

# Maryland Workers' Compensation CLAIMS DEFINITIONS Quick Guide Overview

**A** workers' compensation injury claim can be an involved process. This quick guide to definitions can help employers better understand the terminology and process. Note: This is an overview only and does not cover in detail all aspects of the Maryland workers' compensation law or the claims process. For claim-specific questions, contact your Chesapeake Employers' claims adjuster.



## Claim Compensability

The initial requirements to determine if a workplace injury is compensable.

### Accidental Injury and Arising out of and in the Course and Scope of Employment

To be covered under workers' compensation, an employee must have sustained an accidental personal injury while working ("on the job"). The injury must have arisen "out of and in the course of employment." Not all workplace injuries are compensable. If the injury is determined to be compensable, then Chesapeake Employers will provide causally related medical treatment and monetary benefits if appropriate.

### Occupational Disease

- An ailment, disorder, or illness which causes death or disability and is due to the nature of an employment in which the hazards of the occupational disease exist and in which the covered employee was employed prior to the date of disablement.
- Typically slow and insidious in approach.
- Employer of last injurious exposure is responsible.

## Exclusions & Exceptions to Defend Against a Claim

**Coming & Going Rule:** In general, injuries an employee incurs while going to or coming from work are not compensable under the Maryland Workers' Compensation Act. However, there are a number of exceptions.

- The Premises Exception
- The Proximity Exception
- The Employer-Provided Transportation Exception
- The Free Transportation Exception
- The Own-Conveyance Exception
- The Special Errand Exception

Please visit [www.ceiwc.com](http://www.ceiwc.com) – Know-how news articles section for more information about these exceptions to the Coming & Going Rule.

### Other Defenses:

- Willful misconduct or deliberate act to cause the injury
- Horseplay
- Alcohol/drug intoxication
- Idiopathic conditions

The facts of each case must be carefully reviewed with the applicable law, to determine whether any of these defenses will apply.

## Employer's First Report of Injury

If your employee alleges an accidental injury on the job, it is the responsibility of the employer to report and submit the "Employer's First Report of the Injury" or (FROI) to Chesapeake Employers who then files the FROI with the Maryland Workers' Compensation Commission (WCC). The Employer's FROI report must be filed within 10 days after the employer receives oral or written notice of the disability or death. **We remind employers to please report the injury as soon as possible.** Chesapeake Employers makes this process easy for its policyholders by offering online and telephonic injury reporting.

## Injured Worker's Claim for Benefits Timeframe

**Accidental Injury:** The C1 Employee Claim Form (ECF) must be filed within two years of the date of accident\*. If an injured worker loses more than three days of work, Chesapeake Employers will send the injured worker the C1 Employee Claim Form. It is the injured worker's responsibility to complete the ECF and submit it to the Workers' Compensation Commission.

**Occupational Disease:** A claim for occupational disease must be filed within two years of the date of disablement or death or when the claimant or dependents first had actual knowledge that the disablement was caused by an exposure at work\*. *\*There are often issues raised as to why a claim was not filed in a timely manner. The Workers' Compensation Commission will ultimately decide the issue.*

**Average Weekly Wage:** The average weekly wage (AWW) is calculated based upon the 14 weeks of gross wages prior to the accidental injury/date of disablement of the occupational disease. There are several other benefits that may be considered/included in the AWW. Each year the State calculates the AWW, which becomes the maximum compensation rate.

**Medical Benefits:** The employer/insurer must provide medical treatment causally related to the injury for as long as necessary. This may include physician's office visits, tests, physical therapy, surgery and prescriptions.

**Medical Treatment:** In Maryland, the injured worker can choose his/her medical provider. The insurer and employer cannot direct care, but they can recommend a medical provider.

**Independent Medical Evaluation:** The employer/insurer has the right to request an independent medical evaluation to obtain opinions on a variety of issues.

**Claim Denied by the Insurer:** Chesapeake Employers thoroughly investigates the initial claim and if we, together with the employer, dispute the claim, we will send a denial letter to the injured worker and the employer. All benefits are denied (medical and indemnity). The injured worker can dispute this by filing a claim with the WCC.

## Indemnity Benefits

**Temporary Total Disability (TTD):** TTD is a monetary benefit which may be applicable during the healing or rehabilitation period during which an injured employee is wholly disabled and temporarily unable to work. The employee is entitled to receive two-thirds of his/her average weekly wage, not to exceed the State maximum or go below minimum.

**Temporary Partial Disability (TPD):** An injured worker may be eligible for temporary partial disability compensation when the worker is able to perform some type of work, either modified duty, or regular duty on a part-time basis, but is still recovering from an injury and is unable to perform his/her job at the same level prior to the injury. TPD is paid at 50% of the difference between the pre-injury AWW & the post-injury part-time earnings while on modified duty not to exceed ½ state AWW (TTD rate).

**Permanent Partial Disability (PPD):** This type of compensation is awarded for certain types of permanent injury conditions that do not cause the injured worker to be totally unable to work. This occurs when the injured worker has:

- Reached maximum medical improvement
- Has stopped receiving active medical treatment
- Is disabled to some degree, but is still able to work in some capacity

Permanent partial disability is calculated using a formula—the rate of pay multiplied by the number of weeks based on the body part provided for in the workers' compensation statute.

**Permanent Total Disability:** This type of compensation is awarded when an injured worker is permanently unable to return to work in any capacity.

**Death Benefits/Dependency:** Surviving spouse and dependents may be entitled to benefits.

**Vocational Rehabilitation:** If the injured worker is medically unable to return to pre-injury employment, he/she may be entitled to vocational rehabilitation (job placement/retraining) benefits to be returned to "suitable gainful employment." The injured worker is paid the TTD rate while participating in vocational rehabilitation.

## Claim Resolutions

**Hearing:** A hearing before a Workers' Compensation Commissioner is an informal one, however, all witnesses are sworn in and testimony is transcribed.

**Order:** An order from the WCC awarding or denying benefits is issued in writing several weeks after the hearing.

**Appeals:** Any party dissatisfied with the WCC Award may file an appeal to the Circuit Court. The Chesapeake Employer's Attorney representing the employer can go over in detail the appeals process.

**Full and Final Settlements:** A claim, including medicals, may be completely closed by a "full and final" settlement agreed to by both parties. The settlement, however, must also be approved by the WCC.

### Additional online claims information resources:

Maryland Workers' Compensation Commission  
[www.wcc.state.md.us](http://www.wcc.state.md.us)

Chesapeake Employers' Insurance Co.  
[www.ceiwc.com](http://www.ceiwc.com)