

Workers' Rights to Workers' Compensation Benefits

Introduction

Workers in Washington State who are injured on the job or who suffer an occupational disease have the right to receive workers' compensation for their injury or illness. Under the Washington State Workers' Compensation System, workers can receive payment for medical expenses, partial compensation for wages lost while they recover, and payments for partial or total disabilities. Other benefits such as vocational counseling or transitional work opportunities also may be available.

If a worker is hurt on the job or has an occupational disease, s/he should seek medical attention right away. The injured worker should also notify his/her employer. If the employer is self-insured then the worker should fill out a "self-insured accident report" form. Injured workers should see a doctor and let the doctor know that s/he was hurt at work. In order to receive benefits, injured workers generally must apply for them within one year of injury or within 2 years from discovery of an occupational disease, but it is important to apply as soon as possible.

How do I file a claim for workers' compensation?

State Claims (not self-insured):

Forms for filing a claim for workers' compensation are usually available at hospitals, clinics or doctors' offices. Workers must make sure that a claim is filed. Be careful to include all dependents

when filing a claim because the number of dependents indicated on the claim form determines time loss benefits. Claim forms may be obtained at local Department of Labor and Industries field offices. To determine the location of the Department of Labor and Industries service location near you see <http://www.lni.wa.gov/Main/ContactInfo/OfficeLocations/> or call 1-800-354-5423. Also, general industrial insurance claim information may be found at <http://www.lni.wa.gov/ClaimsIns/claims/default.asp>.

Self-insured Claims:

If the employer is self-insured then the worker should get an accident report form from the employer and be sure that the injured worker's doctor completes the "Physician's Initial Report" portion of the accident report form. Make sure that this form is submitted to the employer or their service company.

When injured on the job, workers have many rights including:

- Choosing your Doctor: Injured workers have a right to choose any doctor who is qualified to treat the injury or disease and who is convenient. Injured workers also have the right to change doctors, but must get approval before changing doctors or seeking another opinion. Injured workers may request a change of doctor by contacting their claims manager.

- Medical Care: Workers' compensation covers the cost of all doctor, hospital, surgery or other medical services necessary for the treatment of the injury or disease. Usually, there are no out-of-pocket expenses to the injured worker. However, if eligibility has not been decided, a medical provider may send a bill to the injured worker. If so, keep a copy and send one to the Department of Labor and Industries. The bill will be paid if the claim is approved.
- Time Loss Benefits: Time loss benefits are generally paid when a doctor says that an injured worker is unable to work for more than 3 days. Injured workers receive time loss payments about twice a month as long as the doctor says the worker cannot return to any work. Time loss benefits do not fully replace wages lost due to injury or accident. Instead, injured workers will receive a percentage of lost wages based on marital status and family size.
- Light Duty: Under Washington State law, while an injured worker qualifies for time loss benefits, the employer has the option of offering light duty to the injured worker- but only if, in the doctor's opinion, the injured worker is capable of performing the light duty specifically described by the employer. If the worker believes that the light duty work is making the injury worse, s/he should immediately contact their doctor. If the doctor believes that the work is making the injury worse the worker may be returned to time loss benefits. To do so, notify your claim manager that you are no longer able to perform light duty work. If only

part-time light duty work is available then the worker may still be entitled to additional time loss benefits.

- Permanent Partial Disabilities: If the injury or disease causes a permanent partial disability, the injured worker will be paid a fixed amount of money. The amount that the injured worker receives is established by law and depends on the particular disability.
- Freedom from Retaliation: Injured workers have protection under the law to exercise all of their rights under the Workers' Compensation laws without suffering retaliation or discrimination by their employer.

Where should I go for help?

Help with your claim:

Injured workers should call their claims manager with the Department of Labor and Industries' service location or call a toll free number, 1-800-LISTENS (1-800-547-8367). There are Spanish-speaking staff and other services available for workers with limited English proficiency on the toll- free number. Injured workers may also contact PROJECT HELP at 1-800-255-9752, but should provide their own interpreters if needed.

Help if you disagree with a decision made by Department of Labor and Industries:

Keep a copy of all letters received from the Department of Labor and Industries and study them carefully. If a worker believes that a decision in his or her case is wrong, s/he may either protest to the Department of Labor and Industries or may appeal. In general, you must do so within **60 days** or less of receiving the Department's decision.

◆ Make sure that you look at and understand the time you have for protesting or appealing the decision because if you do not protest or appeal within the time allowed, you will lose your right to protest or appeal at a later date and that decision will become final!

For more information about how to protest and/or appeal a decision, contact CLEAR (Coordinated Legal Education Advice and Referral) at 1-888-201-1014.

Help with retaliation or discrimination:

If an injured worker believes his/her employer has discriminated against him or her for filing a claim or because the worker intends to file a claim, the worker may file a

discrimination complaint. The worker may file this complaint in writing to Department of Labor and Industries, Investigations, P.O. Box 44277, Olympia, Washington 98504-4277. The worker must file this claim within **90 days** of the discriminatory act. If the worker misses this filing deadline, s/he may still be able to bring a claim for discrimination in court. For more information, the worker may call CLEAR at 1-888-201-1014.

For more information and assistance please contact PROJECT HELP at 1-800-255-9752. Injured workers may also choose to have an attorney represent them before the Department of Labor and Industries. If injured workers have questions about their rights, they should call a private attorney or CLEAR 1-888-201-1014 to see if they are eligible for free legal information and/or assistance.

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This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of the date of its printing, February 2009.

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