnings, and your benefits should reflect them.