

Facts for Injured Workers

*Information about
Workers' Compensation
in Missouri*



**DIVISION OF
WORKERS'
COMPENSATION**

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This is a summary of the general provisions of the Missouri Workers' Compensation Law. For additional information, contact an information specialist at the Division of Workers' Compensation (DWC) at 800-775-2667.

IMPORTANT: *This pamphlet is not a complete statement of the workers' compensation law. It should not be relied on to answer your legal questions. The workers' compensation statutes will apply to determine the facts regarding your injury.*

A photograph showing the silhouettes of several workers climbing a tall, complex metal structure, likely a tower or scaffolding, against a bright, cloudy sky. The structure is composed of numerous vertical and horizontal beams connected by bolts. The workers are positioned at various heights, some appearing to be climbing or working on the structure. The overall scene conveys a sense of industrial activity and height.

Work Related Injuries

A work-related injury is a traumatic experience.

If you are injured on the job or have been exposed to occupational disease in the course and scope of your employment, the Missouri Workers' Compensation law can provide some relief from the worry and financial strain of being injured and possibly off work.

Missouri law requires most employers to carry insurance, which pays for medical treatment and lost time benefits for employees who are injured on the job. The law requires prompt payment of benefits at no cost to you if you sustain a work-related injury covered under the law.

Workers Covered Under the Missouri Workers' Compensation Law

If you are employed in the construction industry, your employer must have workers' compensation insurance, if the employer has **one or more** employees. Employers in other types of business must carry insurance if they have **five or more** employees. Railroad, postal and maritime workers are covered by federal laws.

Exemptions

The Missouri Workers' Compensation Law does not apply to employment of farm labor, domestic servants in private homes, occasional labor performed for private households, qualified real estate agents and direct sellers, certain unpaid volunteers, certain inmates and certain individuals working for amateur youth programs.

Covered Injuries

An injury must have arisen out of and in the course of employment. All injuries or occupational diseases must meet the standard of the accident or occupational exposure being "the prevailing factor" in causing both the resulting medical condition and disability. Injuries for which the cause is unknown, such as idiopathic injuries, are not covered. Most injuries that occur when the employee is going to and from work are excluded.

Steps to Take When Injured on the Job

1

Report your injury.

Report any injury immediately to your employer or supervisor. Failure to report your injury to your employer within 30 days of an accident or 30 days from the date of the diagnosis of an occupational disease or repetitive trauma may jeopardize your ability to receive workers' compensation benefits. Notify your employer in writing about the injury – including the nature of the injury, where and when it occurred and the name and



address of the person injured. If your employer has an Accident or Injury Report form, use it. If your employer does not have an Accident or Injury Report form, the Division of Workers' Compensation has a form on its website, Form WC-280, "Report Your Workplace Injury/Occupational Disease or Repetitive Trauma Injury," that may be used to provide written notice to your employer, available at: www.labor.mo.gov/sites/labor/files/pubs_forms/WC-280-AI.pdf. This form should be given to your employer – not the Division of Workers Compensation. Keep a copy of the notice you give to your employer for your records.*

2 **Medical treatment.** If you need to see a doctor for treatment as the result of an injury on the job, you should tell your employer that you want to see a doctor. Under Missouri law, the employer has the right to select the treating doctor in workers' compensation cases. Your employer or supervisor should arrange medical treatment and file the necessary reports with the Division of Workers' Compensation (DWC).

3 Visit www.labor.mo.gov/DWC for additional information about the benefits available to you or the steps you may have to take in order to receive benefits.

**After your employer files the First Report of Injury with the DWC, you should receive a letter from the DWC. The "Notification of Rights" letter will be sent to you if your injury results in lost time from work. If you do not lose time from work due to the injury, you will be sent a "Medical-Only" letter. If you believe you have not received that letter in a timely fashion, please contact an information specialist at 800-775-2667.*

Benefits Available

- **Medical care** – All costs for authorized medical testing and treatment, prescriptions and medical devices are covered. There is no deductible and all costs are paid by your employer or its workers' compensation insurance company. If you do receive a bill, contact your employer or its insurer immediately.

The employer has the right to choose the treating physician or other healthcare provider. The employer and its workers' compensation insurance company generally are not required to pay for treatment the employee seeks or selects without their authorization. However, the employer and insurer may authorize you to see your own doctor.

You should check with the employer and its insurance company with respect to any medical treatment you seek.

When an employee is required to submit to treatment at a place outside of the local or metropolitan area from the employee's principal place of employment, the employee is entitled to payment for necessary and reasonable expenses. In no event is the employer or insurer required to pay transportation costs of more than 250 miles each way from the place of treatment.



In addition, the employer or insurer may offer physical rehabilitation services to assist you in returning to work. This is an extension of medical treatment – for example, physical therapy to strengthen muscles.

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- ***Payments for lost wages*** – Most injuries only keep you from working temporarily and you may be eligible for temporary total disability payments. If the doctor says that you are unable to return to work due to your injuries or you are off work recovering from a surgery, you may be entitled to **temporary total disability** (“TTD”) benefits. If the doctor states you can perform light or modified duty work and your employer offers you such work, you may not be eligible for TTD benefits. If you return to light or modified duty at less than full pay, the workers’ compensation law requires that temporary partial disability (“TPD”) benefits are paid to you. Temporary disability benefits should be continued until the doctor says that you can return to work without restrictions or when your treatment is concluded because your condition has reached “maximum medical improvement,” whichever occurs first.

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- ***Compensation Rate*** – The amount of the weekly payment is 66 2/3 percent of the injured workers average weekly wage, not to exceed a maximum amount set by law. For temporary total disability (“TTD”) benefits, permanent total disability (“PTD”) benefits or death benefits, the maximum amount an employee can receive is 105 percent of the state average weekly wage. For permanent partial disability (“PPD”) benefits, the maximum amount is 55 percent of the state average weekly wage. Workers’ compensation payments are tax-free by federal law.

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- ***Compensation for permanent disability*** – Once a doctor has determined that you have reached maximum medical improvement

(you have recovered as much as possible), and you have a permanent disability, you may be entitled to receive a permanent disability payment.

- **Permanent partial disability (PPD)** means your work injury affects your ability to perform some jobs or work tasks, and you are still able to work at some job (not necessarily the job you had at the time of your injury). You may receive a lump sum payment based on the nature and extent of the disability.

- **Permanent total disability (PTD)** means you no longer are able to work at any job. If your last work-related injury alone causes your permanent total disability, you may be entitled to weekly payments for life from your employer or its insurer, or you may want to negotiate a lump sum settlement instead of a weekly lifetime payment.

- ***Survivor benefits*** – If an employee dies due to a compensable accidental injury or occupational disease, the surviving dependents may receive weekly death benefits paid at 66 2/3 percent of the deceased employee’s average weekly wage as of the date of the injury, not to exceed the maximum amount set by law. If an employee dies from a compensable accidental injury or occupational disease, the employer is required by law to pay funeral expenses up to \$5,000. For additional information about these benefits, visit www.labor.mo.gov/DWC/Injured_Workers/survivor_benefits. For information on college scholarship opportunities for surviving children, visit www.mokidschance.org/.

- ***Waiting Period*** – No compensation is paid for the first three days or less of the employee’s total disability during which the employer is open for business unless the employee’s total disability lasts longer than 14 days. If the employee’s total disability lasts longer than 14 days, payment for the first three days must be made retroactively to the employee.

- ***Additional benefits for occupational diseases due to toxic exposure*** – A change in the law, effective January 1, 2014, provides for enhanced benefit payments if it is shown that an employee is permanently and totally disabled (or has died) due to an occupational disease due to toxic exposure (defined as: mesothelioma, asbestosis, berylliosis, coal worker’s pneumoconiosis, bronchiolitis, obliterans,

silicosis, silicotuberculosis, manganism, acute myelogenous leukemia and myelodysplastic syndrome). The benefits payable by the employer for claims filed on or after January 1, 2014, are:

For occupational diseases due to toxic exposure, but not including mesothelioma, an amount equal to 200% of the state's average weekly wage as of the date of diagnosis for 100 weeks.

In cases where occupational disease due to toxic exposure is diagnosed to be mesothelioma: an amount equal to 300% of the state's average weekly wage for 212 weeks.

If the employee dies before all of the additional benefits provided in cases of occupational disease due to toxic exposure have been paid, the remaining additional benefits are payable to the employee's spouse or children, in addition to the death benefits provided by law. If there is no surviving spouse or children, the remaining additional benefits shall be paid in a single payment to the employee's estate.

The permanent and total disability benefits and death benefits shall only be paid when the enhanced or additional benefits have been exhausted.

An employee who has obtained enhanced benefits due to asbestosis and later develops mesothelioma and obtains an award for that as well, shall not receive total benefits that exceed those available for mesothelioma alone.

Second Injury Fund

Missouri's Second Injury Fund (SIF) may also help an injured worker when a current work-related injury combines with a prior disability to create an increased combined disability. The formula for calculating the Second Injury Fund benefits depends on each case. A change in the law, effective January 1, 2014, makes significant changes to the benefits payable by the SIF for injuries occurring on or after January 1, 2014, in that benefits are payable for physical rehabilitation and permanent total disability. The new law also establishes a prioritization schedule for payment of Second Injury Fund liabilities. Cases of permanent disability involving previous disability due to injuries occurring prior to January 1, 2014, are compensated under the law in existence at that time. For more information, visit www.labor.mo.gov/DWC/Division_Units/SIF_Unit/sif_home.

Problems Receiving Benefits

If you think you have not received all benefits due to you, contact your employer or the insurance company. If the problem cannot be resolved, you may wish to take advantage of the dispute management service provided by the DWC, have a conference before an administrative law judge or file a Claim for Compensation. Visit www.labor.mo.gov/DWC for a claim form or you may obtain the form at any DWC office.

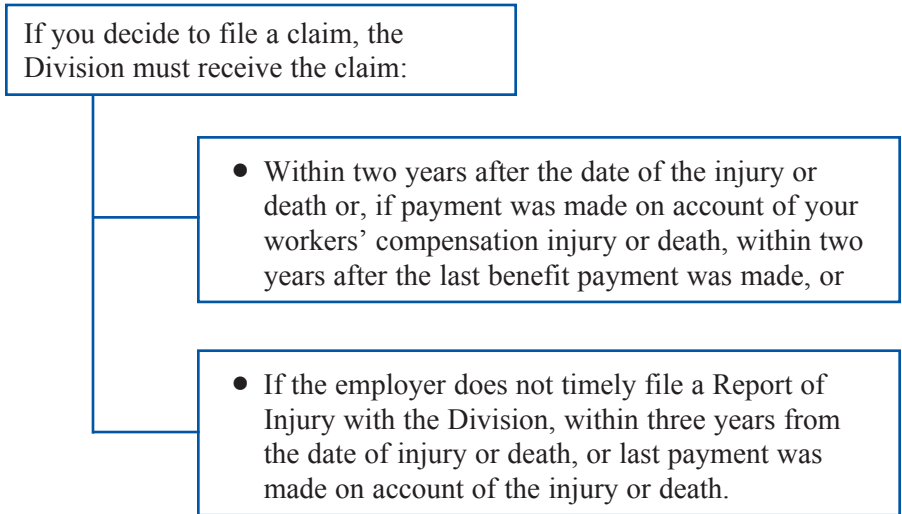
The dispute management service is a voluntary informal mediation process to help the parties arrive at a resolution (see back for contact information).

For additional information about a settlement, filing a claim or other workers' compensation questions, please call 800-775-2667.

PLEASE NOTE: *the information specialists cannot act as your legal counsel and cannot give you legal advice. The information specialist can provide you with general information but cannot advise you whether the settlement offer is appropriate for your injury.*



Timeline for Filing a Claim



What Happens After a Claim is Filed

1. The employer and its workers' compensation insurer have thirty (30) days after the Division acknowledges receipt of the Claim to file Form WC-22, Answer to the Claim for Compensation. The Answer is prepared by a lawyer representing the employer and its workers' compensation insurer. Corporations and Limited Liability Companies (LLC's) must be represented by lawyers admitted to practice law in Missouri in all proceedings before the Division of Workers' Compensation and beyond. The Answer will either admit or deny the allegations or statements made in the Claim. Any "denial" contained in an Answer is a contention being made by the employer/insurer's lawyer. It is not a ruling from the Division of Workers' Compensation's Administrative Law Judge (ALJ).
2. If a claim is being made against the Second Injury Fund, the Missouri Attorney General's Office also has thirty (30) days after the Division acknowledges receipt of the Claim to file Form WC-22, Answer to the Claim for Compensation, on behalf of the Missouri State Treasurer, the Custodian of the Second Injury Fund. Again, the Answer will either admit or deny the allegations or statements made in the claim.
3. Any party may request a Pre-Hearing or Mediation to discuss the issues in the case and attempt to resolve them. Request for Pre-Hearing and Mediation forms are available on the Division's website www.labor.mo.gov/DWC or from any of the Division's local adjudication offices.
4. If all of the issues cannot be settled, any party may request an evidentiary hearing to determine whether the employee is eligible for the benefits being sought. This is a non-jury trial in which the civil rules of evidence apply and the employee bears the burden of proof on most issues. The evidentiary hearing is held before one of the ALJ's who issues a written decision that is called an award.
5. A party dissatisfied with the ALJ's award may seek review from the Labor and Industrial Relations Commission (LIRC). From the LIRC, there may be an appeal to the Missouri Court of Appeals, with occasional appeals on to the Missouri Supreme Court.

Additional Information

If you need more information, you may ask your employer or the workers' compensation claims representative of the employer's insurer. The name,

address and phone number of the insurer or claims administrator must be posted at the workplace. You can also talk to an information specialist at the DWC. For additional information about the dispute management service, filing a claim or other workers' compensation questions, please call 800-775-2667.

****IMPORTANT – Workers' compensation is intended to be a streamlined benefits system, but many workers' compensation cases can be extremely complicated. Your workers' compensation case can affect your entitlement to social security benefits, Medicare benefits or unemployment compensation benefits. Before you make any decision on settling your workers' compensation case, you should read all the information available to you on our website or consult an attorney. Attorneys who regularly practice workers' compensation law often offer a free initial consultation (see back for attorney referral contact information).**

The DWC does not discriminate against individuals with disabilities as mandated by P.L. 101-336, the Americans with Disabilities Act.

Fraudulent action on the part of an employer, employee or any other person, is unlawful and subject to punishment as provided by law. If you suspect fraud, contact DWC offices, or call the Fraud and Noncompliance Unit.

Division Offices

3315 West Truman Blvd.
P.O. Box 58
Jefferson City, MO 65102-0058
573-751-4231
Toll-free: 800-775-COMP (2667)

5900-B North Tower Dr.
Columbia, MO 65202-9437
573-817-4242

3102 Blattner Dr., Suite 101
Cape Girardeau, MO 63703-6348
573-290-5757

3311 Texas Avenue
Joplin, MO 64804-4343
417-629-3032

1410 Genessee St., Suite 210
Kansas City, MO 64102-1047
816-889-2481

1736 East Sunshine, Suite 610
Springfield, MO 65804-1333
417-888-4100

525 Jules St., Room 315
St. Joseph, MO 64501-1900
816-387-2275

111 N. Seventh St., Room 250
St. Louis, MO 63101-2170
314-340-6865

Contact Information

Missouri Division of Workers' Compensation

P.O. Box 58

Jefferson City MO 65102

573-751-4231

Website: www.labor.mo.gov/DWC

Toll-free: 800-775-COMP (2667)

Dispute Management Unit

P.O. Box 58

Jefferson City MO 65102

Phone: 573-526-4951

Fax: 573-526-4960

Fraud and Noncompliance Unit

P.O. Box 1009

Jefferson City MO 65102

Toll-free: 800-592-6003

The Missouri Bar Lawyer Referral Service

573-636-3635

(Statewide referrals except for

St. Louis City, St. Louis County and Greene County)

The St. Louis Metropolitan Bar Lawyer Referral Service

314-621-6681

(St. Louis City and St. Louis County)

The Springfield Metropolitan Bar Lawyer Referral Service

417-831-2783

(Greene County)

Missouri Division of Workers' Compensation is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. TDD/TTY: 800-735-2966 Relay Missouri: 711

**MISSOURI
DEPARTMENT OF LABOR
& INDUSTRIAL RELATIONS**