



The Official Website of the Executive Office of Labor and Workforce Development (EOLWD)

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Workers' Compensation Trust Fund

The Workers' Compensation Trust Fund (WCTF), which is overseen by the Office of Legal Counsel, was created by statute pursuant to MGL c. 152, § 65. Section 65 provides for payment of compensation, adjustment and reimbursement due to parties bringing claims under specific sections of Ch. 152.

Specifically, the WCTF proceeds are used to:

- Reimburse adjustments made to weekly compensation under § 34B - Cost of Living Adjustments - reimbursement under this provision is made to Insurers upon proof of payment.
- Reimburse adjustments made to weekly compensation under § 35C - Latent Injury Claims - reimbursement under this provision is made to Insurers upon proof of payment.
- Reimburse certain apportioned benefits pursuant to § 37 and § 37A - Second Injury Claims - reimbursement under this provision is made to Insurers upon proof of payment.
- Pay vocational rehabilitation benefits pursuant to § 30H when such benefits are deemed appropriate and the Insurer denies the request for such benefits. However, in some cases, see § 30H, the Insurer may be asked to reimburse the WCTF
- Pay benefits resulting from approved claims against employers within the Commonwealth who are uninsured pursuant to § 65.

NOTE: No monies will be paid out, per order of the Comptrollers Office, without the IRS Form W9 being completed. Completed W9 Forms should be returned to the Office of Legal Counsel, Department of Industrial Accidents, 1 Congress St., Suite100, Boston, MA 02114-2017.

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How Do I Know If I Can Collect From the Trust Fund?

Were you injured in the scope of your employment? Do you have knowledge that your Employer does not have Workers' Compensation Insurance or that it is unavailable to you?

If you answered yes, you may be entitled to Workers' Compensation Insurance Benefits for your injury from the Commonwealth of Massachusetts, Workers' Compensation Trust Fund.

You must show that your Employer was uninsured in order to maintain a claim against the WCTF. As the Injured Worker you, or your attorney, must obtain a *Certificate of No Insurance Form* from the Department of Industrial Accidents' (DIA) Office of Insurance. The Office of Insurance has access to the electronic database maintained by the Workers' Compensation Rating and Inspection Bureau (WCRIB). WCRIB is the verification entity for Workers' Compensation Insurance for the Commonwealth of Massachusetts.

Every Massachusetts insurance company must notify WCRIB of the issuance or termination of a Workers' Compensation Insurance policy. The Rating Bureau will not have any information on self insurers, or insurers which are not MA insurers.

Secondly, under MGL c. 152 § 65(2)(e)(i) a claim may not be maintained against the WCTF if there is workers' compensation available in another jurisdiction.

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When Do I File a Claim Against The Trust Fund?

The **ONLY** reason for filing a claim is to request a judicial proceeding before an Administrative Judge, in order to obtain workers' compensation benefits. The Workers' Compensation Trust Fund (WCTF) is the named "insurer" if your employer was breaking the law by not having insurance.

There are a few steps you need to take in order to successfully file a MGL c. 152 § 65 claim. The *Employee Claim Form 110* should be completed to claim Workers' Compensation benefits against the WCTF. The WCTF may contest your right to receive compensation benefits or may pay you less Workers' Compensation benefits you believe you are entitled to.

Documentation, as required by 452 CMR 1.07, must also be attached to the *Employee Claim Form 110*. This documentation needs to be sent directly to the Department of Industrial Accidents (DIA) and the WCTF.

If the claim is just for medical bills, you need to send copies of the bills/records to the DIA and the WCTF.

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How Do I File Against The Trust Fund?

The procedure for filing a § 65 claim is as follows:

- Obtain a *Certificate of No Insurance*.
- Download the *Employee Claim Form 110* from this website and fill it out. You will also find instructions on how to fill out this form.
- Download the *Affidavit of Employee In Application For Trust Fund Benefits Form 170* and fill it out.
- Attach the *Certificate of No Insurance* to the *Affidavit of Employee In Application for Trust Fund Benefits Form 170* and the *Employee Claim Form 110* and send all three documents to:

Department of Industrial Accidents - Dept. 110
1 Congress St., Suite 100
Boston, MA 02114-2017

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When Will The Trust Fund Accept the Claim or Pay Without Prejudice?

PAYMENT WITHOUT PREJUDICE

When filing a claim against the Workers' Compensation Trust Fund pursuant to MGL 152, § 65(2)(e), please note that the more information provided by the claimant at the time the claim is filed, the more likely the Trust Fund will be able to, at a minimum, pay the claim without prejudice, at least until the date of the §10 conference. In order to assist the Trust Fund in the processing and investigation of the claim, please supply the following information:

- 1. EMPLOYER NAME** - When submitting an Insurance Inquiry Form to the DIA Office of Insurance, please be sure to list the proper name of the employer. If the employer is a d/b/a, please list the legal name of the employer and the business name. If the employer is a corporation, LLC or LLP, please include the name of the person (i.e. corporate officer, partner, member, etc.) as well. This will assist the Office of Insurance in conducting an exhaustive search for insurance coverage. Please include this information on the Form 110 (Employee Claim).
- 2. EMPLOYER ADDRESS** - Please be sure to provide the correct business and/or home address of the employer on both the Insurance Inquiry Form and the Form 110 (Employee Claim).
- 3. ACCIDENT LOCATION/JOB SITE** - Please list the correct address of both the location of the job site and the place of injury (if different from the job site). If the injury occurred at a private residence, include the name of the homeowners and any knowledge of the relationship between the homeowner and the employer.
- 4. WITNESSES** - Please include the names, addresses and phone numbers of any witnesses present at the time that the injury took place.
- 5. CO-WORKERS** - Please include statements from co-workers or others on the job site who may have witnessed the accident or have information concerning the relevant facts of the case, such as the employer-employee relationship or wages. Helpful information includes statements from co-workers regarding who employed the employees, who directed their work, who was in charge of the job site, who provided the tools, how much they were paid, etc.
- 6. GENERAL CONTRACTORS/SUB-CONTRACTORS AND OTHERS** - Please list the names of all individuals on the job site and include any information available, such as addresses, phone numbers and relationship to the employer. If there were other businesses on the site, list the name of each business. Please include any potential general or sub-contractors on the premises.
- 7. WAGES** - Please include any information which can corroborate wages paid to the claimant (i.e. copies of checks, statements by co-workers, etc.)
- 8. PERMITS/CERTIFICATES** - Please include any other information obtained such as building permits, business certificates filed with the city or town, etc.
- 9. MEDICAL PROVIDERS** - Please include the names, contact information and dates of treatment for all medical providers who have treated the claimant for the industrial accident.

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What Happens Once The Trust Fund Gets the Claim?

Once a § 65 claim is filed with the Workers' Compensation Trust Fund (WCTF), it is assigned to an investigator who will be in direct contact with you.

The investigator will send you information and forms that you will need to fill out and return in order to assist the WCTF in determining whether benefits are due.

The following forms will be sent to you for completion, and must be returned:

- A letter confirming the receipt of your claim
- An Employee Questionnaire
- A Request For Medical Records to be released
- A W-9 form
- A Request for an Interview
- A Request for Production of Documents

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