

By: Representative Taylor

To: Insurance

HOUSE BILL NO. 469

1 AN ACT TO AMEND SECTION 71-3-17, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT A WORKERS' COMPENSATION CLAIMANT MAY CHOOSE A LUMP
3 SUM PAYMENT FOR PERMANENT DISABILITY WITHOUT BEING ASSESSED A
4 PENALTY; TO AMEND SECTION 71-3-29, MISSISSIPPI CODE OF 1972, TO
5 CONFORM THERETO; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. Section 71-3-17, Mississippi Code of 1972, is
8 amended as follows:

9 71-3-17. Compensation for disability shall be paid to the
10 employee as follows:

11 (a) Permanent total disability: In case of total
12 disability adjudged to be permanent, sixty-six and two-thirds
13 percent (66-2/3%) of the average weekly wages of the injured
14 employee, subject to the maximum limitations as to weekly benefits
15 as set up in this chapter, shall be paid to the employee not to
16 exceed four hundred fifty (450) weeks or an amount greater than
17 the multiple of four hundred fifty (450) weeks times sixty-six and
18 two-thirds percent (66-2/3%) of the average weekly wage for the
19 state. A claimant may choose to receive compensation under this
20 paragraph in a lump sum payment without being assessed any
21 penalty. Loss of both hands, or both arms, or both feet, or both
22 legs, or both eyes, or of any two (2) thereof shall constitute
23 permanent total disability. In all other cases permanent total
24 disability shall be determined in accordance with the facts.

25 (b) Temporary total disability: In case of disability,
26 total in character but temporary in quality, sixty-six and
27 two-thirds percent (66-2/3%) of the average weekly wages of the

28 injured employee, subject to the maximum limitations as to weekly
29 benefits as set up in this chapter, shall be paid to the employee
30 during the continuance of such disability not to exceed four
31 hundred fifty (450) weeks or an amount greater than the multiple
32 of four hundred fifty (450) weeks times sixty-six and two-thirds
33 percent (66-2/3%) of the average weekly wage for the state.
34 Provided, however, if there arises a conflict in medical opinions
35 of whether or not the claimant has reached maximum medical
36 recovery and the claimant's benefits have terminated by the
37 carrier, then the claimant may demand an immediate hearing before
38 the commissioner upon five (5) days' notice to the carrier for a
39 determination by the commission of whether or not in fact the
40 claimant has reached maximum recovery.

41 (c) Permanent partial disability: In case of
42 disability partial in character but permanent in quality, the
43 compensation shall be sixty-six and two-thirds percent (66-2/3%)
44 of the average weekly wages of the injured employee, subject to
45 the maximum limitations as to weekly benefits as set up in this
46 chapter. A claimant may choose to receive compensation under this
47 paragraph in a lump sum payment without being assessed any
48 penalty. Such compensation shall be paid following compensation
49 for temporary total disability paid in accordance with subsection
50 (b) of this section, and shall be paid to the employee as follows:

51	Member Lost	Number Weeks Compensation
52	(1) Arm	200
53	(2) Leg	175
54	(3) Hand	150
55	(4) Foot	125
56	(5) Eye	100
57	(6) Thumb	60
58	(7) First finger	35
59	(8) Great toe	30
60	(9) Second finger	30
61	(10) Third finger	20
62	(11) Toe other than great toe	10
63	(12) Fourth finger	15
64	(13) Testicle, one	50

65 (14) Testicle, both 150

66 (15) Breast, female, one 50

67 (16) Breast, female, both 150

68 (17) Loss of hearing: Compensation for loss of hearing of

69 one (1) ear, forty (40) weeks. Compensation for loss of hearing

70 of both ears, one hundred fifty (150) weeks.

71 (18) Phalanges: Compensation for loss of more than one (1)

72 phalange of a digit shall be the same as for loss of the entire

73 digit. Compensation for loss of the first phalange shall be

74 one-half (1/2) of the compensation for loss of the entire digit.

75 (19) Amputated arm or leg: Compensation for an arm or leg,

76 if amputated at or above wrist or ankle, shall be for the loss of

77 the arm or leg.

78 (20) Binocular vision or percent of vision: Compensation

79 for loss of binocular vision or for eighty percent (80%) or more

80 of the vision of an eye shall be the same as for loss of the eye.

81 (21) Two (2) or more digits: Compensation for loss of two

82 (2) or more digits, or one (1) or more phalanges of two (2) or

83 more digits, of a hand or foot may be proportioned to the loss of

84 the use of the hand or foot occasioned thereby, but shall not

85 exceed the compensation for loss of a hand or foot.

86 (22) Total loss of use: Compensation for permanent total

87 loss of use of a member shall be the same as for loss of the

88 member.

89 (23) Partial loss or partial loss of use: Compensation for

90 permanent partial loss or loss of use of a member may be for

91 proportionate loss or loss of use of the member.

92 (24) Disfigurement: The commission, in its discretion, is

93 authorized to award proper and equitable compensation for serious

94 facial or head disfigurements not to exceed Two Thousand Dollars

95 (\$2,000.00). No such award shall be made until a lapse of one (1)

96 year from the date of the injury resulting in such disfigurement.

97 (25) Other cases: In all other cases in this class of

98 disability, the compensation shall be sixty-six and two-thirds
99 percent (66-2/3%) of the difference between his average weekly
100 wages, subject to the maximum limitations as to weekly benefits as
101 set up in this chapter, and his wage-earning capacity thereafter
102 in the same employment or otherwise, payable during the
103 continuance of such partial disability, but subject to
104 reconsideration of the degree of such impairment by the commission
105 on its own motion or upon application of any party in interest.
106 Such payments shall in no case be made for a longer period than
107 four hundred fifty (450) weeks.

108 (26) In any case in which there shall be a loss of, or loss
109 of use of, more than one (1) member or parts of more than one (1)
110 member set forth in paragraphs (1) to (23) of this subsection, not
111 amounting to permanent total disability, the award of compensation
112 shall be for the loss of, or loss of use of, each such member or
113 parts thereof, which awards shall run consecutively, except that
114 where the injury affects only two (2) or more digits of the same
115 hand or foot, paragraph (21) of this subsection shall apply.

116 SECTION 2. Section 71-3-29, Mississippi Code of 1972, is
117 amended as follows:

118 71-3-29. Rules of the commission shall govern compromise
119 payments where the prescribed schedules are not applicable and
120 which, in its discretion, may be made in cases where it is not
121 possible to determine the exact extent of disability, as for
122 example in certain injuries to the back or head. The commission
123 shall also have full authority to adjudicate the disposition of
124 death claims. Except as provided in Section 71-3-17, commutation
125 and lump sum settlement payments shall be governed by rules of the
126 commission, and shall not be made except when determined to be in
127 the best interest of the injured worker or his dependents, the
128 commission having final authority in such questions.

129 SECTION 3. This act shall take effect and be in force from
130 and after July 1, 1999.