

§ 10.402 What is partial disability?

An injured employee who cannot return to the position held at the time of injury (or earn equivalent wages) due to the work-related injury, but who is not totally disabled for all gainful employment, is considered to be partially disabled.

§ 10.403 When and how is compensation for partial disability paid?

(a) 5 U.S.C. 8115 outlines how compensation for partial disability is determined. If the employee has actual earnings which fairly and reasonably represent his or her wage-earning capacity, those earnings will form the basis for payment of compensation for partial disability. (See §§ 10.500 through 10.521 concerning return to work.) If the employee's actual earnings do not fairly and reasonably represent his or her wage-earning capacity, or if the employee has no actual earnings, OWCP uses the factors stated in 5 U.S.C. 8115 to select a position which represents his or her wage-earning capacity, which include the nature of the injury, the degree of physical impairment, the usual employment, the age of the employee, the employee's qualifications for other employment and the availability of suitable employment. However, OWCP will not secure employment for the employee in the position selected for establishing a wage-earning capacity.

(b) Compensation for partial disability is payable as a percentage of the difference between the employee's pay rate for compensation purposes and the employee's wage-earning capacity. The percentage is 66 $\frac{2}{3}$ percent of this difference if the employee has no dependents, or 75 percent of this difference if the employee has at least one dependent.

(c) The formula which OWCP uses to compute the compensation payable for partial disability employs the following terms: Pay rate for compensation purposes, which is defined in § 10.5(s) of this part; current pay rate, which means the salary or wages for the job held at the time of injury at the time of the determination; and earnings, which means the employee's actual earnings, or the salary or pay rate of the position selected by OWCP

as representing the employee's wage-earning capacity.

(d) The employee's wage-earning capacity in terms of percentage is computed by dividing the employee's earnings by the current pay rate. The comparison of earnings and "current" pay rate for the job held at the time of injury need not be made as of the beginning of partial disability. OWCP may use any convenient date for making the comparison as long as both wage rates are in effect on the date used for comparison.

(e) The employee's wage-earning capacity in terms of dollars is computed by first multiplying the pay rate for compensation purposes by the percentage of wage-earning capacity. The resulting dollar amount is then subtracted from the pay rate for compensation purposes to obtain the employee's loss of wage-earning capacity.

§ 10.404 When and how is compensation for a schedule impairment paid?

Compensation is provided for specified periods of time for the permanent loss or loss of use of certain members, organs and functions of the body. Such loss or loss of use is known as permanent impairment. Compensation for proportionate periods of time is payable for partial loss or loss of use of each member, organ or function. 5 U.S.C. 8107(b)(19). OWCP evaluates the degree of impairment to schedule members, organs and functions as defined in 5 U.S.C. 8107 according to the standards set forth in the specified (by OWCP) edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment*.

(a) 5 U.S.C. 8107(c) provides compensation for loss to the following list of schedule members:

Member	Weeks
Arm	312
Leg	288
Hand	244
Foot	205
Eye	160
Thumb	75
First Finger lost	46
Great toe	38
Second finger	30
Third finger	25
Toe other than great toe	16
Fourth finger	15
Hearing, one ear	52