WEST VIRGINIA CODE: §23-4-14

§23-4-14. Computation of benefits.

(a) The average weekly wage earnings, wherever earned, of the injured person at the date of injury and the average weekly wage in West Virginia as determined by the Insurance Commissioner, in effect at the date of injury, shall be taken as the basis upon which to compute the benefits.

(1) In cases involving occupational pneumoconiosis or other occupational diseases, the "date of injury" is the date of the last exposure to the hazards of occupational pneumoconiosis or other occupational diseases.

(2) In computing benefits payable on account of occupational pneumoconiosis, the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, shall deduct the amount of all prior workers' compensation benefits paid to the same claimant on account of silicosis, but a prior silicosis award shall not, in any event, preclude an award for occupational pneumoconiosis otherwise payable under this article.

(b)(1) Until July 1, 1994, the expression "average weekly wage earnings, wherever earned, of the injured person, at the date of injury", within the meaning of this chapter, shall be computed based upon the daily rate of pay at the time of the injury or upon the average pay received during the two months, six months or 12 months immediately preceding the date of the injury, whichever is most favorable to the injured employee, except for the purpose of computing temporary total disability benefits for part-time employees pursuant to the provisions of §23-4-6d of this code.

(2) On and after July 1, 1994, the expression "average weekly wage earnings, wherever earned, of the injured person, at the date of injury", within the meaning of this chapter, shall be computed based upon the daily rate of pay at the time of the injury or upon the weekly average derived from the best quarter of wages out of the preceding four quarters of wages as reported to the Insurance Commissioner pursuant to §23-2-2(b) of this code, whichever is most favorable to the injured employee, except for the purpose of computing temporary total disability benefits for part-time employees pursuant to the provisions of §23-4-6d of this code.

(c) The expression "average weekly wage in West Virginia", within the meaning of this chapter, is the average weekly wage in West Virginia as determined by the Commissioner of the Bureau of Employment Programs in accordance with the provisions of §21A-6-10 and §21A-6-11 of this code and other applicable provisions of said chapter.

(d) In any claim for injuries, including occupational pneumoconiosis and other occupational diseases, occurring on or after July 1, 1971, any award for temporary total, permanent partial, or permanent total disability benefits or for dependent benefits shall be paid at the

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weekly rates or in the monthly amount in the case of dependent benefits applicable to the claimant in effect on the date of the injury. In no event shall an award for permanent total disability be subject to annual adjustments resulting from changes in the average weekly wage in West Virginia.

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