



THE COMMONWEALTH OF MASSACHUSETTS

Department of Industrial Accidents

600 Washington Street, 7th Floor
Boston, Massachusetts 02111

MITT ROMNEY
Governor

KERRY HEALEY
Lieutenant Governor

JANE C. EDMONDS
Director of Workforce Development

ANGELO R. BUONOPANE
Director of Labor

JOHN C. CHAPMAN
Commissioner

CIRCULAR LETTER NO. 316

TO: All Interested Persons
FROM: John C. Chapman, Commissioner
RE: COLA Payment and Reimbursement Schedules; Maximum and Minimum Weekly Compensation Rates; and Attorneys' Fee Schedule
DATE: October 1, 2004

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

- (a) The maximum weekly benefits payable under M.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 for injuries occurring before 12/24/91;
- (d) The proper amounts of adjustments to compensation required under §34B and §35F for injuries occurring on or after 12/24/91;
- (e) 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;
- (f) The reimbursement amount payable to insurers for COLAs paid on permanent and total or survivors' benefits for injuries occurring subsequent to October 1, 1986 but before December 24, 1991; and
- (g) Attorneys' fee schedule for claims involving injuries occurring on or after December 24, 1991.

The average weekly wage in the Commonwealth (SAWW) effective October 1, 2004 as determined under subsection (2) of §29 of Chapter 151A and promulgated by the Director of Unemployment Assistance, is \$918.78. [Please consult Table III]. An illustration of the application of this newly established SAWW on weekly benefit rates for claims involving injuries occurring on or after October 1, 2004 is as follows:

The weekly compensation rate for temporary and total disability benefits under §34 shall equal sixty percent of the employee's average weekly wage before the injury, but no more than a maximum weekly compensation rate equal to \$918.78 (one hundred percent of the present SAWW), unless the average weekly wage of the employee is less than the minimum weekly compensation rate of \$183.76 (twenty percent of the present SAWW), in which case said weekly compensation shall equal the employee's average weekly wage. The weekly compensation rate for permanent and total benefits under §34A shall equal two-thirds of the employee's average weekly wage before the injury, but not more than the maximum weekly compensation rate of \$918.78 nor less than the minimum weekly compensation rate of \$183.76.

[Recipients of total disability benefits under §34 and §34A for claims involving injuries occurring before October 1, 2004 should consult Table I of this Circular Letter and previous Circular Letters setting forth the requirements of M.G.L. c. 152 and 452 CMR 3.06.]

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 for injuries occurring before December 24, 1991 or the amount in the eighth column for injuries occurring on or after December 24, 1991) 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, 2004).

COLAs for persons receiving partial benefits under §35 are payable only to those employees with an injury date on or after January 1, 1986 but before December 24, 1991 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 COMPENSATION** (the amount in the tenth column in the attached Table I) for the claimant's year of injury.

Insurers are entitled to quarterly reimbursements from the Workers' Compensation Trust Fund (WCTF) 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 using column five. If the injury occurred after that date, the amount reimbursable can be calculated by using the **REIMBURSEMENT FACTOR** (the amount in the eleventh column of the table). For injuries occurring on or after 12/24/91, there is no reimbursement from the WCTF for COLA adjustments made under §34B. Furthermore, there are no reimbursements from the Workers' Compensation Trust Fund for COLA adjustments under §35F for any claim involving the payment of temporary, partial disability benefits under §35.

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 2005 should be for reimbursements of monies paid during the last calendar quarter of 2004. Please note that, pursuant to §34B(c), reimbursements will be denied to any insurer that 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 Circular Letter 227 dated October 22, 1986.] All requests for reimbursement must be accompanied by a completed CR-28 Form corresponding to the period for which reimbursement is sought. In addition, all prior years' CR-28 Form for each claimant whose COLA the insurer is seeking reimbursement must be submitted in FY 2005 to provide that any capital COLA offsets were taken and that no COLA was improperly paid.

CR-28 forms and the Department of Industrial Accidents (DIA) forms for requesting §65 COLA and §34 (b)(c) COLA quarterly reimbursements are available on request.

The schedule of adjusted attorney's fees is contained in Table II. Please note that the new rates apply only to cases involving injuries on or after December 24, 1991. For cases involving injuries before December 24, 1991, the fees remain as set out in §13A.

Note: If you wish to receive future Circular Letters via e-mail, please send your e-mail address to the Department of Industrial Accidents at the following address:

billt@dia.state.ma.us

Sincerely,



John C. Chapman
Commissioner

Table II

TABLE OF ATTORNEYS' FEES

(NOTE: These new rates apply only to cases involving injuries occurring on or after 12/24/91.)

Pursuant to M.G.L. c. 152 § 13A(10), the dollar amounts specified for attorney's fees in section 13A, subsections 1 through 6 are changed effective 10/1/04 in accordance with §34B(a) as follows:

SECTION 13A SUBSECTIONS	DOLLAR AMOUNT SPECIFIED	CHANGED TO
(1)	\$700.00	\$918.55
	\$350.00	\$459.27
(2)	\$1,000.00	\$1,312.21
	\$500.00	\$656.10
(3)	\$500.00	\$656.10
	\$250.00	\$328.06
(4)	\$700.00	\$918.55
	\$350.00	\$459.27
(5)	\$3,500.00	\$4,592.74
(6)	\$1,000.00	\$1,312.21

Table III

**Department of Industrial Accidents
Calculation of Weekly Benefits**

(1)	2004 Statewide Average Weekly Wage	\$918.78
(2)	Section 34—Temporary and Total Benefits	
	(a) Rate	60.00%
	(b) Maximum	\$918.78
	(c) Minimum	\$183.76
(3)	Section 34 —Permanent and Total Benefits	
	(a) Rate	66.67%
	(b) Maximum	\$918.78
	(c) Minimum	\$183.76

Notes:

- (1) Provided by the Massachusetts Division of Employment and Training
- (2), (3) Derived from (1), and MGL c.152, Section 34, as follows:
 - (2a), (3a) Maximum reimbursement rate.
 - (2b), (3b) (1).
 - (2c), (3c) 20% x (1).

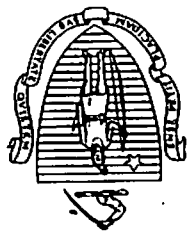
Calculation of COLA Multipliers and Reimbursement Factors

Year	(2) Statewide Average Weekly Wage (SAWW)	(3) Annual SAWW Change	(4) Capped Change, Pre 12/24/91	(5) Reimbursement Factor Pre 10/7/86	(6) Annual CPI Change	(7) Capped Change, Post 12/23/91	(8) Multiplier, Post 12/23/91	(9) Section 35F Capped Change	(10) Section 35F Multiplier	(11) Section 34B Reimbursement Factor Post 10/1/86
1936	\$25.63	1.0336	1.0336	1.0336	1.0370	1.0370	1.0370	1.0500	2.1181	0.4114
1939	\$26.49	0.9970	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1940	\$26.41	1.1356	1.0000	1.0000	1.0240	1.0240	1.0240	1.0500	2.0172	0.3601
1941	\$29.99	1.1834	1.0000	1.0000	1.0240	1.0240	1.0240	1.0500	2.0172	0.3601
1942	\$35.49	1.1074	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1943	\$39.30	1.0422	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1944	\$40.96	1.0249	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1945	\$41.98	1.0543	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1946	\$44.26	1.0888	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1947	\$48.19	1.0770	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1948	\$51.90	1.0150	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1949	\$52.68	1.0581	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1950	\$55.74	1.0797	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1951	\$60.18	1.0419	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1952	\$62.70	1.0470	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1953	\$65.65	1.0296	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1954	\$67.59	1.0468	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1955	\$70.75	1.0540	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1956	\$74.57	1.0426	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1957	\$77.75	1.0368	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1958	\$80.61	1.0515	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1959	\$84.76	1.0316	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1960	\$87.44	1.0327	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1961	\$90.30	1.0384	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1962	\$93.77	1.0309	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1963	\$96.67	1.0484	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1964	\$101.35	1.0339	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1965	\$104.79	1.0448	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1966	\$109.48	1.0435	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1967	\$114.24	1.0599	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1968	\$121.08	1.0772	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1969	\$130.43	1.0045	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1970	\$131.02	1.0638	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1971	\$139.38	1.0736	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1972	\$149.64	1.0396	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1973	\$155.57	1.0529	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1974	\$163.80	1.0670	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1975	\$174.78	1.0691	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1976	\$186.85	1.0667	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1977	\$199.31	1.0605	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1978	\$211.37	1.0754	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1979	\$227.31	1.0799	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1980	\$245.48	1.0996	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1981	\$269.93	1.1034	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1982	\$297.85	1.0753	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1983	\$320.29	1.0648	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1984	\$341.06	1.0570	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1985	\$360.50	1.0640	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1986	\$383.57	1.0715	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1987	\$411.00	1.0808	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1988	\$444.20	1.0681	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1989	\$474.47	1.0339	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1990	\$490.57	1.0509	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1991	\$515.52	1.0539	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1992	\$543.30	1.0417	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1993	\$565.94	1.0348	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1994	\$585.66	1.0314	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1995	\$604.03	1.0447	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1996	\$631.03	1.0547	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1997	\$665.55	1.0516	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1998	\$699.91	1.0711	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
1999	\$749.69	1.1083	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
2000	\$830.89	1.0723	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
2001	\$890.94	0.9906	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
2002	\$882.57	1.0021	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
2003	\$884.46	1.0388	1.0000	1.0000	1.0280	1.0280	1.0280	1.0500	2.0172	0.3601
2004	\$918.78	1.0000	1.0000	1.0000	1.0370	1.0370	1.0370	1.0500	2.1181	0.4114

Notes:
 (2) Provided by the Massachusetts Division of Employment and Training
 (3) Year X / (2) Year(X-1)
 (4) (3), subject to a maximum of 10%
 (5) Cumulative product of (4)
 (6) Provided by Bureau of Labor Statistics
 (7) Minimum of (4) and (6)
 (8) Cumulative product of (7)
 (9) (3) subject to a maximum of 5%
 (10) Cumulative product of (9)
 (11) (5) - (10)

THE COMMONWEALTH OF MASSACHUSETTS
Department of Industrial Accidents

600 Washington Street, 7th Floor
 Boston, Massachusetts 02111



MITT ROMNEY
 Governor

KERRY HEALEY
 Lieutenant Governor

From:

Mail To:

JANE C. EDMONDS
 Director of Workforce Development
ANGELO R. BUONOPANE
 Director of Labor
JOHN C. CHAPMAN
 Commissioner

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

Dear Sir or Madam:

Attached please find a request, pursuant to M.G.L. c. 152, Section 65 (as amended by Chapter 572 of the Acts of 1985), for Cost of Living Adjustment (COLA) reimbursements for COLA's paid on behalf of _____ claimants totaling \$ _____. This request is being submitted for the following category _____ **ONLY:**

Injuries occurring on or before 10/1/86 _____
 Injuries occurring after 10/1/86 _____

I hereby certify under pains and penalties of perjury that all laws of the Commonwealth of Massachusetts governing assessments and regulations thereof have been complied with and observed, and that all information is, to the best of my knowledge, correct.

SIGNED: _____
TITLE: _____
DATE: _____
NAME: _____
PHONE #: _____

FOR INTERNAL USE ONLY

COMMENTS:

PAYMENT APPROVED _____
DATE: _____