

RESOLUTION NO. 77 -22
OF THE GOVERNING BODY OF THE
YAVAPAI-APACHE NATION

A Resolution Adopting Amendments to the Yavapai-Apache Nation
Workers' Compensation Code

- WHEREAS:** The Yavapai-Apache Tribal Council ("Council") is authorized to represent the Yavapai-Apache Nation ("Nation") and act on all matters that concern the health and welfare of the Nation, and to make decisions not inconsistent with or contrary to the Constitution of the Yavapai-Apache Nation ("Constitution") as provided under Article V (a) of the Constitution; and
- WHEREAS:** The Council is authorized to manage the economic affairs of the Nation and its enterprises, and to appropriate and regulate the use of the Nation's funds, as provided under Article V (i) and (k) respectively of the Constitution; and
- WHEREAS:** The Council is authorized to appoint subordinate committees, commissions, boards, tribal officials and employees not otherwise provided for in the Constitution and to prescribe their compensation, tenure, duties, policies and procedures as provided under Article V(p) of the Constitution; and
- WHEREAS:** The Council is authorized under Article V(q) of the Constitution to determine all terms and conditions of employment for all persons employed by the Tribe through appropriate law, subject to Article VII of the Constitution; and
- WHEREAS:** The Council is authorized to enact laws, ordinances, and resolutions incidental to the exercise of its legislative powers as provided under Article V(v) of the Constitution; and
- WHEREAS:** The Council has established a program of employee health benefits for the Nation's employees, including the employees of the Nation's Subordinate Economic Organizations that includes workers' compensation insurance; and
- WHEREAS:** On October 8, 2020 through Tribal Council Resolution No. 165-20, the Council adopted the Yavapai-Apache Nation Workers' Compensation Code which provides a system for addressing workers' compensation claims fairly and in general conformity with accepted workers' compensation practices of the Nation and provides for workers' compensation benefits at levels comparable to what is provided for in the State of Arizona; and
- WHEREAS:** The Nation's Police Chief recommends enhanced temporary disability benefits for police officers and firefighters who are injured in the line of duty which are comparable to the supplemental benefits provided to public safety employees in the State of Arizona; and

WHEREAS: The Council has reviewed the amendments to the Yavapai-Apache Nation Workers' Compensation Code providing enhanced temporary disability benefits for police officers and firefighters who are injured in the line of duty (*attached to this Resolution as Exhibit A and incorporated herein by reference*) and deems it in the Nation's best interest to adopt the same.

NOW THEREFORE BE IT RESOLVED that the Yavapai-Apache Tribal Council, in Council assembled, at which a quorum is present, hereby adopts the amendments to the Yavapai-Apache Nation Workers' Compensation Code providing enhanced temporary disability benefits for police officers and firefighters who are injured in the line of duty (*attached to this Resolution as Exhibit A*), effective immediately.

BE IT FINALLY RESOLVED that the Chairman and Vice-Chairwoman, or either of them, are hereby authorized to take such further action as deemed necessary to carry out the purposes and intent of this Resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was adopted by an affirmative vote of the Tribal Council, with a quorum in attendance, presented for approval on May 5 2022, by a vote of 9 9 in favor, and 0 opposed and 0 abstaining, pursuant to the authority contained under the Constitution of the Yavapai-Apache Nation as cited above.



Jon Huey, Chairman

ATTEST:

Karla Reimer
Karla Reimer, Council Secretary

Approved as to Form:



Office of the Attorney General

EXHIBIT A

Amendments to the Yavapai-Apache Nation
Workers' Compensation Code

AMENDMENTS TO THE YAVAPAI-APACHE NATION
WORKERS' COMPENSATION CODE

May 5, 2022

Section 701. Workers' Compensation Benefits

(B) Temporary Disability Benefits:

- (1) The Nation applies a Return-to-Work program, such that best efforts will be made to accommodate recommendations for light duty or modified work duty as prescribed by an authorized and approved physician.
- (2) In instances where light duty or modified duty results in diminished wages as compared to the pre-injury average weekly wage of the Claimant, the Claimant will be entitled to Temporary Partial Disability payments at a rate of sixty-six and two-thirds percent (66 2/3%) of the difference between actual weekly wage during the period of modified and/or light duty and the pre-injury average weekly wage, subject to the maximum rates generally recognized by the State of Arizona at the time of injury.
- (3) In instances where light duty or modified duty cannot be accommodated by the Nation, or where a Claimant is deemed temporarily totally disabled (TTD) by an authorized and approved physician, the Claimant will be entitled to Temporary Total Disability benefits at a rate of sixty-six and two-thirds percent (66 2/3%) of the pre-injury average weekly wage, subject to the maximum rates generally recognized by the State of Arizona at the time of injury. Temporary Total Disability benefits shall not be paid during the first seven (7) days of lost earnings unless a Claimant is hospitalized, or is eligible for Temporary Total Disability benefits for fourteen (14) days or more. The maximum duration that Temporary Total Disability benefits will be paid by the Nation or its Administrator is one-hundred four (104) weeks.
 - (a) If the covered Employee misses more than fourteen (14) days, the first seven (7) days of lost earnings can be considered for benefits if the covered Employee received no other compensation during this time including but not limited to, sick time, vacation time, and personal time off (PTO).
 - (b) In no event may the Employee's disability benefits, or other income sources supplementing the loss income exceed 100% of the worker's pre-injury average weekly wage.
- (4) Enhanced temporary disability benefits are available for police officers and firefighters who are injured in the line of duty as follows:
 - (a) The police officer or firefighter is injured as the result of any of the following:

- i. An attack by an offender or arrestee, or animal;
 - ii. A duty-related accident involving any modes of transportation authorized by the Nation for performance of the police officer or firefighter's duties;
 - iii. Attempting to affect an arrest, detention or control of a suspect or alleged offender;
 - iv. Actively responding to or fighting a fire; or
 - v. Actively providing first-responder, paramedic-level or equivalent assistance to a victim in an accident or incident.
- (b) The Temporary Partial Disability benefit described in Section 701(B)(2) is at the rate of one hundred percent (100%) of the difference between the actual weekly wage during the period of modified and/or light duty and the pre-injury average weekly wage and is not subject to the maximum rates generally recognized by the State of Arizona at the time of injury.
- (c) The Temporary Total Disability benefit described in Section 701(B)(3) is at the rate of one hundred percent (100%) of the pre-injury average weekly wage and is not subject to the maximum rates generally recognized by the State of Arizona at the time of injury.
- (d) All other provisions of this Section 701(B) apply to the temporary disability benefits for police officers and firefighters who are injured in the line of duty except as specifically provided above in subsections (4)(b) and (4)(c).
- ~~(4)~~(5) No temporary disability benefits, whether Temporary Partial Disability or Temporary Total Disability shall be paid under circumstances where:
- (a) The Claimant is incarcerated, provided that such payments will only be withheld during the period of said incarceration;
 - (b) The Claimant does not have authorization from the medical provider assigned or designated by the Administrator to be off work;
 - (c) The Claimant is terminated for misconduct, or quits work, or declines a bona fide offer of light or modified duties by the Nation where such a bona fide offer is for work within the physical limitations prescribed by the authorized or approved physician; or
 - (d) The Claimant receives wages during a period where the Claimant was opined to have been temporarily totally disabled (TTD).

~~(5)~~(6) For purposes of this section, a Claimant's pre-injury average weekly wage shall be calculated by adding all reported earnings for one year preceding the date of injury, and dividing the resulting amount by fifty-two (52). In the event the Claimant has been employed for less than a year, the pre-injury average weekly wage shall be calculated by adding all reported earnings for the actual period worked prior to the date of injury, and dividing the resulting amount by the number of applicable weeks worked. In the event the Claimant has worked for less than a week, the pre-injury average weekly wage will be calculated by multiplying the Claimant's hourly rate by the number of hours he or she is expected to or was hired to work.

(C) **Permanent Impairment Benefits:**

- (1) Permanent Partial Impairment disability benefits will be paid to a Claimant (including police officers and firefighters injured in the line of duty or otherwise) pursuant to the schedule of benefits under Appendix A of this Code, attached hereto.
- (2) Permanent Total Impairment disability benefits will be paid to a Claimant (including police officers and firefighters injured in the line of duty or otherwise) at seventy-five percent (75%) of the pre-injury average weekly wage, subject to the maximum rates generally recognized by the State of Arizona at the time of injury, for 500 weeks, but shall not inure to any Dependent upon death of the injured Claimant.
- (3) The Nation shall not be responsible for any portion of a Permanent Partial Impairment or Permanent Total Impairment that is attributable to an injury, illness, or condition that is deemed pre-existing or non-industrial in nature.
- (4) In no event shall Permanent Partial Impairment for any and all injuries combined exceed an aggregate total of 100%.