

WEST VIRGINIA CODE: §23-4-25

§23-4-25. Permanent total disability benefits; reduction of disability benefits for wages earned by claimant.

(a) After April 8, one thousand nine hundred ninety-three, a reduction in the amount of benefits as specified in subsection (b) of this section shall be made whenever benefits are being paid for a permanent total disability award regardless of when the benefits were awarded. This section is not applicable to the receipt of medical benefits or the payment for medical benefits, the receipt of permanent partial disability benefits, the receipt of benefits by partially or wholly dependent persons, or to the receipt of benefits pursuant to the provisions of subsection (e), section ten of this article. Prior to the application of this section to any claimant, the commission, successor to the commission, other private carrier or self-insured employer, whichever is applicable, shall give the claimant notice of the effect of this section upon a claimant's award if and when the claimant later earns wages.

(b) Whenever applicable benefits are paid to a claimant with respect to the same time period in which the claimant has earned wages as a result of his or her employment, the following reduction in applicable benefits shall be made. The claimant's applicable monthly benefits and monthly net wages received from the current employment shall be added together. If the total exceeds by more than one hundred twenty percent of the amount of the claimant's monthly net wages earned during his or her last employment prior to the award of permanent total disability benefits, the excess shall be reduced by \$1 for each \$2 that the claimant's monthly benefits and monthly net wages exceed the one hundred twenty percent level: Provided, That in no event shall applicable benefits be reduced below the minimum weekly benefits as provided in subdivisions (b) and (d), section six of this article.