

What to Do If You Have Been Injured on the Job

In most states, workers' compensation is your sole remedy for injuries sustained in the course of your employment. Theoretically, workers' compensation systems exist to protect the rights of injured workers' but recent nationwide "reform" initiatives have made navigating the workers' compensation system harder than ever. Taking the following steps after you are injured will ensure you are doing everything you can to protect your rights and make the workers' compensation process work as smoothly as possible on your behalf.

1. SEEK MEDICAL ATTENTION IMMEDIATELY:

Obviously your health is your first concern after sustaining an on-the-job injury. If you require emergency care you should seek medical attention at a hospital. When you are seen in a hospital emergency room you should inform them that your injuries are work related, but do not be surprised if your complete accident history is not contained in the emergency room records. Emergency rooms are often overcrowded and understaffed and hospital personnel (while well-meaning) are usually more concerned with triaging a patients injuries rather than taking detailed accident histories.

After receiving any necessary emergency medical care you should consult with a physician regarding your injuries. In some states your employer has the right to direct your medical care for work-related injuries and in those instances the employer will choose which doctor you are able to see. The employers' physician will then determine what course of medical care is required. If you are in a state that allows you to choose your own treating physician, you should, if possible, choose a physician that specializes in treating workers' compensation patients. Most workers' compensation systems have specialized medical forms and procedures which must be followed. Many primary care physicians do not treat workers' compensation patients because of the onerous paperwork requirements and restrictions on their ability to treat their patients. If your physician is not familiar with the proper paperwork and guidelines it may impact your ability to obtain proper medical care and may delay your ability to obtain monetary benefits for any lost time from work.

It is important to see a treating physician as soon as possible after a work-related injury. It is also important that you provide your treating physician with a detailed accident history. You should advise the doctor of any and all injuries you believe you have suffered in your accident, no matter how minor they may seem at the time. It is not uncommon for doctors to focus treatment on a patients' most significant injury, and it is also not uncommon for injured workers to fail to tell their doctors about all of their injuries. They often feel these injuries are not "major" or that their pain will go away shortly. Unfortunately, it is also not uncommon for what is initially believed to be a minor injury to turn into something more serious in the future. Should this occur, failure to initially report the injury to your doctor may be detrimental to your claim. In many instances, in making their determination as to whether an injury is compensable, workers' compensation agencies and insurance carriers will look to see how soon after your accident you were treated for an injury. Any gap between your accident and the time you reported a particular injury to your doctor could result in a particular injury not being covered under workers' compensation.

Providing complete and detailed information of your work related injury to your doctor at your initial consultation will result in there being appropriate and timely medical documentation to support your claim.

2. GIVE NOTICE TO YOUR EMPLOYER:

One of the requirements found in every workers' compensation statute is that the injured worker must give notice of their work-related accident to the employer. The notice requirements are different from state to state and it is important to know your state's particular time frames within which notice must be given. It is also important to know in what form notice must be given. Whereas some states require written notice, other states have determined that oral notice is acceptable.

In order to best protect yourself, you should provide written notice to your employer as soon as possible after your accident. Many employers have specific forms which may be used for employee accidents or incidents. If your employer does not have a specific form for reporting accidents at work, submit written documentation of the accident to your supervisor or Human Resources Department. Even in states where oral notice is sufficient, written notice is better as it protects you from the sometimes forgetful nature of employers.

If you do submit written notice of your accident, you should make sure to keep or obtain a copy of the written injury report. Just as sometimes employers will forget oral notice of an injury, sometimes employers' copies of accident reports can mysteriously go missing.

In many states, failure to provide timely notice of an accident is an absolute bar to your workers' compensation claim. Providing written notice as soon as possible after the accident and securing your own copy of any written accident report is the best way to make sure that this requirement of the law is met.

3. FILE THE NECESSARY CLAIMS PAPERWORK WITH YOUR STATE WORKERS' COMPENSATION AGENCY:

All states have statute of limitations regarding the filing of workers' compensation claims. Like notice requirements, these time frames vary from state to state. Also like notice requirements, failure to timely file your workers' compensation claim with your state agency will likely be an absolute bar to your claim and will prevent you from obtaining monetary and medical benefits to which you may be entitled.

It is your responsibility as an injured worker to make sure that the proper claims forms are filed with the state compensation agency. It is important to understand that the notice requirement and the filing requirement are two separate and distinct actions which must be completed. In many states, even if you provide your employer with timely notice of a work-related accident the employer is under no legal obligation to report this to the state workers' compensation agency.

Usually you can obtain the necessary claims forms and obtain assistance with the filing of these forms by contacting your state's workers' compensation agency.

4. CONTACT AN ATTORNEY WHO SPECIALIZES IN WORKERS' COMPENSATION CLAIMS:

While you can represent yourself in your workers' compensation claim, it is often advisable to consult with an attorney who can assist you with your case. Over the course of the past several years, workers' compensation systems have become more difficult to navigate for people who are

inexperienced in dealing with the system. Also, recent reform initiatives in many states have made workers' compensation systems less friendly to injured workers. A lawyer who is experienced in the specific procedures and requirements of your state's particular compensation system will make sure that the proper claims forms are filed. They will interact with both the workers' compensation agency and your insurance carrier to obtain your benefits as quickly as possible.

Although attorney's fees are handled differently in each jurisdiction, in many states you do not have to pay any up-front fee to a lawyer. The attorney will be paid if they are successful in obtaining benefits on your behalf.

Getting hurt on the job can be a very traumatic experience. Oftentimes the last thing a person who suffers an injury wants to think about is filing a workers' compensation claim, but taking immediate action to create a contemporaneous and detailed paper trail regarding the circumstances surrounding your accident can make all the difference in your case. As has been noted, each state has its' own compensation rules and regulations. The above list is merely an overview of some common features found in each state. Following these guidelines will ensure that you have done your best to protect your interests and your claim.