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## Reporting Requirements

Employee:

Employee must report the injury to the employer as soon as practicable. Written notice should be provided to the employer no later than three business days after the injury occurred, but actual knowledge is sufficient.

Employer:

Employer must provide a written report to the Department of Labor and Regulation within seven days, not counting Sundays and legal holidays, after the employer has knowledge of an injury which requires medical treatment other than minor first aid or which incapacitates the employee for a period of at least seven calendar days. Employer must report the injury to its case management plan within 24 hours of the injury.

Insurer:

Insurer is required to send a copy of the injury report to the Department within 10 days. The insurer shall make an investigation of the claim and notify the injured employee and the Department in writing within 20 days if denying liability for the reported injury in whole or in part. A 30 day extension may be granted upon request made during the last 5 days of the initial 20 day investigation period.

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## Medical Benefits

Employer must provide employee with necessary medical treatment during the disability or treatment of an injury covered under the workers compensation titles in South Dakota.

“The employee shall have the initial selection to secure the employee’s own physician, surgeon, or hospital services at the employer’s expense.” SDCL § 62-4-1. If the employee decides to change providers at a later date, he or she must get a written approval from the employer.

Employer/insurer has the right to an IME of their choice every 4 weeks. SDCL § 62-7-1. Claimant’s right to compensation payments shall be suspended until such exam is conducted if the claimant refuses to submit himself to the exam or unnecessarily obstructs the same from occurring. SDCL § 62-7-3.

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## Statute of Limitations

**SDCL § 62-7-35** The right to compensation is barred unless a written petition for hearing is filed by the employee with the Department within two years after the insurer issues a denial of the claim.

**SDCL § 62-7-35.1** Where benefits have been tendered due to an injury, any claim for additional compensation shall be barred, unless a written petition for hearing is filed within three years from the date of the last payment of benefits.

**SDCL 62-7-35.3** The right to compensation is barred if no medical treatment has been obtained within seven years after the employee first files the first report of injury.

## Benefit Rates

The benefit rate is calculated as 66 2/3 of the earnings for the 52 weeks preceding the injury and includes overtime pay at the straight time rate. Maximum and minimums are adjusted annually based upon a statutory formula.

Time Period	Maximum	Minimum
07/01/2013 to 06/30/2014	\$691	\$346
07/01/2014 to 06/30/2015	\$705	\$353
07/01/2015 to 06/30/2016	\$733	\$367
07/01/2016 to 06/30/2017	\$762	\$381

Because South Dakota law requires an employee's earnings from concurrent employment to be aggregated under certain circumstances, please contact us if you have questions about application of this principle to your case.

Current state rates for reimbursable expenses are:

### Mileage

\$0.42 / mile

### Meals

	In-State	Out of State
<b>Breakfast</b>	\$6.00	\$10.00
<b>Lunch</b>	\$11.00	\$14.00
<b>Dinner</b>	\$15.00	\$21.00

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## Forms

South Dakota's Work Comp forms can be found on the following website:  
[http://dlr.sd.gov/workers\\_compensation/forms.aspx](http://dlr.sd.gov/workers_compensation/forms.aspx)

Description
Employer's First Report of Injury
Request for Extension of Time to Investigate Claim
Monthly Payment Report
Calculation of Compensation
Memorandum of Payment for Permanent Partial
Memorandum of Payment for Rehabilitation
Statement of Weekly Earnings

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This handout does not constitute legal advice. It is meant solely as an aide in finding information regarding workers compensation law in South Dakota. Please contact your attorney for advice specific to your situation.

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