

WEST VIRGINIA CODE: §23-4-24

§23-4-24. Permanent total disability awards; retirement age; limitations on eligibility and the introduction of evidence; effects of other types of awards; procedures; requests for awards; jurisdiction.

(a) Notwithstanding any provision of this chapter to the contrary, except as stated below, no claimant shall be awarded permanent total disability benefits arising under subdivision (d) or (n), section six of this article or section eight-c of this article who terminates active employment and is receiving full old-age retirement benefits under the Social Security Act, 42 U.S.C. §401 and 402. Any claimant shall be evaluated only for the purposes of receiving a permanent partial disability award premised solely upon the claimant's impairments. This subsection is not applicable in any claim in which the claimant has completed the submission of his or her evidence on the issue of permanent total disability prior to the later of the following: Termination of active employment or the initial receipt of full old-age retirement benefits under the Social Security Act. Once the claimant has terminated active employment and has begun to receive full old-age social security retirement benefits, the claimant may not produce additional evidence of permanent total disability nor shall the claim be remanded for the production of the evidence.

(b) The Workers' Compensation Commission, successor to the commission, other private carrier or self-insured employer, whichever is applicable, has the sole and exclusive jurisdiction to initially hear and decide any claim or request pertaining, in whole or in part, to subdivision (d) or (n), section six of this article. Any claim or request for permanent total disability benefits arising under said subdivisions shall first be presented to the commission as part of the initial claim filing or by way of an application for modification or adjustment pursuant to section sixteen of this article. The office of judges may consider a claim only after the commission, successor to the commission, other private carrier or self-insured employer, whichever is applicable, has entered an appropriate order.