



John R. Lane
Commissioner

The Commonwealth of Massachusetts

Department of Industrial Accidents

600 Washington Street
Boston, Mass. 02111

CIRCULAR LETTER NO. 260

OCTOBER 1, 1991

TO: ALL INTERESTED PARTIES

FROM: DAVID SMITH, ACTING COMMISSIONER *DS*

SUBJECT: COLA'S, REIMBURSEMENTS, MAXIMUM AND MINIMUM WEEKLY
COMPENSATION RATES

This Circular Letter should be used to determine all of the following:

- (a) The maximum weekly benefits payable under G.L. c.152 (prior to the application of any cost-of-living adjustment required under the statute);
- (b) The minimum compensation rates payable under §34 and §34A;
- (c) The proper amounts of adjustments to compensation required under §34B and §35F;
- (d) The reimbursement amount payable to insurers for COLAs paid on permanent and total or survivors' benefits for injuries occurring on or before October 1, 1986; and
- (e) The reimbursement amount payable to insurers for COLAs paid on permanent and total or survivors' benefits for injuries occurring subsequent to October 1, 1986.

The average weekly wage in the Commonwealth determined under subsection (2) of §29 of Chapter 151A and promulgated by the Director of Employment and Training is \$515.52. Therefore, for injuries occurring on or after October 1, 1991 the maximum unadjusted weekly incapacity compensation may not exceed \$515.52.

For recipients of permanent and total benefits under §34A, the minimum weekly compensation rate is 20 percent of the average weekly wage or \$103.10 for injuries occurring on or after October 1, 1991.

For temporary and total benefits under §34, the new minimum weekly benefit allowed is the employee's average weekly wage before the injury or \$103.10, whichever is less.

To calculate the adjustment under §34B* multiply the claimant's unadjusted weekly compensation by the ADJUSTED MULTIPLIER FOR TOTAL COMP (the amount in the fifth column of the attached table) in the attached table for the claimant's year of injury. For the purpose of calculating adjustments or reimbursements, the year of injury begins on October 1st and ends on September 30th of each year. To be eligible for a COLA under §31 or §34A the date of injury must have occurred at least two years prior to this review date (October 1, 1991).

COLAs for persons receiving partial benefits under §35 are payable only to those employees with an injury date of January 1, 1986 or later whose injury occurred at least three years prior to this review date. To calculate the adjustment under §35F* multiply the claimant's unadjusted weekly compensation by the ADJUSTED MULTIPLIER FOR PARTIAL COMP (the amount in the seventh column in the attached table) for the claimant's year of injury.

Insurers are entitled to quarterly reimbursements from the DIA Trust Fund for certain supplemental benefits (cost-of-living adjustments). When supplemental benefits are paid to permanently and totally disabled recipients or survivors under §34A or §31 as outlined above, complete reimbursement is made where the injury occurred on or before October 1, 1986. If the injury occurred after that date, the amount reimbursable can be calculated by using the REIMBURSEMENT FACTOR (the amount in the eighth column of the table). There are no reimbursements from the Workers' Compensation Trust Fund for adjustments to partial benefits under §35F.

To apply for reimbursements under §34B(c) for cost-of-living adjustments as calculated above, please complete the attached forms, and forward them to the address given below.

Requests for reimbursements should be submitted at the close of each quarter of the calendar year. Requests submitted during the first calendar quarter of 1992 should be for reimbursements of moneys paid during the last calendar quarter of 1991. Please note that, pursuant to §34B(c), reimbursements will be denied to any insurer which has paid supplemental benefits prior to 24 months from the recipient's date of injury.

{*If the claimant is receiving social security disability benefits the adjusted compensation should be capped at the point where one more dollar in such compensation would have the effect of reducing any social security disability benefits the claimant is receiving. To determine whether and how such a cap should be applied, please refer to the Circular Letter dated October 22, 1986.}

Additional forms may be obtained by written request from the Department of Industrial Accidents, Office of Administration:

COLA Processing
DIA Office of Administration
P.O. Box 9104, Essex Station
Boston, MA 02112-9104

