

Ogilvie “In-Your-Head” Mathematical Proof⁷

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1. BACKGROUND

- For any injured worker whose individualized proportional earnings loss is greater or less than all of the FEC ranks within the 2005 Permanent Disability Rating Schedule, the Ogilvie adjustment formula is simplified as:
 - $= \text{WPI} + (18.1 * L)$
- The WCAB in Ogilvie discusses earnings losses over the course of a 3 year (36 month) period.

2. ASSUME

- You have an injured worker either earning no money at all (perhaps while on temporary, state, or social security disability) or working full duty for full pay.

3. ARGUMENT

• **Earnings Loss**

- This injured worker's earnings loss ratio may reasonably be expressed as follows:
 - $= [(\text{AWW} * 4 \text{ wks/mo}) * (\text{months not worked})] / [(\text{AWW} * 4 \text{ wks/mo}) * (36 \text{ mo})]$
 - $= (\text{months worked} / 36 \text{ mo})$

• **Ogilvie Adjustment Formula**

- $= \text{WPI} + [18.1 * (\text{months not worked} / 36 \text{ mo})]$

• **Examples**

- The above injured worker with 2 years of no earnings (24 months)
 - $= \text{WPI} + [18.1 * (24 / 36)]$
 - $= \text{WPI} + [18.1 * (2/3)]$
 - $= \text{WPI} + 12.067$
 - $= \text{WPI} + 12$
 - Thus, 2 years of no earnings will always equal a 12 point addition to the WPI
- The above injured worker with 1 year of no earnings (12 months)
 - $= \text{WPI} + [18.1 * (12 / 36)]$
 - $= \text{WPI} + [18.1 * (1/3)]$
 - $= \text{WPI} + 6.033$
 - $= \text{WPI} + 6$
 - Thus, 1 year of no earnings will always equal a 6 point addition to the WPI
- The above injured worker with 2 months of no earnings
 - $= \text{WPI} + [18.1 * (2) / (36)]$
 - $= \text{WPI} + [18.1 * (1/18)]$
 - $= \text{WPI} + 1.006$
 - $= \text{WPI} + 1$
 - Thus, 2 months of no earnings will always equal a 1 point addition to the WPI

4. CONCLUSIONS

- By thinking of the earnings loss as a period of time rather than actual earnings itself, it is possible to perform a very close estimate of the impact of the Ogilvie adjustment formula on most cases.
- For any injured worker whose individualized proportional earnings loss is outside of all of the FEC ranks, the Ogilvie adjustment formula will essentially increase the WPI by 1 point for every 2 months of lost earnings.

⁷ All references to Ogilvie are to the case of Ogilvie v. City and County of S.F. (9/3/2009) 74 C.C.C. 1127