I. The Terminology of Subjective Disability: DWC-California Rating Schedule - Pages 1-3, 1-7 & 1-8

Pain is not always disabling. It becomes disabling when its degree affects function. Regulations define four degrees of subjective pain - minimal, slight, moderate and severe. By definition minimal (mild) pain is not disabling because it causes no handicap in the activity precipitating the pain. However, slight, moderate and severe pain reflects increasingly greater degrees of handicap on work activity, and is ratable factors of disability.

Pain (Subjective Disability) is characterized in terms of body part affected, intensity, frequency, and activity giving rise to the pain. Subjective Disability must always be described by the frequency, severity and activities that produce the pain.


Turn to "Subjective Factors As Index of Disability " Under this column the terms listed are defined as having the following values:

1. **Constant Slight**: (10% Rating Standard of Permanent Disability)
2. **Constant Slight To Moderate**: (30% Rating Standard of Permanent Disability)
3. **Constant Moderate**: (50% Rating Standard of Permanent Disability)
4. **Constant Severe**: (100% Rating Standard of Permanent Disability) *

*Disabilities 12.16, 12.32,14.113,14.133,14.871 and 7.143 (Loss of Both hands at Wrist Joints.)

B Severity Level Pain Scale: The above definitions establish the groundwork for the following values:

1. **SEVERE**: Pain that Precludes Activity causing the pain. (Loss of Work Capacity≈ Analogous to the rating standards of immobility or the Work Restrictions.
   ≈ 100% functional loss.

2. **MODERATE-TO-SEVERE**: Pain that causes substantial handicap but allows occasional performance of the activities precipitating the pain.
   ≈ 75% functional loss.

3. **MODERATE**: Pain that can be tolerated and causes would cause a marked handicap in the performance of the activity precipitating the pain.
   ≈ 50% functional loss.

4. **SLIGHT-TO-MODERATE**: Pain initiating at a level of hardly any handicap exacerbated to cause an increased level of handicap in the performance of the activity precipitating the pain.
   ≈ 30% functional loss.

5. **SLIGHT**: Pain that could be tolerated but would cause some handicap in the performance of the activity precipitating the pain.
   ≈ 10% functional loss.

6. **MINIMAL-TO SLIGHT**: Annoying pain that exacerbates to cause some handicap in the performance of the activity precipitating the pain.
   ≈ 05% functional loss.

7. **MINIMAL/MILD**: Pain that constitutes an annoyance but causes no handicap in the performance of the particular activity precipitating the pain.
   ≈ 00% functional loss.
C Frequency Levels:

When the frequency of pain is less than constant, the assigned value decreases proportionately. Rating Schedule – Page 1-7

To describe the frequency with which symptoms occur; the following words are defined as having specific meanings and can be combined to describe an employee’s level of subjective factors:

- **Rare/Infrequent**: Anything Less Than Occasional 1/5 of the time or less.
- **Occasional**: Approximately 25% or 1/4 of the time.
- **Intermittent**: Approximately 50% or 1/2 of the time.
- **Frequent**: Approximately 75% or 3/4 of the time.
- **Constant**: Approximately 90% to 100% of the time.

1. **For Example**: When the frequency of pain is less than constant, the assigned value decreases proportionately. Thus, an intermittent slight pain of the minor wrist would be 50% of the value of slight pain in the wrist, or one-half of 05%. Since all ratings are rounded to the nearest whole number the final value would be 03%.

∗ When mathematically calculating a rating standard, it should be expressed as one of the following values: 1,2,3,5,8,10,13,15 & multiples of 5% thereafter, before modification for age and occupation. [See Page 1-13 of The Schedule.]

D Basic Level Of Pain: Frequency & Severity Level Chart

To facilitate the values’ calculation for the basic level of pain in the Einstein-Horner Formula, the following chart combines the first two components of Subjective Disability, the frequency and severity levels, before modification for the activities precipitating the pain.

<table>
<thead>
<tr>
<th>Severity Key</th>
<th>Rare/Infrequent 1/5 – 20%</th>
<th>Occasional ¼ - 25%</th>
<th>Intermittent ½ - 50%</th>
<th>Frequent % - 75%</th>
<th>Constant 90-100%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimal To Slight</td>
<td>01%</td>
<td>02%</td>
<td>03%</td>
<td>05%</td>
<td>05%</td>
</tr>
<tr>
<td>Slight</td>
<td>02%</td>
<td>03%</td>
<td>05%</td>
<td>08%</td>
<td>10%</td>
</tr>
<tr>
<td>Slight To Moderate</td>
<td>05%</td>
<td>08%</td>
<td>15%</td>
<td>20%</td>
<td>30%</td>
</tr>
<tr>
<td>Moderate</td>
<td>10%</td>
<td>13%</td>
<td>25%</td>
<td>40%</td>
<td>50%</td>
</tr>
<tr>
<td>Moderate To Severe</td>
<td>15%</td>
<td>20%</td>
<td>40%</td>
<td>55%</td>
<td>75%</td>
</tr>
<tr>
<td>Severe</td>
<td>20%</td>
<td>25%</td>
<td>50%</td>
<td>75%</td>
<td>100%</td>
</tr>
</tbody>
</table>

The Rating Standard calculations in this table mathematically abide to the rating principles of The Schedule. Standards should be expressed as one of the following values: 1,2,3,5,8,10,13,15 & multiples of 5% thereafter, before modification for age and occupation. Rating Schedule-Page 1-13

LPC (06-05-1998) © Copyrighted Material No Part Of This Table May Be Reproduced, Reused, Republished Or Transmitted In Any Form, Or Stored In A Data Base Or Retrieval System, Without Written Permission.
## The Nuts And Bolts Of The Einstein-Horner Calculation

What To Do When Rating Overlapping Subjective Factors Of Disability

### E Determining Equivalent Values for Activities: By ‘Analogy’ or Use of Scheduled Guidelines.

- Spine & Torso Guidelines - Schedule, pages 2-14 & 2-15
- Lower Extremity Guidelines - Schedule, page 2-19 or Lower Extremity Chart on This Web Site

Since work restrictions establish limits of specific activities or tasks due to a disability that impedes an activity, body position & motion the rating standards assigned to the Scheduled Spine & Torso Guidelines or the Lower Extremity Guidelines, when used to describe subjective factors of disability, their scheduled rating standards of permanent disability are equivalent to the severe level of pain.

1. **For Example: Einstein-Horner Calculation for Basic Pain (Spine)**

   a. **Constant slight-to-moderate pain with Heavy Lifting:**
      
      E.H. Calculation: Basic Pain: 30% (constant slight-to-moderate) x 20 = 06 ≈ 05

   b. **Occasional slight pain with activities requiring minimal effort (Limitation to Light Work).**
      
      E.H. Calculation: Basic Pain: 10% (slight pain) x 50 = 05 x ¼ (occasional) = 1.25 ≈ 01

   c. **Constant moderate pain with Heavy Work (Use the Table!)**
      
      E.H. Calculation: Basic Pain: 50% x 30 = 15

   d. **Frequent moderate Pain With Repetitive Motions of the neck and spine.**
      
      E.H. Calculation: Basic Pain: 40% (Use the Table!) x 15% = 06 ≈ 05

* At the end of the calculation the Rating Standard is expressed as one of the following values: 1, 2, 3, 5, 8, 10, 13, 15 & multiples of 5% thereafter, before modification for age and occupation. Rating Schedule-Page 1-13

### Work Capacity Functional Loss / Work Capacity Guidelines(Spine)

Multiple disability factors will have some redundancy in how they affect specific abilities or overall function, and an unrealistic result will be achieved by simply adding factors together. Multiple factors are compacted (scaled down) to avoid duplication and pyramiding. **Rating Schedule-Pages 2-12 to 2-15**

<table>
<thead>
<tr>
<th>Pre-Injury Loss:</th>
<th>00</th>
<th>03</th>
<th>05</th>
<th>08</th>
<th>10</th>
<th>13</th>
<th>15</th>
<th>20</th>
<th>25</th>
<th>30</th>
<th>35</th>
<th>40</th>
<th>45</th>
<th>50</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spine/Torso Motion:</td>
<td>10%</td>
<td>15%</td>
<td>20%</td>
<td>25%</td>
<td>30%</td>
<td>40%</td>
<td>50%</td>
<td>55/60</td>
<td>65-70%</td>
<td>75-80%</td>
<td>85-90%</td>
<td>95-100%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>No Fixed Neck/Head</td>
<td>↑</td>
<td>20-25%</td>
<td>↑</td>
<td>↑</td>
<td>↑</td>
<td>50%</td>
<td>↑</td>
<td>80%+</td>
<td></td>
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</tr>
<tr>
<td>Residual Lifting Capacity for 76-100 lbs:</td>
<td>↑</td>
<td>51-75</td>
<td>↑</td>
<td>26-50</td>
<td>↑</td>
<td>11-25</td>
<td>0-10</td>
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<tr>
<td>Residual Lifting Capacity for 51-75 lbs:</td>
<td>↑</td>
<td>26-50</td>
<td>11-25</td>
<td>0-10</td>
<td>↑</td>
<td>↑</td>
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<tr>
<td>No Very Heavy Lifting</td>
<td>↑</td>
<td>No Heavy Lifting</td>
<td>↑</td>
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<tr>
<td>No Very Heavy Work</td>
<td>↑</td>
<td>No Heavy Work</td>
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<tr>
<td>No Heavy Lifting Repeated Bending &amp; Stooping</td>
<td>↑</td>
<td>No Substantial Work</td>
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<tr>
<td>Protracted/Stationary Positioning of the Spine/Extremities: (05%)</td>
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<td>Protracted/Stationary Positioning of the Spine/Extremities: (05%)</td>
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</tbody>
</table>

**Frequency Key:** Prolonged (25%) Repetitive (50%) Substantial (75%) Sustain (100%)

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2. For Example: Einstein-Horner Calculation for Basic Pain (Lower Extremities)

   a. **Constant slight-to-moderate pain with Sustained Weight bearing**
      
      E.H. Calculation: Basic Pain: \( 30\% \text{(constant slight-to-moderate)} \times 20 = 06 \approx 05 \)*

   b. **Occasional slight pain with activities requiring minimal effort** (Limitation to Light Work).
      
      E.H. Calculation: Basic Pain: \( 10\% \text{(slight pain)} \times 50 = 05 \times \frac{1}{4} \text{ (occasional)} = 1.25 \approx 01 \)*

   c. **Constant moderate pain with Heavy Work would modify the 20% rating standard to a 10% standard.**
      
      E.H. Calculation: Basic Pain: \( 50\% \times 30 = 15\% \)*

   d. **Frequent moderate pain With Repetitive Motions of the neck and spine.**
      
      E.H. Calculation: Basic Pain: \( 40\% \text{(Use the Table!)} \times 15\% = 06 \approx 05 \% \)*

   • *At the end of the calculation the Rating Standard is expressed as one of the following values: 1,2,3,5,8,10,13,15 & multiples of 5% thereafter, before modification for age and occupation.*

<table>
<thead>
<tr>
<th>Work Capacity Functional Loss: One Or Both Lower Extremities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multiple disability factors will have some redundancy in how they affect specific abilities or overall function, and an unrealistic result will be achieved by simply adding factors together. Multiple factors are compacted (scaled down) to avoid duplication and pyramidming. Schedule: Refer to Pages 2-16 to 217, notes 35 to 50 and Page 2-19, notes 1 and 2. On Page 2-16, refer also to Disability # 14:10.461 - 80%: Immobility of One Hip Joint requiring the use of Crutch/Crutches.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>0</th>
<th>03</th>
<th>05</th>
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<th>10</th>
<th>13</th>
<th>15</th>
<th>20</th>
<th>25</th>
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<th>45</th>
<th>50</th>
<th>55</th>
<th>60</th>
<th>65</th>
<th>70</th>
<th>75</th>
<th>80</th>
</tr>
</thead>
<tbody>
<tr>
<td>t. No Kneeling or Squatting or Crouching</td>
<td>t. No Heavy Work</td>
<td>t. No Heavy Lifting and all of (A)</td>
<td></td>
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<tr>
<td>No Very Heavy Work</td>
<td>t. No Heavy Work</td>
<td>Limited to Sedentary Work</td>
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<tr>
<td>Prolonged Sitting</td>
<td>t. No Repetitive Activities</td>
<td>t. Minimal Physical Demands (Light Work)</td>
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<td></td>
<td>t. No Climing or Walking Over Un-even Ground</td>
<td>Semi-Sedentary Work</td>
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<tr>
<td></td>
<td>t. No Prolonged Standing</td>
<td>t. No Heavy Lifting/Prolonged Weight bearing+(A)</td>
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<td></td>
<td>t. No Work At Unprotected Heights</td>
<td>t. Limitation to Weight bearing ½ time (50%)</td>
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</tbody>
</table>
| | Bilateral Lower Extremities - Functional Loss As Expressed By The Disabling Effects Of Pain.
| Regulation states that subjective factors of disability should be identified by a description of the activity that produces the symptoms. Pain becomes disabling when its degree affects function. Minimal pain is not disabling. However, slight, moderate and severe reflect increasingly greater degrees of disability on work activity. |

**Evaluation Protocols: 8 CCR 46, 9725 & 9727**

| 00 | 01 | 02 | 03 | 05 | 08 | 10 | 13 | 15 | 20 | 25 | 30 | 35 | 40 | 45 | 50 | 55 | 60 | 75 | 80 | 90 | 100 |
|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| Constant Level of Pain: As Weighted Index of Disability | Constant Slight-to-moderate | ↑ | t. Moderate | Severe |
| t. Slight | ↑ | Moderate-To-Severe |
| t. Minimal/Mild | ↑ | ↑ | ↑ | ↑ | ↑ | t. Severe Pain with Substantial Work |
| ↑ | ↑ | t. Severe Pain with Climbing | t. Severe Pain with Lifting + all of (A) |
| ↑ | ↑ | t. Severe Pain with Kneeling | t. Severe Pain with Lifting and all of (A) |
| ↑ | ↑ | t. Severe Pain with Lifting + all of (A) | t. Severe Pain with Prolonged Weight bearing |
| ↑ | ↑ | t. Severe Pain with All Ankle Motion |
| t. Severe Pain with Prolonged Standing | ↑ | t. Severe Pain with All Ankle Motion |
| Severity Key: Minimal (00%) slight (10%) slight-to-moderate (30%) moderate (50%) moderate-to-severe (75%) Severe (100%) |
| Frequency Key: Infrequent (1/5) Occasional (1/4) Intermittent (1/2) Frequent (3/4) (4/4) Constant |
Multiple Levels of Pain and Precipitating Activities

Example #1: Constant slight pain that increases to moderate with heavy lifting and to moderate-to-severe intermittently with Heavy Work

(1) Basic Level of Pain
   Constant Slight Pain                          10
(2) Next Level of Pain
   Moderate                                      50
(3) Subtract #1 from #2:
   Minus (-)                                     10
(4) Modify Result by Value Of Activities
    Precipitating # 2
    Heavy Lifting 20%  = 1/5 x 40 = 08
(5) Add Result of # 4 to # 1
    10 + 08% = 18% (New Basic Level of Pain) 18
(6) Next Level: Moderate-to-severe
    Pain Moderate-To-Severe (75%)         75
(7) Subtract The Result of # 5: (New Basic Level of Pain)
    Minus -                                  -18
(8) Modify Result by Frequency in which # 6 occurs: (Intermittently) = ½
    (57) 28.5
(9) Modify Result by % value for activities precipitating the pain – Heavy Work 30% (28.5) = 8.55
(10) Add result of #9 to #5 After rounding, the addition becomes the subjective disability rating standard.

   18 + 8.55 = 26.55 = 25%*

   Standard After Rounding:

By Severity/Frequency/Activities Precipitating the Pain

Example #2: Constant slight-to-moderate back pain increasing intermittently to moderate with Very Heavy Lifting

1. Basic Level of Pain
   Constant Slight-To-Moderate Back Pain (30%)  30
2. "Highest" level of Pain:
   Moderate-To-Severe (75%)                     75
3. Subtract #1 from # 2:
   Minus -                                     30
4. Modify # 3 by Frequency in which # 2 occurs: (Intermittently) = ½
   ½ X 45 22.5
5. Modify # 4 by % value for activities precipitating the pain – Very Heavy Work
   10% X 22.5
6. Add result of #4 (or #5) to # 1, the value for the basic level of pain. The sum of # 1 and # 4 (or #5), after rounding, becomes the subjective factors rating standard before modification for age and occupation

   30 + 2.25 = 32.25 *

   Standard After Rounding:

By Activity That Precipitates The Pain

Example #3: Intermittent slight-to-moderate pain with sedentary type activities.

1. Level of Pain
   Intermittent Slight-to-Moderate              15
2. Activities Values:
   Sedentary Type Activities                   70%
3. Multiply # 1 by X 2
   15 X 70 =                                   11
4. Round result of # 3. After rounding, the rating standard 11 = 10% *
   becomes the subjective factors rating standard before modification for age and occupation

   Standard After Rounding:

Avoid Compounding Of Disability - Incomplete Descriptions

Incomplete When The Description Is Only By Severity And Frequency

1. The “Einstein-Horner Formula” is a valid mathematical process, but must only be used when subjective disability has been properly described by the qualifying factors of 8 CCR 9727.
2. Great caution should be exerted in the use of this formulation when calculating a rating standard for an incomplete description of subjective factors of disability since this is contrary to procedures established by the California Code of Regulations and the result is a compounding of disability.
3. Without the proper description of the activities that produces an increased level of pain, it must be assumed that pain increases with all activities.