

Workers' Comp Claims Process in Maryland: A Basic Overview

The workers' compensation claims process is quite complex and lengthy, as described in this article and in the chart on page 11. **This is a basic overview of the process.** For more detailed information, please visit the Maryland Workers' Compensation Commission's website at www.wcc.state.md.us.

Virtually all employers and employees are covered under Maryland's workers' compensation law. The basic qualification for an injury or medical condition to be covered under the Maryland Workers' Compensation Act is that the employee must have sustained either an accidental personal injury arising out of and in the course of employment or a compensable occupational disease.

The reporting of a workers' compensation claim is the first step in a process that generally results in the acceptance or denial by the insurance carrier or self-insured employer that the worker's injury, illness, or fatality is work related.

The insurer or employer may deny the claim on the grounds that the injury is not work related. Claims involving a dispute may end up in a workers' compensation hearing before the Maryland Workers' Compensation Commission.

If the claim is accepted, medical care is paid for by the insurance carrier or by the self-insured employer. The worker may also receive compensation (indemnity) benefits to partially replace the wages that would have otherwise been lost because of the injury.

Step 1: Reporting the Injury

If an injury occurs to an employee, two separate but equally important steps must initially take place: (1) the employee must promptly report the injury to his or her employer; and (2) the employer must then file a *First Report of Injury* (FROI) form.

IWIF makes it easy for employers to file the mandatory FROI form. The FROI can be called in over the phone, sent in via fax, or filled out online

at www.iwif.com. IWIF will automatically file this form with the Maryland Workers' Compensation Commission (WCC) and the Maryland Department of Labor, Licensing, and Regulation (DLLR). If you have an agent, IWIF forwards a copy of the FROI to him or her as well.

The injured employee may choose to file an *Employee Claim* form with the Workers' Compensation Commission. Certain time limits on filing apply (generally, 2 years from the filing date of the accident). The *Employee Claim* form is not the same as the *First Report of Injury* form. Both forms must document the date of the accident or disablement, when filing a claim for an accidental injury, death, or occupational disease.

Step 2: Determining if the Claim is Compensable

Upon notice of an injury, either through the FROI or the employee claim form (ECF), an investigation is necessary to determine compensability. If the claim is found compensable, benefits will be initiated. If an ECF has been filed, benefits must be instituted within 21 days, unless the insurer files "contesting issues" with the Commission. When issues are filed, the Commission will put the claim in line for hearing. If no issues are filed within 30 days, the Commission will issue an Award of Compensation.

Not all injuries are covered by workers' compensation law, even if they happened while "on the job." In Maryland, in order for a claim to be covered, the harm suffered by the employee must have been caused by an "accidental personal injury arising out of and in the course of employment," according to the Maryland statute.

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The landmark 2003 Maryland Court of Appeals decision in *Harris vs. the Board of Education of Howard County* (now known as "the Harris Decision") expanded the definition of "accidental personal injury," thus expanding the exposure employers now face in workers' compensation cases.

IWIF has published a helpful “**Guide for the Injured Worker**” brochure in English and Spanish. It can also be printed from our website. We strongly recommend you give your injured worker a copy of this informative guide that answers many of the questions he or she may have.



In Maryland, injured workers have the right to choose any doctor they want. However, employers can recommend a medical provider.

IWIF has a statewide network of physicians who provide a complete range of medical treatment.

In determining whether an injury falls under the coverage of workers' compensation, the following three factors must be considered:

Factor 1: Establishing the Employee-Employer Relationship

First, a genuine employer-employee relationship must exist. Sometimes, people aren't actually employed by a business but work with it as independent contractors. Other businesses don't have employees because they are sole proprietorships or partnerships. The workers' compensation statute provides specific legal guidance on who is covered and who is not.

Factor 2: Arising Out of the Course of Employment

For a compensable claim, the injury or occupational injury must “arise out of the employment,” according to the Maryland statute.

If the conditions under which the work is to be performed cause the worker's injury or occupational disease, it is said to “arise out of” the employment. The focus of this factor is an exposure of the employee to risk or danger because of the job requirements.

Additionally, for a compensable accidental injury claim, the injury must also have happened “in the course of employment.” Here, the attention centers on the time, place, and circumstances of the injury. If the injury occurs at a time and in a place where the employee is expected to be, the injury is said to have occurred “in the course of that person's employment.”

Factor 3: Occupational Disease is an Exception

The exception to the accident requirement under Maryland law involves an occupational disease. An occupational disease is an illness caused by the nature of the circumstances surrounding a worker's job. For example, asbestosis is a disease that may have been caused by long-term exposure to asbestos on the job. Conditions such as these may result in the employee being covered by workers' compensation insurance even if there was no specific “accident.”

If all of these factors are satisfied, a worker's injury will generally be covered under workers' compensation insurance law.

Step 3: The Benefits Phase – Indemnity/Disability and Medical

The Maryland legislature determines the type and amount of benefits which are payable under workers' compensation insurance.

Once appropriate determinations have been made in specific cases, it is the responsibility of the insurance carrier or self-insured employer to make timely benefit payments to injured workers as required by the Commission's awards and orders. The Commission's role is to resolve any disputes that may arise.

Medical/Hospitalization Benefits

Medical benefits are provided to employees entitled to workers' compensation benefits, with no out-of-pocket expenses. The employer and insurer are responsible for the payment of causally related medical care and treatment of the injured employee. This may include:

- Physician services
- Physical therapy services
- Hospital and nursing services
- Medicine/prescriptions
- Crutches and other apparatus
- Prosthetic appliances
- Travel reimbursement to medical appointments

These services may continue indefinitely or for whatever period is required by the nature of the accidental injury or occupational disease if there is evidence to establish that the need for these services is reasonable, necessary, and causally related. All medical bills should be forwarded promptly to IWIF for payment.

Disability Benefit Types in Maryland

The Maryland Workers' Compensation Act provides for the following benefits in appropriate cases:

Temporary Total Disability (TTD) – Temporary Total Disability is a condition where an injured party is expected to recover, but is unable to work at all during the recovery period. TTD benefits are paid in lieu of wages when the injured worker is medically unable to work.

Best Practices

6 STEPS FOR EFFECTIVE CLAIMS MANAGEMENT

Step 1 – Have an Injury Reporting Plan in Place

Every employer should have an injury reporting plan in place before an injury occurs. An injury reporting plan is typically a one-page, step-by-step guide to immediately reporting an injury and to obtaining appropriate medical care.

Designate employees, such as Human Resources personnel, to coordinate the reporting process, and have all forms readily available. Make sure your supervisors know who your selected medical providers are and where they are located.

Step 2 – Take Care of Your Injured Worker

In the event of an accident or injury to one of your employees, you must provide prompt medical attention for your injured worker. In a life-threatening or emergency situation, call 911. For less severe injuries, provide first aid and refer or transport your employee to the closest occupational medical provider for treatment. Give your injured worker a copy of IWIF's "Guide for the Injured Worker" brochure.

Step 3: Report Claims Promptly to IWIF

Early intervention in a claim helps to ensure the best medical care for the injured employee. Reporting injuries early, can also help reduce the potential for unnecessary litigation down the line. A national study revealed that prompt reporting of injuries can help lower claims costs by as much as 55%.

Step 4 – Investigate and Document the Accident

When an accident happens, take the time to investigate its cause. Obtaining signed statements early on helps to ensure the details of the incident are documented while still fresh in everyone's mind.

Step 5 – Stay Involved during the Claim Process

Maintain regular contact with your injured employee while he or she is home recovering – at every opportunity, show your concern and provide encouragement.

Also, work closely with your claims adjuster during the investigation and management of all open claims. Provide requested information in a timely manner, and notify your adjuster of all pertinent developments. Working together as a team can help make the claims process most cost effective.

Step 6 – Get Your Employee Back to Work —

If possible, identify modified or alternate work activities to bring your injured employee back to work as soon as is medically possible, ensuring that any medical restrictions are met first. Meet with the medical provider and explain your company's intentions for early return-to-work. Share job descriptions with the provider, review procedures for the injured employee, and clarify the expectations of the program. ■

If the period of disability is 14 days or fewer, the compensation benefit payments may not be allowed for the first three days of disablement. If the period of temporary disability lasts for more than 14 days, then the compensation is allowed from the date of disability.

If an employee is temporarily totally disabled due to an accidental injury or occupational disease, the employer or insurer pays benefits that are equal to two-thirds of the employee's average weekly wage, up to a maximum of the state's average weekly wage.

The Maryland Department of Labor, Licensing and Regulation (DLLR) annually calculates the State's average weekly wage and provides that to the Workers' Compensation Commission for use in its calculations.

Temporary Partial Disability (TPD) – Temporary Partial Disability is a condition where an injured party's capacity to work is temporarily impaired, but he or she is able to continue working in a reduced manner and is expected to make a full recovery. TPD benefits are intended to be temporary, and generally apply when the worker is expected to transition from limited or part-time duties, such as working 20 hours and increasing to 40 hours per week.

Vocational Rehabilitation (Voc Rehab) – When an employee is unable to perform the same work as a result of an accidental injury or occupational disease, the employee may be entitled to vocational rehabilitation services. Services may include:

- Vocational assessment and evaluation
- Vocational counseling
- Rehabilitation plan development
- Training for up to 24 months
- Job development and job placement

Permanent Total Disability (PTD) – Permanent Total Disability (PTD) is a condition where the injured worker is permanently and totally disabled, and is not able to return to meaningful employment. Before an injured worker is found to be permanently totally disabled, many factors are taken into consideration, including severity of injury, age, education, experience, etc.

Permanent Partial Disability (PPD) – Injuries that are not so serious as to leave a worker permanently, totally disabled may result in some permanent impairment that may or may not result in the injured worker's ability to return to his or her pre-injury job. This is called permanent partial disability and these benefits are designed to compensate the injured worker for the permanent condition(s) resulting from a work-related injury. When there is attorney involvement, there is a high probability that an injury will result in a PPD award.

Death and Funeral Benefits – The employer or insurer may also be required to pay certain death benefits and funeral expenses to a deceased worker's spouse or dependents. Dependency is a factual determination. Generally, benefits may continue to the surviving spouse until he or she remarries, and benefits may continue to dependent children until age 18, or 23 if in college.