



Workers' Compensation in Oklahoma

Employee Rights & Responsibilities

Workers' Compensation Court
Counselor's Program
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What Is Workers' Compensation?

Most employers in Oklahoma are required to provide workers' compensation coverage for their employees. The purpose is to compensate employees who have suffered certain job-related injuries or occupational diseases. The employee's dependents may also be entitled to benefits if the worker dies as a result of an injury.

How Long Do I Have To Work To Be Covered By The Workers' Compensation Act?

You are covered by workers' compensation as soon as you begin your employment. There is no waiting period.

Are All Employees Covered By The Workers' Compensation Act?

As a general rule, the law applies to every employee hired in the State of Oklahoma or who is injured in the State of Oklahoma. Beginning November 1, 1997, employers with five or fewer employees, all of whom are related by blood or marriage to the employer, are exempt from workers' compensation laws.

Some workers employed in agriculture or horticulture, licensed real estate brokers, household workers, and employees of the federal government are not covered by the workers' compensation laws.

Independent contractors are not employees of the principal employer who hires them. However, the employees of an independent contractor are covered by the independent contractor's insurance. If the independent contractor is uninsured, his workers may recover benefits from the principal employer.

A person performing voluntary service who receives no wages for the services other than meals, drug or alcohol rehabilitation therapy, transportation, lodging or reimbursement for incidental expenses is not an employee under the Oklahoma Workers' Compensation Act.

What If My Employer Does Not Have Workers' Compensation Coverage?

Under certain circumstances, you may have a “common law” right to recover damages for personal injury sustained in the course or scope of your employment. Heirs of a deceased worker may also have a “common law” right to recover damages. These cases would be brought in a District Court, and would not be limited by the benefits allowed under workers’ compensation law. A claim for work-related injuries can also be filed with the Workers’ Compensation Court.

When Should I Report An Accident That Occurred On The Job?

Any job-related accident should be reported to your supervisor as soon as possible. Failure to timely report an injury or obtain medical treatment within 60 days may result in the loss of benefits. Injuries to an employee occurring on or after November 1, 1997 must be reported within 30 days. Or, medical treatment must be obtained within the 30 day period. _ In cases of occupational disease or injuries caused by “repeated” trauma, an employee must give notice to the employer within two years from the date of last exposure or trauma. For certain conditions, such as asbestosis, notice must be given within two years from the date the condition results in a symptom which can be medically diagnosed.

What Do I Do About Medical Treatment?

If your injury occurred on or after November 4, 1994, if your employer participates in a certified workplace medical plan approved by the Department of Health, you have the choice of participating in the workplace medical plan or getting treatment from a physician who has treated you prior to the injury. Or, you may select a physician who has maintained records of treatment for an immediate family member prior to the injury.

If your employer has a certified workplace medical plan, you must make your election in writing within thirty (30) days after starting work, or within 30 days after your employer has adopted a certified workplace medical plan, or on the annual open enrollment date of the certified workplace medical plan.

If I am in a Certified Medical Workplace Plan, Can I Change Doctors?

Yes. In addition to rules that may be established by a Certified Workplace Medical Plan, a worker is permitted to petition the Court for a change of physician within the Certified Workplace Medical Plan, or for a change of physician outside the plan. The employer can also request a change. The physician must agree to comply with the rules of the Certified Workplace Medical Plan.

What If I Need Emergency Treatment? Must I Use The Certified Workplace Medical Plan?

No. The certified plan must authorize necessary emergency treatment by medical providers who are not part of the plan.

What If My Employer Does Not Have A Certified Workplace Medical Plan?

Your employer should provide you with medical treatment within three (3) days after actual notice of your injury. If your employer fails or neglects to provide medical treatment with three days, you may select a physician to provide medical treatment at the employer's expense. In case of an emergency, you or someone on your behalf may obtain immediate medical treatment for you where such treatment is not provided. You are allowed to change physicians if your treating physician determines that your injury cannot be treated by the same physician. Upon meeting this condition, the physician is selected by your employer from a list of three physicians of your choice.

Do I Have To Pay For Any Of The Medical Costs?

No. Your employer or its insurance company must pay for all authorized and medically necessary care in accordance with a fee schedule of maximum reimbursement allowances prescribed by the Court. Fees may also be set by Certified Workplace Medical Plans.

How Long Before Weekly Temporary Total Disability (TTD) Benefits Begin?

For injuries on or after November 4, 1994, there are no TTD benefits payable for the first three calendar days you are off due to injury. If you are off work due to your injuries for more than three (3) calendar days after your injury, you may be entitled to weekly TTD benefits.

How Is The Amount Of My TTD Weekly Income Benefits Determined?

When you are injured on the job and you are unable to work for more than three (3) calendar days, you are eligible for weekly benefits amounting to 70% of your average weekly wage. The weekly benefits that you may draw are based upon your date of injury and the *state's average weekly wage*. The maximum allowable weekly benefits are as follows:

Date of Injury	Max. Rate
11/1/02 to 10/31/05	\$528.00
11/1/99 to 10/31/02	\$473.00
11/1/96 to 10-31-99	\$426.00
1/1/96 to 10/31/96	\$409.00
1/1/95 to 12/31/95	\$369.00
*11/1/93 to 12/31/94	\$307.00

In no event, will the weekly TTD benefits exceed 70% of the worker's average weekly wage.

*For earlier injury date contact the Counselors Program.

How Long Am I Eligible For TTD Weekly Income Benefits?

You may receive income benefits for as long as you are unable to work, up to 52 weeks. You may be able to extend these benefits for a total of 300 weeks by agreement of your employer and the insurance carrier, or by Court order.

For injuries occurring after November 1, 1997, Temporary Total and Temporary Partial disability shall not exceed 156 weeks except for good cause.

Must I Notify My Employer If I Accept Other Employment While Receiving Temporary Total Disability?

Yes. Any person receiving temporary disability benefits from an employer or the employer's insurance company must promptly report in writing to the employer or insurance carrier any change in material fact, the amount of income he is receiving, or any change in his employment status while receiving temporary disability benefits.

What If My Injury Keeps Me From Getting A Job I Can Perform?

Under the rehabilitation section of the Act, you may be entitled to educational assistance and training to learn another skill. You may also be eligible for job-placement assistance in obtaining other employment.

What Benefits Am I Eligible To Receive If I Have A Permanent Disability?

If you are permanently disabled, you may receive weekly benefits based on the nature and extent of your disability. Many injuries are compensated on the basis of a "benefit schedule" found in the Act. A sample of this schedule is located in the *Workers' Compensation Handbook*. If you have suffered a permanent disability that is not specifically listed in the benefit schedule, your compensation will be based on the percentage of disability to your body as a whole. The Court has adopted the "*Guides for the Evaluation of Permanent Impairment*" as published by the American Medical Association to determine the percentage of disability for injuries to the body as a whole. Examples of "Body Injuries" include those to the back, neck, head, shoulders and hips. "Scheduled" injuries include those to the hands, feet, arms and legs.

If I Die As The Result of An On-The-Job Accident, What Benefits Can My Dependents Receive?

A surviving spouse is entitled to a lump sum benefit payment, as is each dependent child. In addition, the spouse and other dependents may

receive weekly benefits based upon the wages earned at the time of death. Benefits stop when a spouse remarries, at which time a lump sum equal to two years compensation is paid. A child's benefits stop at age 18, but can continue until age 23 if the child is a full-time student enrolled in an accredited educational institution. A child who is mentally or physically unable to be self-supporting may also be entitled to benefits after age 18.

Can I Receive Social Security Disability And Workers' Compensation Benefits At The Same Time?

Yes. Social Security benefits may take credit for the amount of workers' compensation benefits you are receiving, which may result in a reduced Social Security benefit.

Am I Entitled To Receive Temporary Total Disability (TTD) And Unemployment Benefits At The Same Time?

No. For injuries occurring on or after November 4, 1994, no employee may receive TTD benefits covering the same period of time as unemployment compensation benefits.

How Do I File A Workers' Compensation Claim With The Court?

If you wish to file a claim as a result of an accidental injury, a "Form 3" should be filed with the Workers' Compensation Court. A "Form 3-B" should be filed if you have an occupational disease (such as "asbestosis" or "silicosis"). A "Form 3-A" should be filed for a death claim if an employee dies as the result of a job-related injury. You may request the necessary forms to file a claim from your employer or the Workers' Compensation Court.

Is There A Time Limit On Filing A Claim With The Court?

Yes. Anyone wishing to file a claim for workers' compensation benefits with the Court must do so within two years from the date of the injury or death, or within two years from the date any compensation or wages in lieu of compensation was paid or within two years of payment of authorized medical care. For "repeated trauma" injuries, the two year period runs from the date of the last trauma or hazardous exposure, or in certain instances, such as asbestosis, two years from the date the condition results in a symptom which can be medically diagnosed.

How Do I Obtain Benefits?

You should contact your employer or the employer's insurance company as soon as possible after an accidental injury to see if benefits will be provided voluntarily. An employer or insurance carrier may require a letter from your physician stating the type of treatment being provided and whether you are able to work. You should ask your employer to file a "Form 2" ("Employer's First Notice of An Employee's Injury) with the Court and to provide their insurance company with a copy.

What Happens After I File A Claim?

If you wish the Court to resolve an issue between you and your employer or their insurance carrier, you may ask the Court to set your case before a judge. You or your legal representative must file a "Form 9" (Motion To Set For Trial) to request a trial. A Form 9 is available from the Court.

May A District Attorney Or The Workers' Compensation Court Examine My Records Pertaining To My On-The-Job Injury?

Yes. Effective September 1, 1993, upon filing a notice of injury or a claim for benefits with the Court, all employers and employees shall give written permission for the Administrator of the Workers' Compensation Court, the Attorney General and the District Attorney to examine all records relating to the notice of injury or claim. Although the claim form is not a medical authorization, medical records may also be obtained as permitted by Oklahoma law.

What Is A Trial?

A trial before the Workers' Compensation Court is much like any other non-jury trial in an Oklahoma court. Your case will be heard by a judge who will decide what, if any, benefits are due under Oklahoma law. The judge's decision will be based upon the law and the facts involved in your case, including medical evidence introduced and testimony

presented to the judge at the trial.

Is A Trial Always Necessary?

No. A trial is necessary only when there is a dispute between you and your employer or its insurance carrier that cannot be resolved. Claims can be settled without a trial before a judge of the Court, however, Court approval of all final settlements is required.

Other Than A Trial, What Are my Options for Settling a Dispute?

The Court, upon its own motion or at the request of any party, may request a settlement conference to be held before a Judge of the Court for the purposes of settling a claim before it goes to trial. In addition to the settlement conference, a party to a dispute can request voluntary mediation to settle a dispute regardless of whether a claim has been filed with the court. Any workers' compensation claim can be mediated except Special Indemnity Fund claims. All final settlements must be approved by the Court. If mediation is desired, or, if you have questions about mediation, contact the Counselor's Office. Forms for requesting mediation are available from the Counselors.

Where Are Trials Held?

Trials are held in either Oklahoma City or Tulsa. You or your legal representative should specify on the Form 9 where you request the trial to be held.

Am I Required To Have An Attorney?

No. Workers have the right to represent themselves in a trial at the Workers' Compensation Court. If a trial is necessary because of a dispute, your employer's insurance carrier must be represented by a lawyer. You have the right to be represented by a lawyer, but it is not required.

What If I Want To Hire A Lawyer, But I Do Not Know One?

If you are an Oklahoma resident, you may call your county lawyer referral service. Some County Bar Associations will refer you to an attorney. Under no circumstance may any Court employee recommend an attorney to you.

How Much Will An Attorney Charge?

A maximum of 10% of any award for temporary disability and 20% of any award for permanent disability is permitted as an attorney fee. All attorney fees are subject to Court approval. In addition to the attorney fee, you will be responsible for expenses in preparing your case for settlement or trial.

What If I Am Fired For Filing A Workers' Compensation Claim?

You may have a cause of action if your employer fires you because you have, in good faith, filed a claim, retained a lawyer to represent you, or have testified or plan to testify in a court proceeding. These actions are filed in a District Court.

How Can I Report An Employer That Does Not Have Workers' Compensation Insurance, Or Who Requires Employees to Pay For Workers' Compensation Insurance Premiums?

You may contact the Oklahoma Department of Labor at (405) 528-1500 and give them the employer's name and address.

What If Workers' Compensation Fraud Is Suspected?

Cases of suspected workers' compensation fraud should be referred to the Attorney General's Workers' Compensation Fraud Unit for the purposes of investigation, civil action, criminal action or referral to the District Attorney.

The Attorney General Fraud Unit can be contacted at:

**4545 N. Lincoln Blvd., Suite 24
Oklahoma City, OK 73105
(405) 522-3403**

Can I Call The Workers' Compensation Court For Information?

Yes. The Workers' Compensation Court has established a "Counselor Program". A Counselor provides information and improves communications among injured workers, employers, insurance carriers and health care providers.

Who Can Contact The Workers' Compensation Counselor For Information?

The injured worker, the heirs of a deceased worker, the employer, the insurance carrier and the health care provider.

What Kind Of Information Can The Counselor Provide, and Can The Counselor Provide Legal Advice Or Services?

The Workers' Compensation Counselor:

- ▶ Cannot provide legal advice or services;
- ▶ Provides general information and an explanation of rights and responsibilities;
- ▶ Helps an employee find out if his employer is insured and whether coverage is with a private carrier, the State Insurance Fund, or through self-insurance;
- ▶ Explains how to report an injury and how to file a claim; and
- ▶ Explains your rights and responsibilities.

Where Can I Obtain Additional Information About The Workers' Compensation Court?

A handbook of the Court which includes Court rules, examples of Court forms and Oklahoma statutes dealing with workers' compensation may be purchased directly from the Court or accessed through our web site at www.OWCC.state.ok.us.

What Are My Responsibilities?

As an injured worker, you have the obligation to assist in your recovery. To help make this happen, you should:

- ▶ Keep in touch with your employer;
- ▶ Keep appointments made with your doctor, the insurer, and job counselor;
- ▶ Follow your doctors' instructions and treatment plan;
- ▶ Cooperate with persons who are helping you get back to work; and

This pamphlet has been prepared by the Counselors' Program of the Workers' Compensation Court to provide information to employees with questions about their rights and responsibilities under the Oklahoma workers' compensation laws. If you have further questions, or need additional information, you may contact the Court at the address and phone numbers listed below.

**Workers' Compensation Court
Counselor's Program
1915 North Stiles Avenue
Oklahoma City, OK 73105-4904**

**OKC Area - (405) 522-8760
Tulsa Area- (918) 581-2714
Statewide - (1-800) 522-8210**

The information provided in this pamphlet is general in nature and for informational purposes only. It is not intended to be a legal interpretation of the Workers' Compensation Act.

Revised 01/05