

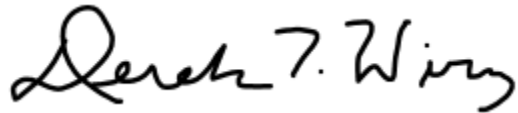
The Southern Agency

— Insurance & Bonds —

The staff of The Southern Agency wish to thank Doug Lay of the Kissiah and Lay Law firm for this Georgia Workers' Compensation Guide for employers and insurance companies.

If you have questions about your insurance program, please contact us.

Thank you,



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**Kissiah & Lay
Georgia Comp Charts
For Employers and Insurers
2016-2017**

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Coverage

All of the following must exist for there to be coverage under the Workers' Compensation Act

Are you an employer that is subject to the Act

Is there an employment relationship

Does Georgia workers' compensation Board have jurisdiction

Did injury or disease arise out of and in the course of employment

Did the employee provide notice and did the injury arise out of something other than willful misconduct

Criteria on page 4

Criteria on page 5

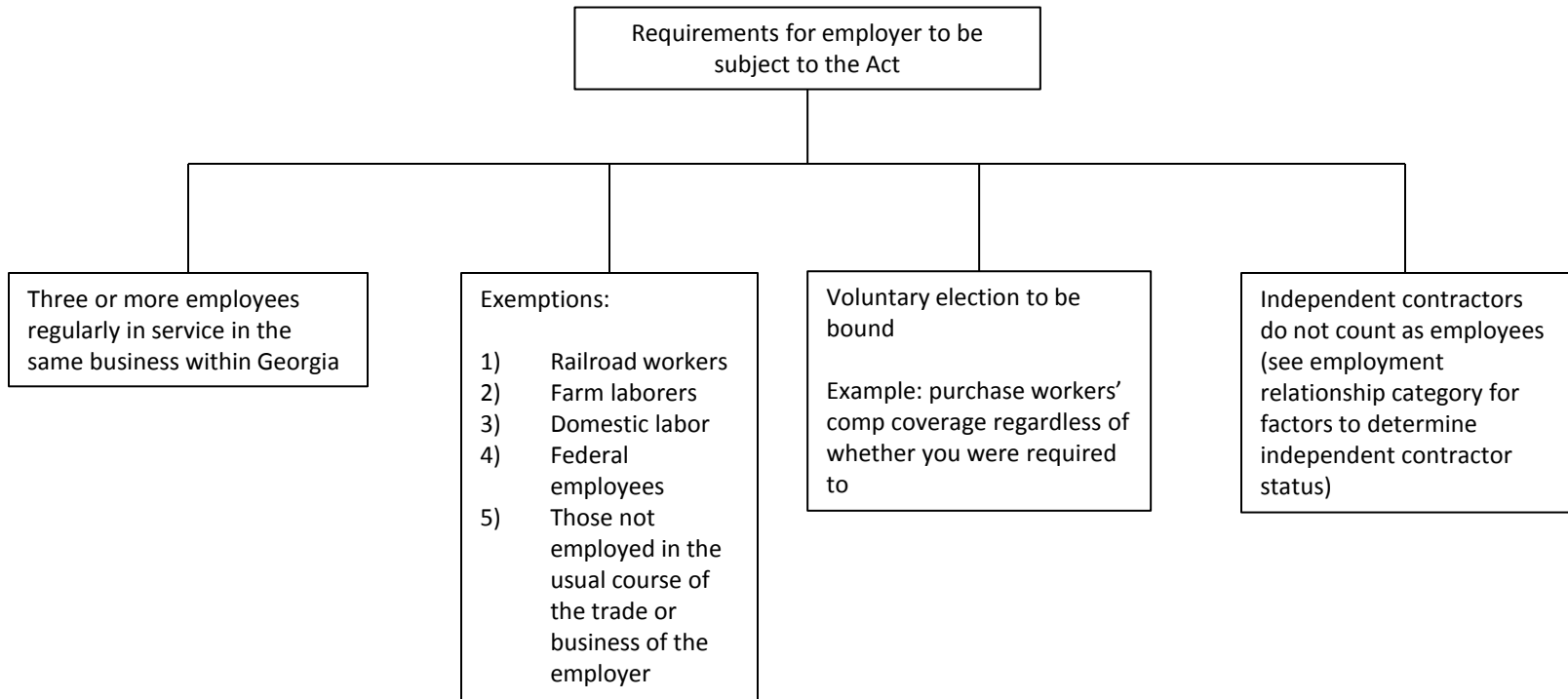
Criteria on page 6

Criteria on page 7

Criteria on page 8

Coverage

Subject to the Act



Coverage

Employment Relationship

Is there an employment relationship

Contract of employment with expectation of payment by employee where employee is under right of control by employer

Independent Contractor (IC) is not an employee:

Factors suggesting IC status – special skills, provides own tools, sets own time, manner and means of performing work, chooses own hours, hires own employees, does not receive fringe benefits, or tax deductions from pay, works for closed ended period or project completion, owner operator, contract identifies worker as IC, municipal code or statute identifies worker as IC

Statutorily included employees:

- Police officers
- full time county employees
- Volunteer firefighters
- Volunteer police officers
- State employees

Borrowed Servants:

(you borrowed an employee and have right to control him and loaning employer does not, you have exclusive right to discharge the employee)

Employment by estoppel:

(you choose to be voluntarily bound by obtaining WC insurance for another)

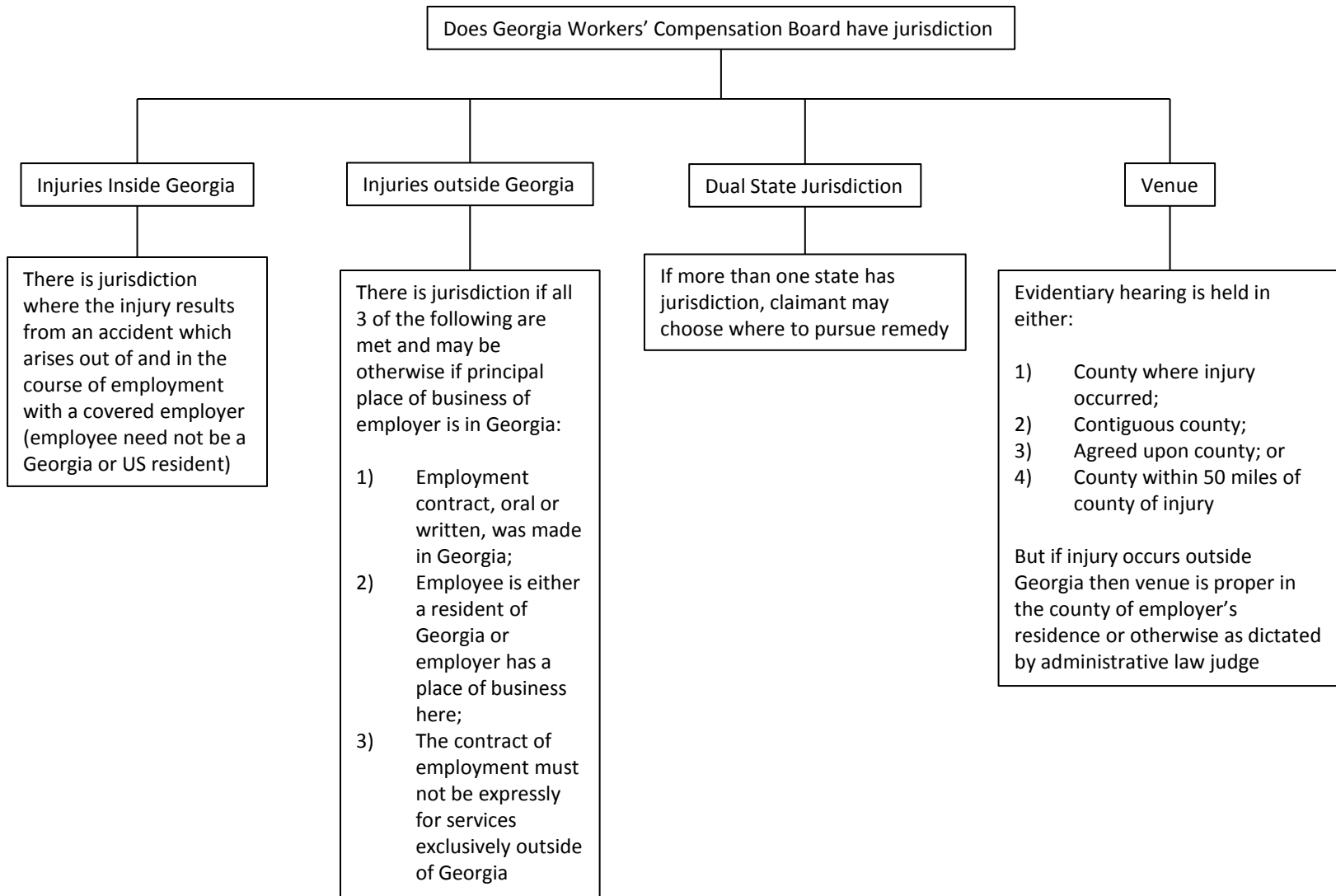
You are considered a statutory employer:

A principal, intermediate, or subcontractor shall be liable for compensation to any employee injured while in the employ of any of his subcontractors engaged upon the subject matter of the contract to the same extent as the immediate employer

Doctrine only applies to injuries on or about the premises which is the subject of the contract or the premises where principal contractor controls

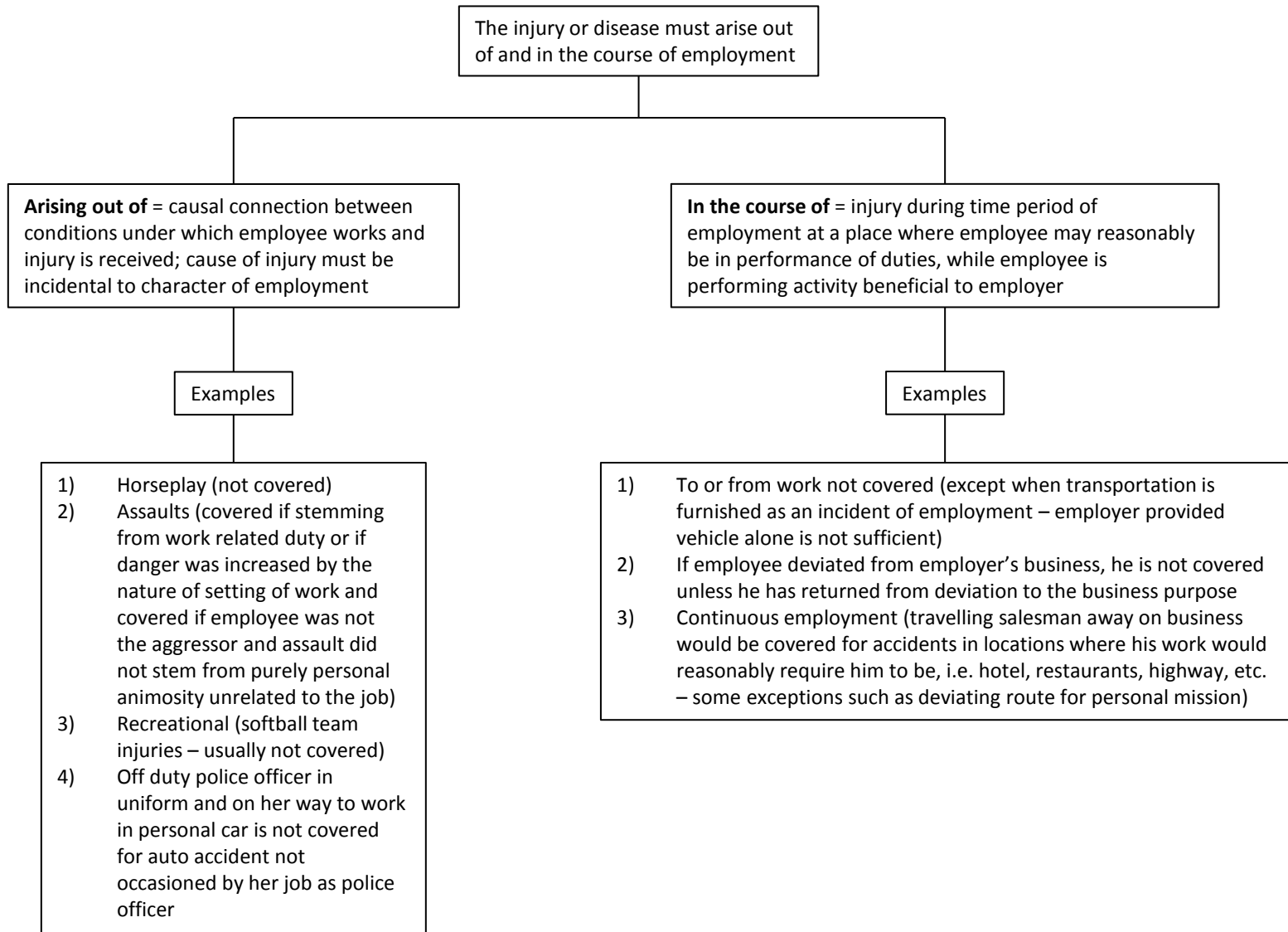
Coverage

Jurisdiction



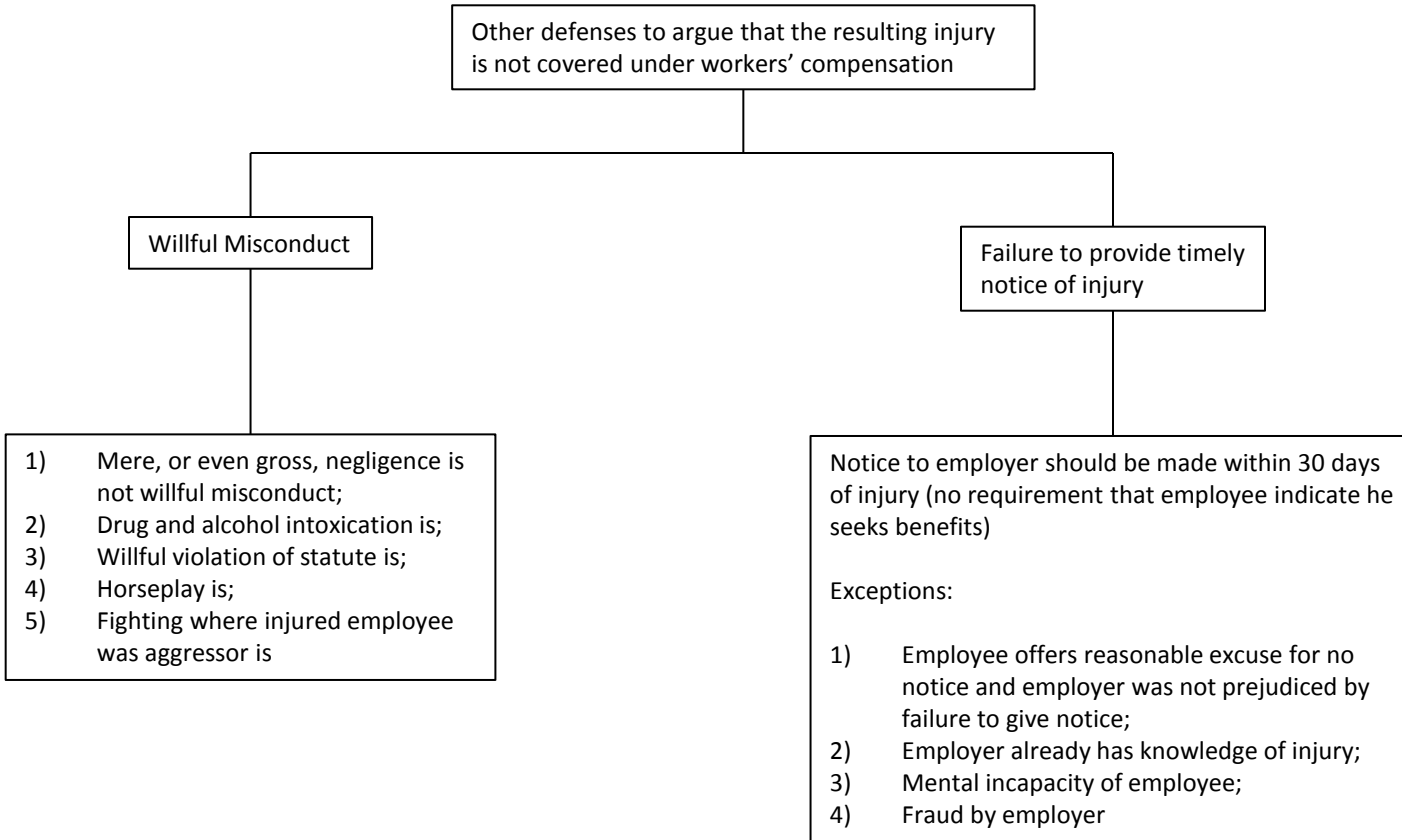
Coverage

Arising out of and in the course of employment

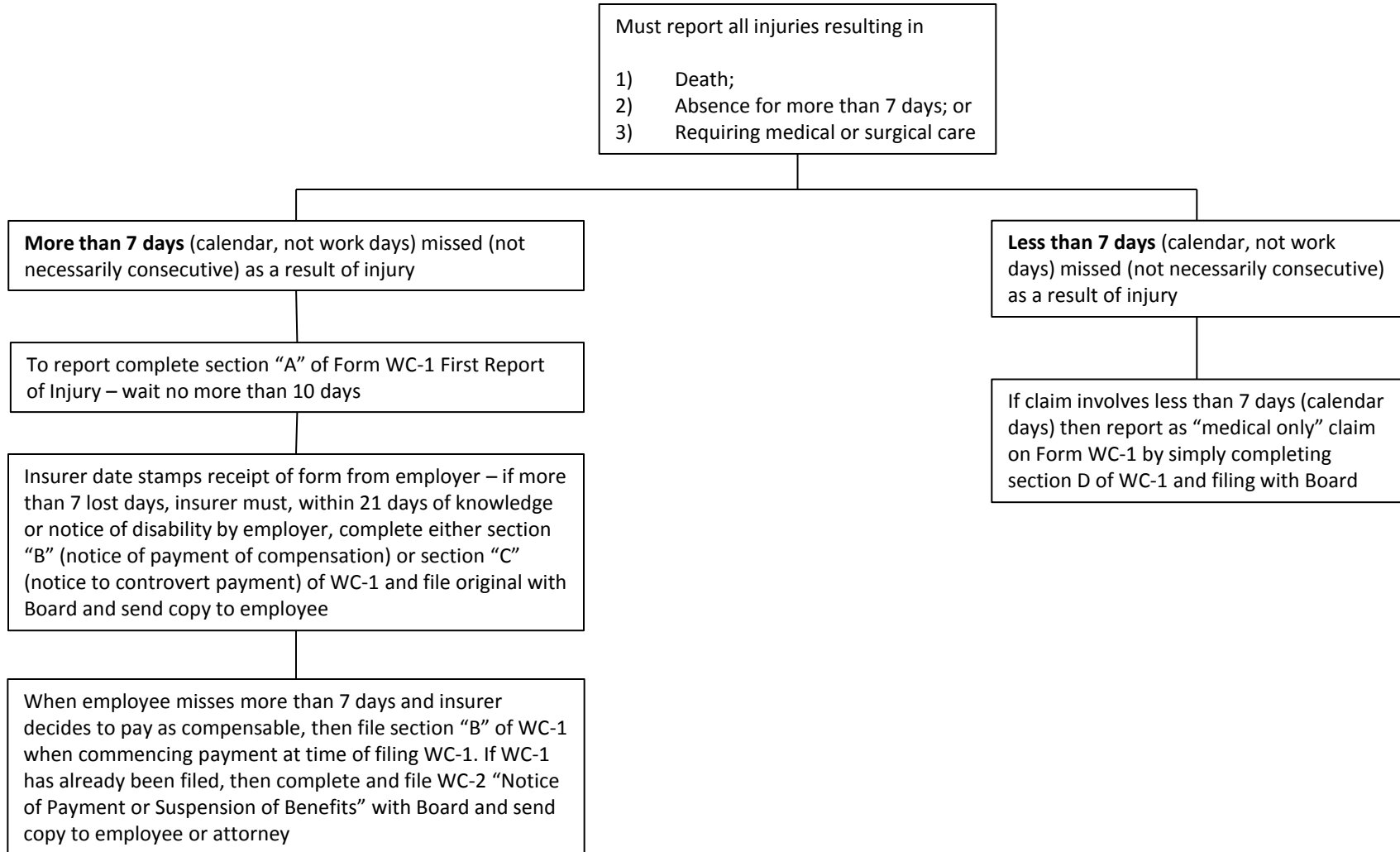


Coverage

Other Defenses

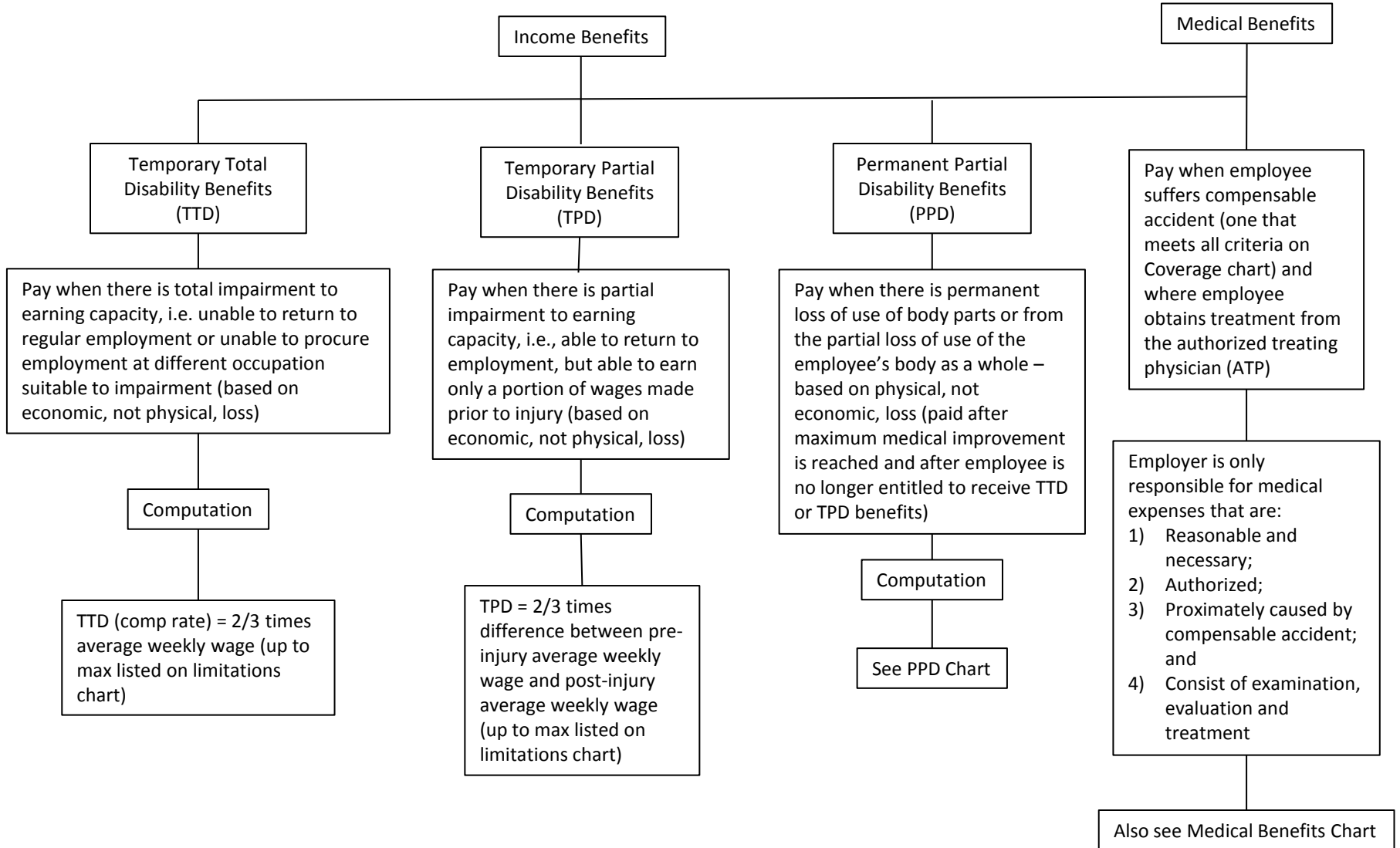


Reporting Workers' Compensation Injuries



Benefits

(non-catastrophic and non-death cases)



Benefit Payment Procedures

Payment of Disability / Income Benefits

Initial payment is due on 21st day after employer has knowledge or notice of disability, not injury (i.e. 1st day counted is the 1st day employee is unable to work a full day due to disability)

Subsequent payments are made weekly

Within 30 days of final payment of compensation, employer must file WC-4 Case Progress Report marked "Final" with Board

Mailbox Rule

Payment is considered timely made if mailed on due date when mailed from inside Georgia to address of employee or when made from outside Georgia three days prior to due date – must be made in cash or negotiable instrument

Late Payment

Voluntary Payment: where payment is not timely in a case where employer / insurer voluntarily agrees to compensability, employer must pay 15% penalty unless Board excuses. Penalties must be paid not only on the accrued late income benefits but also on all accrued benefits (even those not yet late, but which are paid at the same time as the late paid income benefits)

Payment of Medical Benefits

Proper Forms: Health Care providers are required to complete Form WC-20(a), 1500 Claim Form, or UB 04 and supporting narrative (and then make claim directly to the employer/insurer) before they are entitled to payment

One year deadline for submission of bill: Request for payment must be submitted within one year of date of service or date of being determined compensable, if controverted

30 day deadline: Payment must be made (in amounts allowed by Fee Schedule) directly to healthcare provider within 30 days of receipt of charges and reports required by Board. There is no time extension for medical audit service review. If employee has paid bill himself, employer/insurer may reimburse employee directly

Contesting bill: If contesting any portion of bill, insurer should send a letter to medical provider within 30 days of receipt of charges including written itemization of any documents or other information needed

Late payment penalty: If insurer neither pays nor sends above referenced letter within 30 days, then 10% penalty is owed to provider if paid within 60 days. If paid after 60 days, but before 90 days, then a 20% penalty applies. Any charges over 90 days = 20% penalty plus 12% per annum from day 91 forward

Medical Mileage: Due paid 15 days from the date the employer/insurer receives the charges and reports required by the Board.

Medical Benefits

Authorized Treatment

Authorized Care

Employer is only responsible for medical expenses that are:

- 1) reasonable and necessary
- 2) Authorized (ordered by authorized treating physician)
- 3) Proximately caused by the compensable on the job injury (one that meets all criteria on coverage chart), and
- 4) Expenses related to examination, evaluation and treatment

One Year Deadline

One year deadline regarding medical expenses:

Employee or provider must submit its charges to employer or insurer within one year of date of service (or, if claim or expense is controverted, within one year of date claim is accepted or established as compensable, whichever is later) or provider waives right to collect charges. Deadline also applies to mileage submitted by claimant.

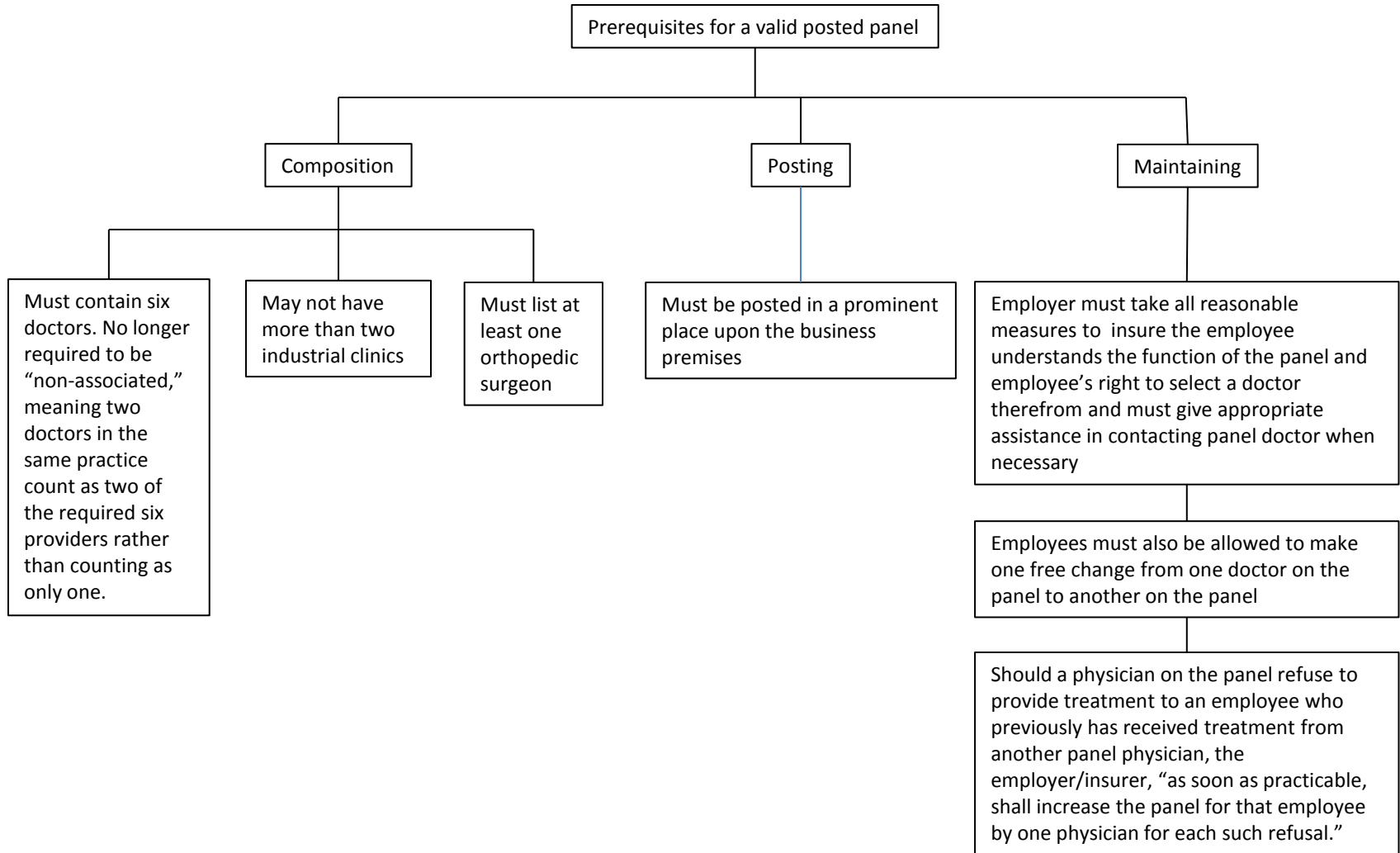
Authorized Treating Physician (ATP)

The following physicians would be authorized:

- 1) Physicians listed on employer traditional panel of physicians, conformed panel or certified medical care organization
- 2) Physician selected by employee if employer failed to comply with panel posting requirement of OCGA 34-9-201
- 3) Physician seeing claimant upon referral by ATP (only one referral allowed – second doctor cannot make an authorized referral to third doctor without a change of physician action)
- 4) Physician providing emergency care (authorized only for duration of emergency)
- 5) Physician providing reasonable and necessary care which was refused by employer and/or authorized treating physician
- 6) Parties have agreed the physician is authorized
- 7) Physician is seeing employee pursuant to a successful change of treating physician request to State Board (parties must first make a good faith effort to agree on physician)
- 8) Physician is seeing employee following controversion of overall liability with regard to the claim and the claim is later found compensable
- 9) Employee chose physician as one free change from valid panel
- 10) Employee chose physician as one free change from first doctor of their choice if panel was invalid

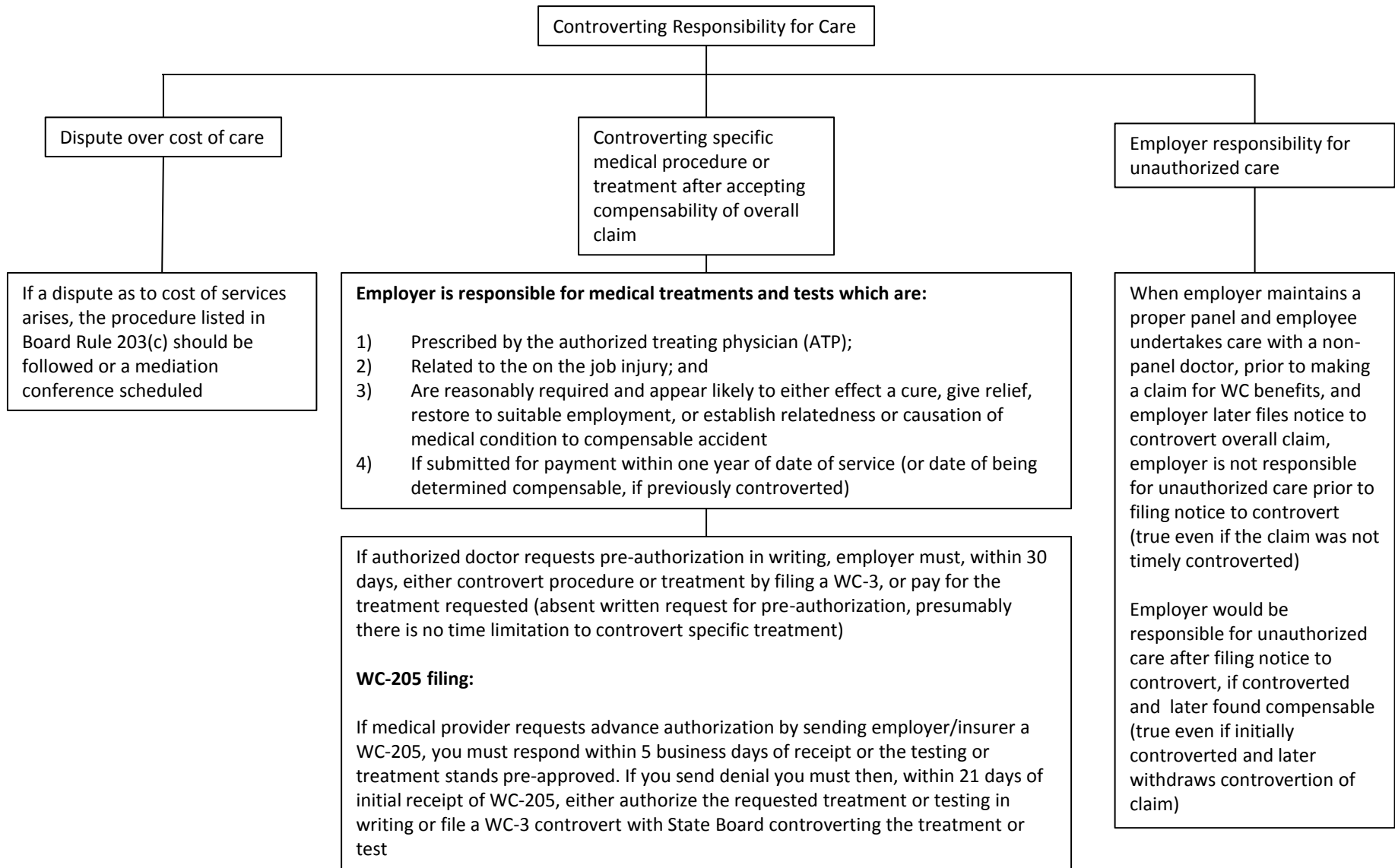
Medical Benefits

Posted Panel of Physicians



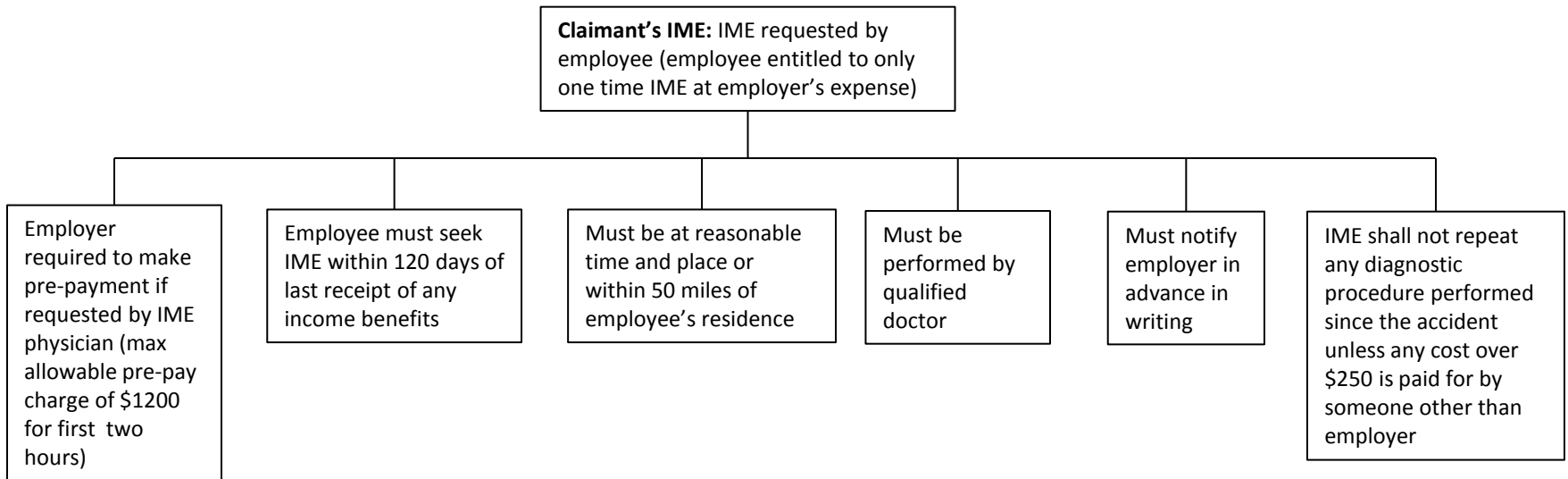
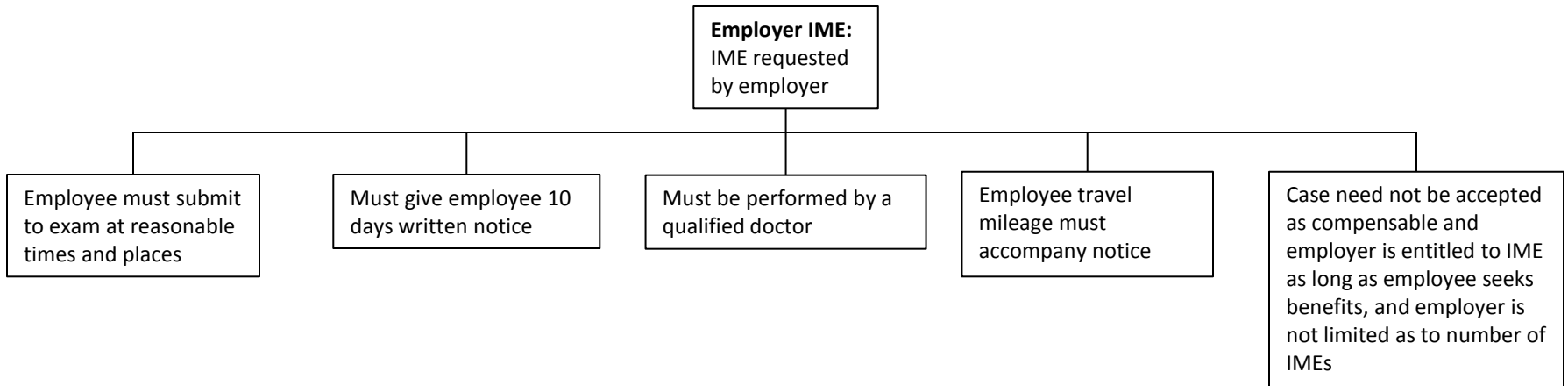
Medical Benefits

Controverting Care



Medical Benefits

Independent Medical Exam (IME)



Permanent Partial Disability Benefits

Pay when there is permanent loss or loss of use of body parts or from the partial loss of use of the employees body as a whole – based on physical, not economic, loss

If compensable accident (one that meets all criteria on Coverage chart) creates above situation, then Permanent Partial Disability (PPD) benefits are due – must be based on AMA 5th Edition Guides (see limitations below)

When is PPD Due ?

Not later than 21 days after knowledge of rating by doctor (employer/insurer are presumed to have knowledge not later than 10 days after date of report containing rating)

As long as claimant is entitled to TTD or TPD, he cannot recover PPD benefits for the same claim. If two injuries are from two separate accidents, involving same or different body part, claimant can simultaneously recover PPD for one injury and TTD or TPD for other injury

Even if employee refuses suitable employment and is no longer entitled to TTD or TPD, he is eligible to receive PPD

After employee has received TTD or TPD and PPD rating has not been previously requested or issued, Board Rule 263 requires the employer to actually request, in writing (within 30 days), that the authorized treating physician rate the employee for PPD

Schedule

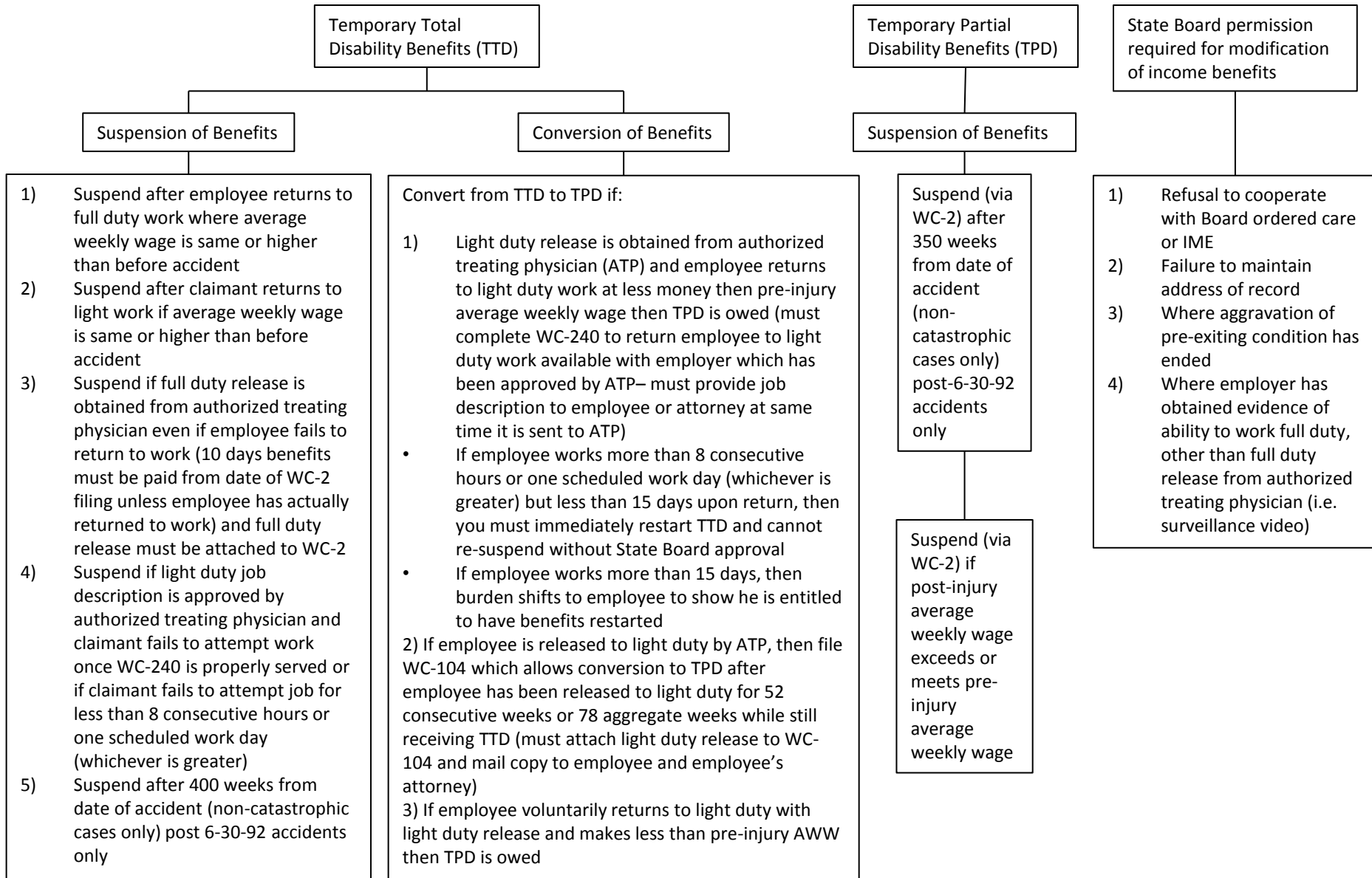
Number of weeks allowed for 100% loss of body part:

Arm (225)
Leg (225)
Hand (160)
Foot (135)
Thumb (60)
Index finger (40)
Middle finger (35)
Ring finger (30)
Little finger (25)
Great toe (30)
Any other toe (20)
Hearing in one ear (75)
Vision in one eye (150)
Disability of body as a whole (300)

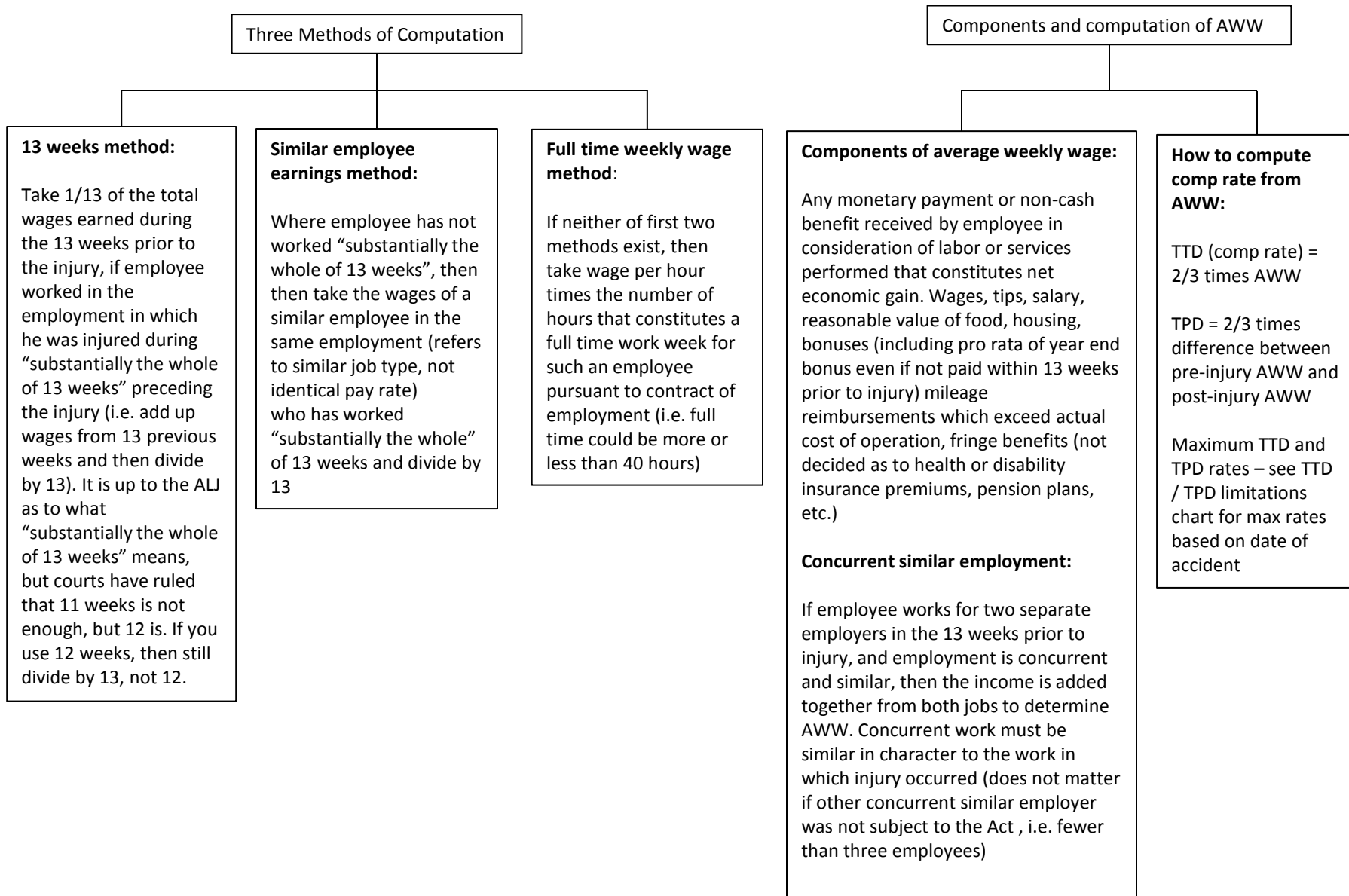
Computation

Multiply the percentage of PPD rating times the maximum weeks allowed for a 100% PPD to the body part (or whole body) times the claimant's compensation rate i.e. 100% PPD to body as a whole = 300 weeks PPD, so a 20% PPD to body as a whole rating = 20% of 300 = 60 weeks x comp rate

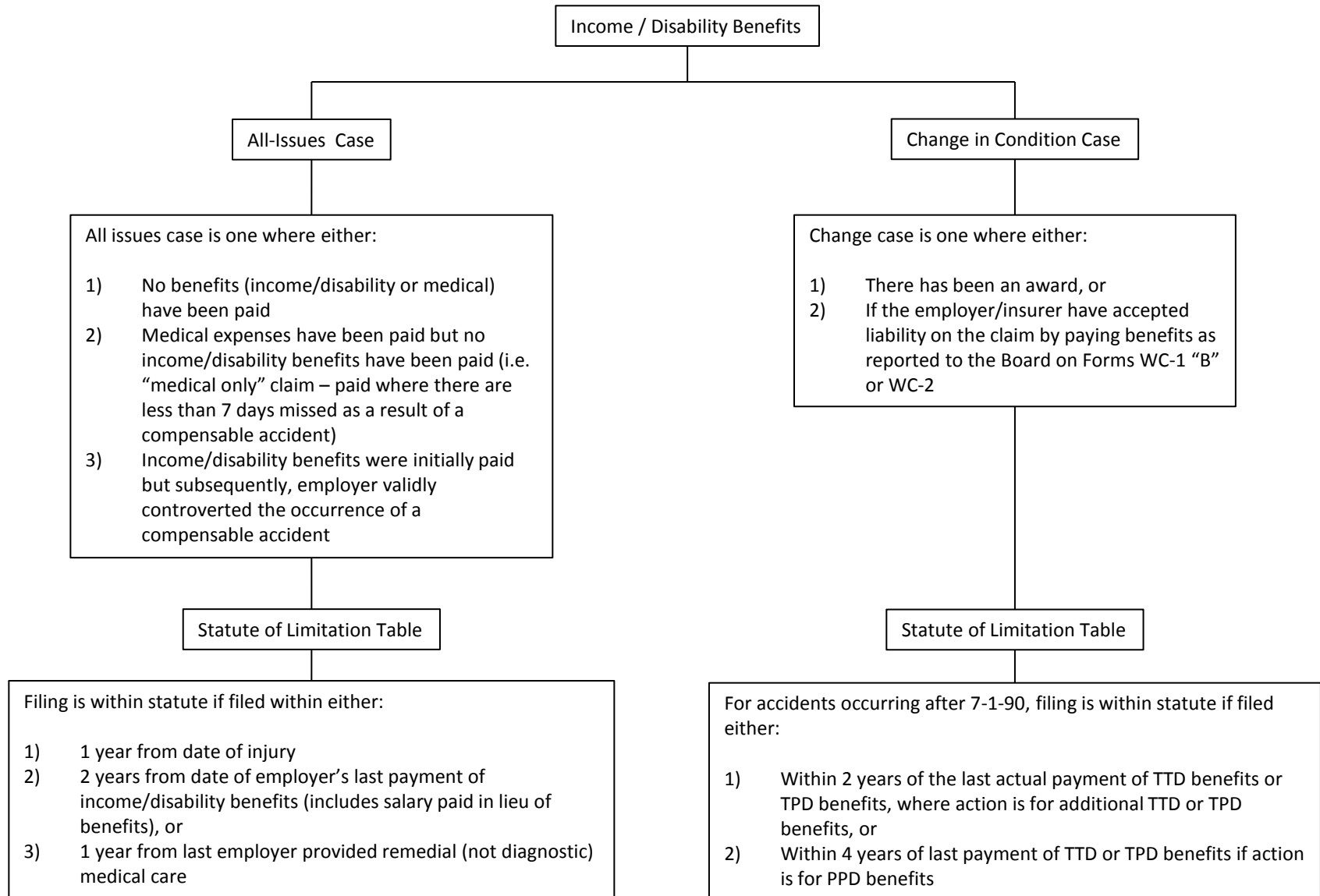
Suspension and Conversion of Income Benefits



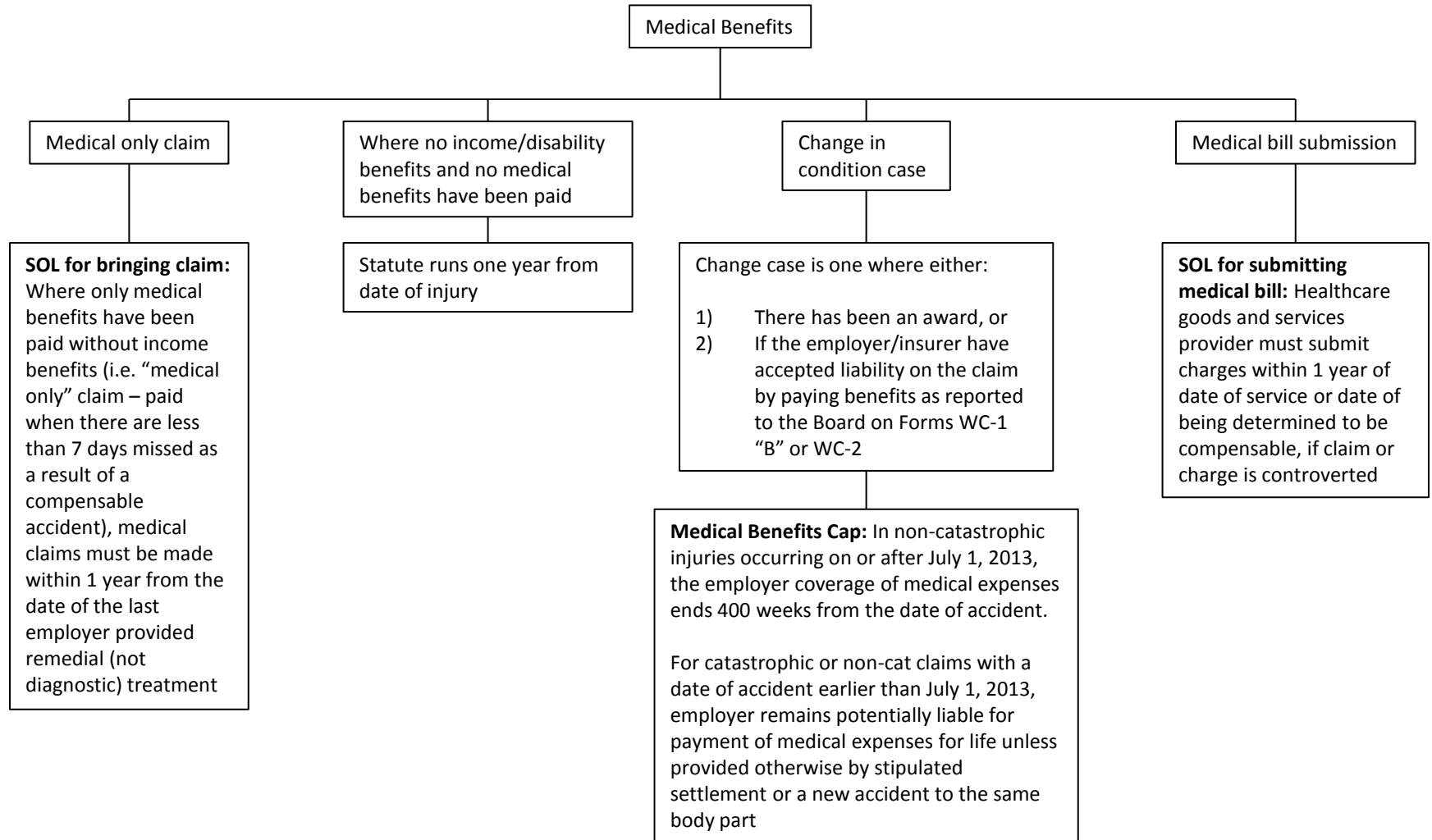
Average Weekly Wage



Statute of Limitations



Statute of Limitation



The statute of limitations may be tolled by mental incompetence, minority, mistake of law, fraud, or estoppel.

Employee may circumvent statute of limitations if a “fictional new accident” is recognized.

TTD / TPD Limitation on Weekly Amounts

<u>Date of Accident</u>	<u>Temporary Total Disability Benefits</u>	<u>Temporary Partial Disability Benefits</u>
7/1/90 – 6/30/92	\$225	\$150
7/1/92 – 6/30/94	\$250	\$175
7/1/94 – 6/30/96	\$275	\$192.50
7/1/96 – 6/30/97	\$300	\$192.50
7/1/97 – 6/30/99	\$325	\$216.67
7/1/99 – 6/30/00	\$350	\$233.33
7/1/00 – 6/30/01	\$375	\$250
7/1/01 – 6/30/03	\$400	\$268
7/1/03 – 6/30/05	\$425	\$284
7/1/05 – 6/30/07	\$450	\$300
7/1/07 – 6/30/13	\$500	\$334
7/1/13 – 6/30/15	\$525	\$350
7/1/15 – 6/30/16	\$550	\$367
7/1/16 – present	\$575	\$383