



If you ask injured workers what they expected from a workers' compensation claim, most will say the same thing: medical care and a wage check that keeps the lights on while they recover. The second part often causes the first serious dispute. People assume their weekly benefit will mirror the paycheck they were bringing home before the injury. Then the numbers arrive, and they do not line up.

That gap usually comes back to one issue, average weekly wage.

In Colorado workers' compensation claims, average weekly wage, often shortened to AWW, is the foundation for temporary disability benefits and can affect other parts of the case as well. A small error in that number can cost a worker real money every week, especially over a long recovery. In a place like Greeley CO, where many employees work overtime, seasonal schedules, production bonuses, shift differentials, or more than one job, wage calculations are rarely as simple as grabbing a weekly salary number and moving on.

I have seen wage disputes start with what looked like a minor payroll question and turn into months of friction between the worker, the employer, and the insurance carrier. Sometimes the mistake is accidental. Sometimes the carrier takes the narrowest possible reading of the records. Sometimes the employer's payroll system simply does not tell the whole story. Whatever the cause, average weekly wage deserves close attention from the start.

Why average weekly wage matters so much

Workers' compensation benefits are not supposed to replace every dollar an injured employee loses, but they are based on prior earnings. In Colorado, temporary total disability and temporary partial disability benefits generally flow from the AWW figure, subject to statutory formulas and caps. If the starting wage figure is too low, every weekly payment that follows can be too low.

That matters most in claims involving extended time away from work. A warehouse worker in Greeley who is out for three months after a back injury may feel the pinch. A construction employee who cannot return for nine months will feel it much more. A difference of even \$100 in weekly wage can translate into a significant shortfall over time. When families are balancing rent, groceries, truck payments, and childcare, those numbers are not abstract.

It also matters because wage calculations shape expectations. Injured workers often judge the fairness of the whole claim by whether the first checks make sense. When they do not, trust disappears quickly.

The basic idea behind the calculation

At its core, average weekly wage tries to answer a practical question: what was this worker actually earning at the time of injury, measured in a fair weekly way? Colorado law provides a framework, but not every employment pattern fits neatly into a single formula. That is where judgment, records, and advocacy come in.

For some workers, the math is straightforward. A full-time employee with a stable hourly rate, forty-hour weeks, and no overtime may have a wage figure that can be established from a short payroll history without much debate.

For many others, the picture is more complicated. Oil field workers may have fluctuating hours. Agricultural labor in and around Weld County may rise and fall with the season. Restaurant staff may earn base wages plus tips. Manufacturing employees may receive shift premiums, bonuses, or incentive pay. A delivery driver may work one main job and pick up a second part-time position on weekends. If the injury at one job limits all earning capacity, the full wage story matters.

That is why a good Workers Compensation Lawyer Greeley residents trust will spend time understanding how the worker was actually paid, not just what appears on one pay stub.

What usually counts toward average weekly wage

The phrase "wages" sounds simple until payroll records hit the table. Regular hourly pay is only the beginning. Depending on the facts, other forms of compensation may need to be considered because they reflect what the employee was truly earning.

Here are common components that often matter:

- regular hourly or salary earnings
- overtime, if it was consistent or part of the normal work pattern
- bonuses, commissions, or piece-rate earnings tied to work performed
- tips or gratuities when documented and part of actual earnings
- the value of certain employment benefits or allowances in the right circumstances

Each of those categories can create its own dispute. Overtime is a classic example. Insurance carriers sometimes resist including it, especially if the number fluctuated from week to week. But if a worker regularly put in ten extra hours nearly every pay period, excluding overtime can paint a false picture of earnings. The same goes for production bonuses or incentive pay that show up month after month. The central question is whether the income was truly part of the worker's normal wage pattern, not whether the amount was identical each week.

The twelve-month idea, and why it is not always the last word

People often hear that average weekly wage is based on a period before the injury, commonly up to a year of earnings history. That can be true, and payroll records over the prior twelve months often provide a useful starting point. But in practice, a rigid twelve-month average does not always produce a fair result.

Suppose a worker had just received a raise two months before the injury. A long backward-looking average may understate current earnings because it gives too much weight to the lower pay rate from earlier in the year. Now

picture the opposite scenario: a worker returned from a lengthy leave or only recently began working full-time after a slow season. A snapshot based on recent inflated hours might overstate the usual pattern.

Colorado workers' compensation law allows room for fairness in many situations. The calculation is supposed to reasonably reflect the worker's earning capacity at the time of injury. That phrase matters. It means the right figure is not always the simplest mathematical average.

A Workers Compensation Attorney will often look beyond a single formula and ask whether the carrier's number reflects real earnings, recent changes in pay, and the normal schedule the worker had settled into.

Overtime, one of the most contested parts of the wage picture

In Greeley CO, overtime is common in industries that drive the local economy. Construction, trucking, warehousing, food processing, agriculture, and field work often depend on long weeks when demand rises. An injured worker may say, "I made twenty-seven dollars an hour, but I was really taking home much more because I worked fifty-five hours most weeks." That distinction matters.

Not every bit of overtime belongs in every calculation. A rare emergency shift from six months ago should not carry the same weight as a pattern of sustained extra hours. The fight usually turns on consistency. If payroll records show the employee regularly worked beyond forty hours, that tends to support including overtime in a meaningful way.

I have also seen disputes where the employer reduced available overtime shortly before the injury because business dipped for a week or two. Carriers sometimes seize on that temporary lull and claim the worker was no longer in an overtime pattern. A closer look at the broader records may show otherwise. The details matter. One unusual pay period should not wipe out a long history of extra work.

Seasonal and fluctuating employment in Weld County

Some of the hardest cases involve workers whose hours change with weather, contracts, harvest cycles, or customer volume. Greeley and the surrounding area see plenty of that. A seasonal laborer may have intense earning periods followed by slower stretches. A construction worker may move from job to job. A CDL driver may be busy for months and then see hours taper.

In these claims, fairness depends on context. A flat average may look mathematically neutral while producing a distorted result. If an injury happens during peak season, when the worker was expected to continue earning at that level for a meaningful period, the current earning pattern may deserve more weight. If the busy period was about to end and the reduction was predictable, that is relevant too.

There is no honest way to evaluate seasonal work without understanding the business cycle. Payroll records help, but so do schedules, employer testimony, work history from prior years, and sometimes common-sense knowledge of how the job operates. This is where local familiarity can make a difference. A Workers Compensation Lawyer who regularly handles claims in Greeley CO will often recognize employment patterns that someone outside the region might miss.

Second jobs and concurrent employment

Many injured workers do not rely on one paycheck alone. They may work a daytime warehouse shift and pick up weekend catering work. They may hold a full-time job and drive for a second employer at night. When an injury affects the worker's ability to earn across the board, the second job becomes important.

Concurrent employment can complicate average weekly wage, but it should not be ignored just because it creates extra paperwork. If the worker was legitimately earning wages from more than one source at the time of injury, those earnings may be relevant depending on the circumstances and the governing rules. The challenge is usually proof. The second employer's records, pay stubs, tax documents, and testimony all become important.

Carriers often push back here. They may argue the second income was irregular, undocumented, or too disconnected from the work injury claim. Sometimes that argument has merit. Often it does not. The real issue is whether the worker had an established pattern of earning from concurrent employment, and whether the injury impaired that earning capacity.

New employees and workers injured before a pay history develops

A common edge case involves someone injured shortly after starting a job. Maybe a worker in Greeley is hired at a strong hourly rate with expected overtime, then gets hurt ***Greeley workers comp benefits lawyer*** in the second week on site. There is not much payroll history to average. If the carrier only uses the short and incomplete record, the result may badly understate what the employee would have earned.

In that situation, other evidence becomes vital. The agreed rate of pay, scheduled hours, testimony from supervisors, the earnings of similarly situated employees, and the job's standard overtime pattern can all help establish a fair weekly wage. The law is not meant to punish someone for being injured too early in a new position to generate clean records.

The same problem can arise with a recent promotion. If a worker moved into a higher-paying role shortly before the injury, a backward average blending old and new wages may not reflect current reality. That is another area where careful advocacy often changes the outcome.

Bonuses, commissions, and incentive pay

Plenty of workers earn more than a base rate. Sales staff may have commission structures. Production employees may receive throughput bonuses. Some jobs offer attendance bonuses, safety incentives, or periodic performance pay. Whether those amounts should be folded into average weekly wage depends on the nature of the payment.

A true work-related bonus that recurs with some regularity and reflects the employee's labor has a stronger case for inclusion than a one-time holiday gift or discretionary payment unrelated to production. The line is not always bright. I have reviewed payroll records where "bonus" meant a monthly incentive tied directly to units completed, and others where it meant an occasional employer thank-you check. Treating those the same would make little sense.

Documentation matters here more than almost anywhere else. Carriers tend to include what they can verify and challenge what they cannot. If the worker can show a consistent pattern through payroll data and testimony, the argument becomes much stronger.

Tips, per diem, and other forms of pay that create confusion

Tipped employees often run into wage disputes because official payroll records may capture only part of actual earnings. If tips were reported and taxed, they are easier to document. If the records are thin, the case becomes harder, though not always impossible. The same is true for other payment structures, such as piece work or certain allowances.

Per diem creates special confusion. Sometimes it is a legitimate reimbursement for travel, meals, or lodging. Sometimes it functions more like disguised wages. The label on a pay stub does not end the inquiry. What matters is the true character of the payment. Was it reimbursing an actual expense, or was it regularly boosting take-home pay in a way tied to working the job? These questions can become highly fact-specific.

A careful Workers Compensation Attorney will usually ask for more than pay stubs alone. Expense policies, reimbursement records, job assignment details, and deposition testimony may all be relevant.

The documents that can make or break the dispute

The strongest wage arguments are usually built from ordinary records gathered early, before memories fade and payroll departments get defensive. Workers often assume the insurance company already has everything it needs. Sometimes it does not. Sometimes it has only a partial file.

If there is a dispute, these records are often central:

- recent pay stubs and year-to-date earnings summaries
- W-2s, 1099s, or tax records if multiple jobs are involved
- timecards, schedules, and overtime logs
- offer letters, raise notices, or union wage sheets
- bonus, commission, tip, or allowance documentation

Those documents do more than support a number. They tell the story of the employment relationship. A pay stub may show shift differential. A timecard may reveal that overtime was routine, not occasional. A raise notice may prove the worker had moved into a higher pay bracket before the injury. Small records often carry big consequences.

How disputes usually play out

Most average weekly wage disagreements do not begin with a dramatic hearing. They begin with a benefit check that looks wrong. The worker compares it to prior earnings, calls the adjuster, and gets a vague explanation. The carrier may say it used the payroll records provided by the employer. The employer may insist the insurer handled the math. Meanwhile, the worker is the one missing money each week.

At that point, the issue becomes both legal and practical. Someone has to identify the correct earning period, determine which forms of pay count, verify the numbers, and push for a corrected rate. Some disputes resolve through documentation and discussion. Others require formal litigation before an administrative law judge.

When these matters go to hearing, detail wins. Broad complaints about unfairness usually do not move the needle. Clear payroll analysis does. So does testimony that explains how the worker was paid in real life. Judges tend to focus on whether the proposed figure accurately reflects earning capacity at the time of injury, which means the quality of the factual record is critical.

A real-world pattern that comes up often

Consider a hypothetical worker in Greeley CO who earns \$24 per hour at a food processing facility. On paper, that seems straightforward. But the employee also works a steady ten hours of overtime most weeks, receives a monthly line-speed incentive that adds a few hundred dollars, and got a \$2 hourly raise six weeks before the

injury. If the carrier looks only at base pay over a long averaging period and ignores the raise and incentive pattern, the weekly compensation rate may fall well short of what the worker was actually earning.

Now change one fact. Suppose overtime had dropped sharply during the two weeks before the accident because a maintenance shutdown cut production. A narrow view might claim overtime was no longer part of the job. A more complete view would examine the prior months and likely see the shutdown as temporary. That is exactly the sort of nuance that matters in wage litigation.

Why local legal help can matter

Workers' compensation law is statewide, but claims are built from local facts. Employers in Greeley CO have specific payroll practices, industries here have recurring scheduling patterns, and the records available in one case may look very different from those in another. A Workers Compensation Lawyer Greeley claimants consult regularly can often spot issues that a general approach misses.

That does not mean every wage discrepancy requires a courtroom battle. Many do not. It does mean workers should not assume the first number is final or correct. Insurance carriers are not always wrong, but they are not always thorough either. A seasoned Workers Compensation Lawyer will typically check whether overtime was included appropriately, whether recent raises were **Workers Compensation Lawyer Greeley** accounted for, whether concurrent earnings were ignored, and whether the averaging method makes sense for the actual job.

A Workers Compensation Attorney can also help frame the dispute the right way. The strongest argument is rarely "my check feels low." It is "the payroll records show a regular pattern of overtime and incentive compensation, and the current rate fails to reflect the worker's actual earning capacity at the time of injury."

Practical warning signs that the calculation may be off

Workers usually notice a problem before anyone else does. They know what they were bringing home. If the disability rate seems far below expectations, something may be missing. That does not automatically mean the carrier made a legal error, because workers' compensation benefits are often less than full wages. But several patterns should prompt a closer look.

A red flag appears when the worker recently received a raise and the checks look based on the old rate. Another appears when the worker consistently worked overtime, but the disability rate seems tied only to forty hours. The same goes for employees who held a second job, earned monthly incentives, or started the job shortly before the injury. In each of those situations, a surface-level calculation can miss the mark.

The earlier the issue is caught, the better. Correcting the rate after months of underpayment is possible in some cases, but it is harder than fixing the figure near the beginning of the claim.

What injured workers should do right away

When a wage dispute is brewing, speed matters. Payroll records are easier to gather early. Supervisors remember schedules better in the first weeks than they do a year later. Bonus plans and overtime patterns are easier to prove before departments reorganize or software changes.

An injured worker should save every pay stub, compare the compensation rate to actual earnings history, and ask for the underlying basis of the insurer's calculation. If the answer is vague, that is useful information in itself. The next step is often a careful review by a Workers Compensation Attorney who can match the records to Colorado's legal standard and determine whether the number can be challenged.

This part of a claim often feels technical, but the effect is deeply personal. Mortgage payments, utilities, and family budgets do not care whether the problem was caused by a spreadsheet error, an incomplete payroll response, or a bad legal interpretation. They only care whether the weekly check is enough. That is why average weekly wage calculations deserve more attention than they usually get, especially in Greeley claims where real-world pay structures are anything but simple.

Law Offices of Miguel Martínez, P.C.

Address: 5312 W 9th St Dr Ste 130, Greeley, CO 80634

Phone number: 970-353-9828

FAQ About Workers Compensation Lawyer Greeley

What not to say to a workers' comp attorney?

Never lie or omit past medical history, exaggerate symptoms, or admit fault to anyone—especially insurance adjusters. Do not give recorded statements or accept settlement offers without consulting your attorney. Keep all communications with your legal team completely honest and 100% transparent to protect your claim.

What are the odds of winning a workers' comp case?

Nationally, about 75% of claimants receive at least some compensation. If your initial claim is denied and you appeal, hearing-level success rates typically hover around 50%. Your exact odds heavily depend on the strength of your medical documentation, adherence to reporting deadlines, and whether you have legal representation.

What does a workers' comp lawyer do?

A workers' compensation attorney can help you recover the maximum compensation you're entitled to, even if your employer or their insurance provider denies your claim. Your attorney can help gather evidence, file paperwork, negotiate with insurance companies, and represent you in court.