PA Federation of Injured Workers
Questions & Answers

An Injury To One, Is An Injury To ALL

These questions and answers were supplied by:
The Pennsylvania Department of Labor & Industry
Bureau of Workers Compensation.

What is workers' compensation?

If you sustain a job injury or a work-related illness, the Pennsylvania Workers' Compensation Act (Act) provides for your medical expenses and, in the event you are unable to work, wage-loss compensation benefits until you're able to go back to work. Additionally, death benefits for work-related deaths are paid to your dependent survivors. Benefits are paid by private insurance companies (also includes third party administrators) or the State Workers' Insurance Fund (a state-run workers' compensation insurance carrier) or by employers themselves if they are self-insured.

Am I covered?

Nearly every Pennsylvania worker is covered by the Pennsylvania Workers' Compensation Act. Employers must provide workers' compensation coverage for all of their employees, including seasonal and part-time workers. Non-profit corporations, unincorporated businesses, and even employers with only one employee, must comply with the Act's requirements.

Some Pennsylvania employees are covered by other compensation laws, including: Federal civilian employees, railroad workers, longshoremen, shipyard and harbor workers. Some others who may not be covered are volunteer workers, agricultural laborers, casual employees, domestics and employees who have been granted a personal religious exemption from the Act. Certain types of executive officers of for-profit and not-for-profit corporations may elect exemption from the Act. A worker should seek further information if there is any doubt as to coverage.

What is covered?

If your work causes an injury, illness or disease, you may be entitled to workers' compensation. No compensation shall be paid when an injury or death is intentionally self-inflicted, or is caused by an employee's violation of the law including, but not limited to, the illegal use of drugs. An injury or death caused by intoxication also may not be covered.

When am I covered?

Coverage begins on the date of hire. Medical benefits are payable from the first day of injury; payment of lost wages are addressed in the question.

How do I get the benefits?

Prompt reporting is the key. Report any injury or work-related illness to your employer or supervisor immediately. You must tell your employer that you were injured in the course of employment and inform your employer of the date and place of injury. Failure to notify the employer can result in the delay or denial of benefits. Once you have lost a day, shift or turn of work, your employer is required to report your injury to the Bureau of Workers' Compensation (bureau) by filing an Employer's Report of Occupational Injury or Disease.

The employer may choose to either accept or deny the claim.

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What are the benefits?

The law provides several types of workers' compensation benefits:

Payments For Lost Wages

Wage-loss benefits are available if it is determined that you are totally disabled and unable to work or partially disabled and receiving wages less than your pre-injury earnings.

Death Benefits

If the injury results in death, surviving dependents may be entitled to benefits.

Specific Loss Benefits

If you have lost the permanent use of all or part of your thumb, finger, hand, arm, leg, foot, toe, sight, hearing, or have a serious and permanent disfigurement on your head, face or neck, you may be entitled to a specific loss award.

Medical Care

Employers are responsible for advising workers of their rights and duties under Section 306(f.1)(1)(i) of the Act (medical benefits). The written notice of these rights and duties is to be provided to the employee at the time of injury or as soon after the injury as is practicable.

In the event of a work-related illness or injury, you are entitled, if covered under the Act, to the payment of related reasonable surgical and medical services rendered by a physician or other health care provider.

Medicine, supplies, hospital treatment and services, orthopedic appliances, and prostheses are also covered for as long as they are needed. (To assure payment of medical services. Even if you have lost no time from work, health care costs for a work-related injury or illness are payable at the fee schedule rate. However, an employee may not be charged the difference between the health care provider's charge and the amount paid by the employer or its insurance carrier. In other words, there can be no "balance billing" to you.

Please be warned that, if you seek medical treatment outside the Commonwealth of Pennsylvania, you may be subject to the risk of balance billing by the medical provider. You should discuss this with your medical provider prior to initiating treatment.

Choice of Doctor

If your employer has posted a list of six or more physicians or health care providers in your workplace, then you are required to visit one of them for initial treatment. You are to continue treatment with that provider or another on the list for a period of 90 days following the first visit. You may see any provider on the list; your employer may not require or direct you to any specific provider on the list.

If a listed provider prescribes invasive surgery, you are entitled to a second opinion which will be paid for by your employer/insurer. Treatment recommended as a result of the second opinion must be provided by a listed provider for 90 days.

If during the 90-day period you visit a provider(s) not on the list, your employer or your employer's insurance carrier may refuse to pay for such treatment. After the 90 days, as well as in situations where your employer has no posted list or an improper list, you may seek treatment with any physician or other health care provider you select. You must notify your employer of the provider you have selected. During treatment, the employer or the employer's insurance carrier is entitled to receive monthly reports from your physician or provider.

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Injured workers should be advised that your health care providers may need information concerning your claim. Some of this information may be contained in correspondence you receive from your insurance carrier, and you may want to provide copies of letters or forms to your health care provider.

Once you begin receiving workers' compensation benefits, the employer/insurer has the right to ask you to see their doctor for examination. If you refuse, the employer is entitled to request an order from the workers' compensation judge requiring you to attend an examination. Failure to then attend may result in a suspension of your benefits.

Occupational Disease

Occupational diseases under the Act are covered if caused by or aggravated by employment. Your disability must occur within 300 weeks of your last employment in an occupation where you were exposed to the hazard.

For certain lung diseases, you must have worked in an occupation with a silica, coal or asbestos hazard for at least two years in the Commonwealth of Pennsylvania during the ten years prior to your disability.

Total and Partial Disability Benefits Status

Total Disability Benefits Status

Applies to injured workers for a period during which they are considered totally disabled and unable to work. After 104 weeks of such status, the employer/insurer can require a medical examination to determine if the employee is at least 50% impaired based upon his/her work injury according to American Medical Association standards. If the 50% threshold is not met, the employee's status can change to partial disability.

Partial Disability Benefits Status

This benefit status is for a maximum of 500 weeks. If, while on partial disability status, you obtain a qualified impairment rating physician's determination of impairment which is equal to or greater than 50%, you may file a Petition for Reinstatement of total disability status.

Partial disability of up to 500 weeks of benefits are paid if you can return to work at a lower paying job within work-related restrictions or you are found not totally disabled.

How much are the payments for lost wages?

Wage-loss benefits are equal to approximately two-thirds of your average weekly wage, up to a weekly maximum. Workers' compensation wage-loss benefits can be offset for 50% of Social Security "old age" benefits, the employer-paid portion of a retirement pension, severance pay, unemployment compensation or earnings the employee receives. The law does not allow for a cost-of-living increase.

There are several different ways of calculating the average weekly wage under the Act. The minimum compensation rate is the lower of 90% of the workers' average weekly wage or 50% of the Statewide average weekly wage.

Reporting Wages & Other Benefits Received

Under the Act, any worker who has filed a petition for total or partial disability benefits or who is receiving such benefits is required to report, in writing to the insurer, any information which is relevant in determining entitlement to, or amount of, compensation including, but not limited to, information regarding the receipt of wages from another employer or from self-employment. The worker is obligated to cooperate with the carrier in an investigation of employment, self-employment, wages and physical condition.

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Insurance Fraud is a Crime

The above-mentioned reports and other workers' compensation forms must be honestly completed to avoid violating Pennsylvania fraud provisions.

When are wage-loss payments made?

You must be disabled more than seven calendar days (including weekends) before workers' compensation payments for disability are payable. Benefits for time lost from work are payable on the eighth day after injury. Once you have been off work 14 days, you receive retroactive payment for the first seven days.

If you report the injury promptly, miss more than seven days of work and your claim is accepted by the insurance carrier, you should receive your first compensation check within 21 days of your absence from work. After that, you will receive a check on a regular basis.

Payments of temporary compensation may be made by your employer or the insurance carrier for up to 90 days, even if your claim is not accepted by your employer or its insurance carrier. If your employer or their insurance carrier advises you that it will not continue your temporary compensation checks past 90 days, you have the right to file a Claim Petition with the bureau for a hearing if you believe you are entitled to benefits.

Offer of Employment

If, after you begin to receive benefits, your employer has evidence to prove that employment is available to you, within your medical restrictions and in your local area, you may receive an offer of employment. You have the right to either accept or decline the job offer.

If you decline, the employer may then petition a workers' compensation judge to either modify or terminate your benefits based upon that job. The insurer/employer must continue to pay benefits during the hearing process unless the judge orders otherwise.

In open hearings, the judge will evaluate medical evidence, both from you and your insurer/employer, on the availability of the work and your ability to do it, before rendering a decision.

When Wage-Loss Payments Stop

Wage-loss benefits can be stopped by an employer/insurer who has evidence that you have returned to work at wages equal to or more than your earnings level prior to the injury and after providing a timely notice of that fact. In addition, if you are receiving temporary compensation benefits during the 90 days following the report of injury, the insurance carrier/employer may notify you they are stopping benefits because they are not accepting the claim of a work-related injury.

Other reasons that benefits may be stopped include: a workers' compensation judge stopped benefits after a hearing; the employee signs either a Supplemental Agreement or an Agreement to Stop Workers' Compensation (commonly referred to as a Final Receipt); the 500-week period of partial disability status expires.

What if there is a problem?

If you think you haven't received benefits due you, contact your employer or your employer's insurance carrier. The insurance carrier is allowed 21 days from your notice to the employer of your disability to decide to accept or deny your claim or to make payments of temporary compensation for up to 90 days.

Cooperative communication with your insurance carrier is recommended. If the problem is not resolved, it may be necessary for you to file a petition with the bureau.

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Forms can be obtained through the Claims Information Helpline (800-482-2383). The bureau is responsible for resolving disputes by assigning petitions to workers' compensation judges who decide each case after holding hearings on the issues.

Time Limits

Unless an employer has knowledge of the injury or the employee gives notice to the employer within 21 days of the injury, no compensation is due until notice is given. Notice must be given no later than 120 days after the injury for compensation to be allowed. If your request for workers' compensation benefits is denied by your employer or your employer's insurance carrier, you have three years from the date of injury to file a Claim Petition.

In occupational disease cases, injury/disability must occur within 300 weeks from the date of last employment in an occupation in which you had exposure to a hazard, and a petition must be filed no later than three years from the date of injury/disability.

Failure to file a petition on a timely basis may result in forfeiture of your right to benefits.

If your benefits were terminated, you may file a Petition to Reinstate workers' compensation benefits within three years after the date of your most recent workers' compensation check.

If your benefits were suspended, you may file a petition to have benefits reinstated. This petition must be filed within 500 weeks from the date of suspension.

Payment of medical benefits by your employer does not mean that your claim has been accepted or reopened.

Informal Conferences

If you file a petition with the bureau, and if you and your employer agree, you can request an informal conference to try to resolve your issues. If you are not represented by an attorney, your employer is not entitled to be represented either. Informal conference forms are available from the Claims Information Helpline.

Do I need an attorney?

You may represent yourself in workers' compensation proceedings, but a non-attorney cannot represent you. However, you should be aware that workers' compensation litigation is complex, and your employer or your employer's insurance carrier will be represented by an experienced attorney. If you hire an attorney, you should discuss fee and cost arrangements. The fee agreement must be approved by a workers' compensation judge or the Workers' Compensation Appeal Board. Your local Bar Association or the Pennsylvania Bar Association can help you find an attorney **(800-692-7375)**. Contact the Pennsylvania Federation of Injured Workers to make sure you get good legal representation.

Appeals

Workers' compensation judge decisions can be appealed to the Workers' Compensation Appeal Board and then to the Commonwealth Court. You will be informed of appeal rights upon receiving the workers' compensation judge's decision.

Additional Options

If the injury is very serious--one where you won't be able to work for a year or more--you may be eligible for additional disability benefits from Social Security. For information, contact the nearest office of the Social Security Administration.

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These questions & answers were supplied by:
The Pennsylvania Federation of Injured Workers Panel Attorneys

Q: What do I do if the insurance company refuses to pay for my medical bills?

A: If the insurance company challenges your bills, they will send them to a Utilization Review Organization (URO), who will then determine whether or not they are reasonable or necessary. If the URO determines that the bills are not reasonable or necessary, you will be notified of their findings. Once you are notified that your treatment is no longer reasonable or necessary, you will have 30 days to file a Petition for Review. If you do not file a Petition for Review within 30 days, the insurance company will no longer be responsible for the payment of your bills.

Q: I've been receiving benefits for my back injury for a couple of years and then last month my benefits were stopped out of the blue. Is the Employer allowed to do this?

A: Generally, an employer is not allowed to stop your benefits without an agreement that is signed by you or without a court order by a judge authorizing the employer to stop your benefits. Under these circumstances, the employer is subject to penalties payable to you up to 50% of the benefits that the employer is illegally withholding. To secure the penalties and the benefits that the employer is withholding, you must file a Penalty Petition, which will be litigated before a Workers' Compensation Judge. Note, there are limited circumstances when the employer is authorized to stop your benefits without an agreement signed by you or a court order. You should consult an attorney if the employer stops your benefits to determine whether you should file a Penalty Petition.

Q: Can I apply for and receive Social Security (Old Age) benefits if I am receiving workers' compensation benefits?

A: You can receive both benefits simultaneously. However, the employer is entitled to offset your workers' compensation benefits by 50% of the net amount of Social Security benefits your receive. You should consult an attorney to determine if it is in your best interest to receive Social Security benefits or to wait until your workers' compensation case is resolved.

Q: Can I apply for and receive Social Security Disability benefits or Social Security Supplemental Income if I am receiving workers' compensation benefits?

A: Yes

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