

TITLE 4: ECONOMIC RESOURCES
DIVISION 9: LABOR

§ 9310. Determination of Pay.

Except as otherwise provided in this chapter, the average weekly wage of the injured employee at the time of the injury shall be taken as the basis upon which to compute disability benefits and shall be determined as follows:

(a) If the injured employee shall have worked in the occupation in which he or she was working at the time of the injury, whether for the same or another employer, during a substantial portion of the 12 calendar months immediately preceding the injury, the average annual earnings shall consist of 313 times the average daily wage or salary (for a six day worker) or 261 times the average daily wage or salary (for a five day worker), employment during the days when so employed.

(b) If the injured employee shall not have worked in such occupation during a substantial portion of the immediately preceding twelve calendar months, his average annual earnings shall consist of 313 times (for a six day worker) and 261 times (for a five day worker) of the average daily wage or salary which an employee of the same occupation working a substantial portion of the immediately preceding 12 calendar months in the same or in a similar occupation in the same or a neighboring place shall have earned in such employment during the days when so employed.

(c) If either of the foregoing methods of arriving at the average annual earnings of the injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as shall reasonably represent the annual earning capacity of the injured employee in the occupation in which he or she was working at the time of the injury, and of other employees of the same or most similar occupation working in the same or neighboring locality or other employment of such employee, including the reasonable value of the services of the employee if engaged in self-employment.

(d) The average weekly wages of an employee shall be one fifty-second ($1/52$) part of the employee's average annual earnings.

(e) If it be established that the injured employee was a minor when injured, and that under normal conditions the employee's wages would be expected to increase during the period of disability, that fact may be considered in arriving at the average weekly wages.

Source: PL 6-33, § 1 (§ 9310).