

Utah Labor Commission Industrial Accidents Division



Employee's Guide to Workers' Compensation



The Industrial Accidents Division of the Utah Labor Commission has prepared this pamphlet to answer questions employees often ask about workers' compensation benefits. This pamphlet gives general understanding of the workers' compensation system. If you need more information or have specific questions, please contact us at:

Industrial Accidents Division: (801) 530-6800
Toll Free (800) 530-5090
Toll Free In State (800) 222-1238
Email laborcom@utah.gov

www.laborcommission.utah.gov

Employee's Guide to Workers' Compensation

- What is Workers' Compensation?..... 4
- Eligibility for Workers' Compensation Insurance 5
- Reporting a Work Injury or Illness 6
- Workers' Compensation Benefits 7
- Can Benefits be Reduced?..... 11
- Returning to Work..... 12
- Medical Provider..... 13
- Medical Records..... 14
- Moving out of State 14
- Re-employment | Rehabilitation..... 15
- Resolving Disputes 17
- Compensation Agreements 18
- Lump Sum Settlements 19
- Workers' Compensation Fraud 19
- Conclusion **Back Cover**

What is Workers' Compensation?

Q 1. What is workers' compensation?

A Workers' compensation is a no-fault insurance system established by the Utah Legislature in 1917. It pays medical expenses and helps offset lost wages for employees with work-related injuries or illnesses.

Q 2. Who provides workers' compensation coverage?

A Your employer does, by purchasing workers' compensation insurance or obtaining permission from the Industrial Accidents Division to "self-insure."

Q 3. Who pays for workers' compensation coverage?

A Your employer. The cost cannot be deducted from your wages.

Q 4. Are all employers required to have workers' compensation coverage?

A Almost all employers must have workers' compensation coverage. There are limited exceptions for real estate and insurance sales, small agricultural operations, household domestic work and occasional "casual" employment.

Q 5. How do I find out who the workers' compensation insurance carrier is for my employer?

A Your employer is required to post its workers' compensation insurance carrier's address and phone number at its employment site, or indicate that it is self-insured. You can also obtain this information by clicking [Here](#) then clicking on the "Compcheck" link on the right side of the page or calling the Industrial Accidents Division.

Eligibility for Workers' Compensation Insurance

Q 6. How long do I have to work at a job before I am protected by the workers' compensation system?

A Protection begins as soon as you start work. You are entitled to workers' compensation benefits for work injuries and illnesses even if you have been on the job only a short time, or only work part-time.

Q 7. Can my claim be denied because I was at fault for the injury?

A **No.** Workers' compensation is a no-fault system. However, workers' compensation does not cover intentional self-inflicted injuries. Disability compensation (*but not medical benefits*) may be denied for injuries from alcohol or drug abuse. Also, disability compensation can be reduced by 15% for willful failure to use safety devices or follow safety rules.

Note: Disability compensation can also be **increased** by 15% if an injury results from an employer's willful failure to follow safety rules.

Reporting a Work Injury or Illness

Q 8. What should I do if I'm injured at work or develop a work-related illness?

A Report the injury or illness to your employer immediately. If you fail to report an injury or illness within 180 days, you may be disqualified from receiving workers' compensation benefits.

Q 9. How do I report my injury or illness?

A You can use any method to report your injury or illness to your employer. It is a good idea to make sure your report is documented in some fashion.

Q 10. What happens after I report my injury or illness?

A Your employer or its insurance company has 7 days after receiving your report to submit an "Employer's First Report of Injury or Illness" to the Industrial Accidents Division. Your employer or its insurance company must give you a copy of the report and a written statement of your rights and responsibilities.

Q 11. Is my doctor required to report my injury or illness?

A Your doctor is required to complete a "Physician's Initial Report of Injury or Illness" and submit the report to the Industrial Accidents Division within 7 days of your first visit. Be sure and explain to your physician **HOW**, **WHEN** and **WHERE** the injury or illness occurred.

Workers' Compensation Benefits

Q 12. What benefits does the workers' compensation system provide?

A Depending on your specific circumstances, workers' compensation can pay one or more of the following benefits.

Medical Care is the reasonable expense of medical care necessary to treat your work injury or illness. This includes visits to your doctor, hospital bills, medicine and prosthetic devices. It also includes reimbursement for the cost of travel to receive medical treatment. Except as explained in answer to **Question 27**, you are not liable for any cost of this medical care.

Temporary Total Compensation is paid for the time you cannot work because of a work injury or illness. However, no compensation is paid for the first 3 days after an injury or illness unless the disability prevents you from working for more than a total of 14 days. In that case, you will be paid for the first three days of disability. This type of compensation ends when you return to work or reach medical stability.

Temporary Partial Compensation is paid if your work injury or illness prevents you from earning your full regular wage while you are recovering. For example, if you work fewer hours or work at a light-duty job that pays less than your regular job, you are entitled to temporary partial disability compensation in addition to your wages.

Continued on the next page

Permanent Partial Disability Compensation is paid if your work injury or illness leaves you with a permanent impairment. This compensation begins when your doctor determines that you have reached medical stability; the duration of this compensation is determined according to an "impairment rating" provided by your physician.

Permanent Total Disability Compensation is paid if your work-related injury or illness leaves you with a permanent disability that prevents you from returning to your former work or performing any other work that is reasonably available to you.

Note: If you are totally disabled, you may also be eligible for Social Security disability benefits.

Benefits in case of death. If an employee dies from a work injury or illness, workers' compensation will pay up to \$8,000 for funeral and burial expenses. Also, the deceased worker's spouse, dependent children, and other dependents may be entitled to monthly payments.

Q 13. What if I disagree with an impairment rating?

A Ask the doctor to explain it to you. If you disagree, you can seek a second opinion. However, the insurance carrier is not obligated to authorize or pay for a second opinion.

Q 14. Can a chiropractor give me an impairment rating?

A **Yes.** Chiropractors can give impairment ratings on injuries within the scope of their medical expertise.

Q 15. When do workers' compensation benefits begin?

A An insurance carrier or self-insured employer has 21 days after learning of your work injury or illness to either: **1)** begin payment; **2)** deny your claim; or **3)** notify you that further investigation is required. If further investigation is necessary, the insurance carrier or self-insured employer has an additional 24 days to accept or deny your claim. If your claim is accepted, checks for disability compensation are usually issued every two weeks.

Q 16. How much will I receive while I am unable to work?

A Temporary total disability is computed at two-thirds of your pre-injury weekly wage, plus \$5 for your spouse and \$5 each for up to four dependent children. The maximum amount of your temporary total disability compensation cannot exceed the Utah average weekly wage.

Other types of workers' compensation disability payments are computed somewhat differently. For more information regarding the maximum and minimum disability compensation rates, contact your workers' compensation carrier or visit the Benefits Guides section of the Division of Industrial Accident's website. [Click Here](#) and [Click Here](#).

Q 17. What if I work two jobs, and a workplace injury or illness from one job also prevents me from working at my second job?

A Wages lost from the second job will be included in computing the amount of your disability compensation.

Q 18. How long will I receive disability compensation?

A You will receive temporary total disability compensation until you can return to your regular work, your employer offers you suitable light-duty work, or you reach medical stability. The maximum duration for temporary total disability compensation is 312 weeks.

Note: If you have a permanent impairment after your temporary total disability ends, you may be entitled to an additional award of permanent disability compensation.

Q 19. Am I compensated for time and travel for medical treatment?

A You may be paid temporary total disability benefits for time away from work for necessary medical care. You are entitled to reimbursement for the expense of your travel to receive medical treatment.

Q 20. Do my health care benefits continue at work while I'm unable to work and receiving workers' compensation benefits?

A The Workers' Compensation Act does not require employers to continue paying for health insurance while you are off work. However, you should talk to your employer about the Family and Medical Leave Act (FMLA) to see if it applies to you.

Note: FMLA is a federal law requiring some employers to provide up to 12 weeks of unpaid job protected leave to eligible employees for certain family medical reasons. You may be eligible if you worked for a covered employer at least 1,250 hours over the previous 12 months.

Q 21. How long am I entitled to medical care for my work injury or illness?

A There is no time limit to your right to receive medical care necessary to treat your work injury or illness. However, you **must** submit the bills for this medical care to your workers' compensation insurance company within one year from the date of the treatment.

Can Benefits be Reduced?

Q 22. Can anything be deducted from my workers' compensation check?

A Workers' compensation disability payments are not taxable and, except for child support, cannot be garnished to pay debts.

Q 23. Can my disability compensation be reduced or terminated?

A Not without permission from the Labor Commission. Permission can be granted in the following circumstances:

Temporary Disability Compensation: The Commission may authorize reduction or termination of temporary disability compensation if you are terminated from suitable light-duty work for: **1)** criminal conduct; **2)** violent conduct; **3)** violation of workplace health, safety, licensure, or nondiscrimination rules; or **4)** failing a drug or alcohol test.

Permanent Total Disability Compensation: The Commission may terminate a preliminary award of permanent total disability compensation if you are unable to work solely due to **1)** incarceration; or **2)** legal ineligibility to work. The Commission may terminate a final award of permanent total disability compensation if you are no longer totally disabled.

Note: Even if your disability compensation is terminated, you are still entitled to medical benefits.

Returning to Work

Q 24. When can I go back to work?

A You can return to work when you are able to do so. You should consult with your physician and obtain a light-duty or full-duty work release.

Q 25. Can I refuse an offer of light-duty work from my employer?

A Not without a good reason. If your employer offers suitable light-duty work, you are required to accept the work or risk losing your temporary disability compensation.

Q 26. What if my doctor says I can perform light-duty work and my employer does not have light-duty work available?

A If your employer does not offer light-duty work, you are entitled to continue receiving temporary total disability benefits until a doctor finds you are at medical stability or you exhaust your 312 week entitlement.

Medical Provider

Q 27. Can my employer or its insurance company require me to go to a specific doctor or hospital for treatment?

A Only for the first visit. Specifically, if your employer or insurance company has notified you of a "preferred provider organization" (PPO), you must go there for your first medical treatment; if you do not, you may be liable for part of the initial treatment cost. But after your first visit to the PPO, you can obtain treatment from the medical provider of your choice, at no cost to you.

If you have not been notified of a PPO, you can obtain your initial medical treatment from the provider of your choice.

Q 28. Can I change medical providers?

A You can change medical providers one time. You must notify your workers' compensation insurance company of the change. A referral from one medical provider to another is not considered a change of medical providers.

Q 29. Can I choose a chiropractor as my medical provider?

A Yes, but chiropractic treatment after the initial 8 visits must be pre-authorized by the insurance company.

Medical Records

Q 30. Am I required to release my medical records to my employer or insurance company?

A Because medical records are necessary to evaluate and administer workers' compensation claims, workers' compensation insurance companies and claims administrators of self-insured employers are generally entitled to 10 years of past medical records. Your employer is not entitled to these records.

More restrictive rules apply to records from psychiatrists, psychologists, obstetricians, or related to reproductive organs. You are required to release these types of records only if you are claiming workers' compensation benefits for these conditions or have signed a release for those records.

Moving out of State

Q 31. Am I entitled to benefits if I move out of state?

A Yes, but you must submit: **1**) an "Employee's Notification of Intent to Leave State" (*Form 044*); and **2**) an "Attending Physician's Statement" (*Form 043*) that has been completed by your Utah physician. These forms are available at www.laborcommission.utah.gov.

Note: Even if you move to another state, the amount that will be paid for medical care of your work injury or illness will still be subject to the Utah Labor Commission's medical fee rules.

Re-employment | Rehabilitation

Q 32. Can my employer discharge me if I can't return to work due to a job injury or illness?

A The **Utah Workers' Compensation Act** does not prohibit an employer from discharging an injured worker if the worker can no longer perform his or her job. However:

- ▶ Your employer cannot retaliate against you for filing a workers' compensation claim. In *Touchard v. La-Z-Boy, Inc.*, 148 P.3d 945 (Utah 2006), the Utah Supreme Court held that an employee who has been fired or constructively discharged in retaliation for claiming workers' compensation benefits can sue the employer for wrongful discharge.
- ▶ Termination of an injured worker who is capable of performing the essential functions of his or her work may violate the **Utah Antidiscrimination Act** and the **Federal Americans with Disabilities Act (ADA)**.

Note: For more information about these Acts, contact the Labor Commission's Antidiscrimination Division, (801) 530-6801 or toll free (800) 222-1238.

Q 33. What happens when my doctor releases me to work but I can't do the job I was doing when I was injured?

A If your doctor has determined that you have a permanent impairment from your work injury or illness, you are entitled to permanent partial or permanent total disability compensation. Also, you should check with your employer to see if there is a different job you can do that is within your capabilities.

Q 34. If my employer does offer me a different position within my capabilities, am I entitled to the same wage I was earning before I was injured or ill?

A No. Your employer may pay you at the new position's wage rate. But as mentioned in the answer to **Question 33**, you may be eligible for an award of temporary partial disability compensation or permanent partial disability compensation to help offset the difference between your old and new wage rates.

Q 35. Is my employer required to provide a new job or retrain me?

A No, but you may be eligible for rehabilitation services through the Utah State Office of Rehabilitation.

Q 36. Can I receive unemployment benefits while on workers' compensation?

A You are not eligible for unemployment benefits while receiving temporary total disability compensation or permanent total disability compensation. You may be eligible for unemployment benefits while receiving permanent partial disability compensation if you are able and available for full-time work and can reasonably expect to obtain work despite your disability. Once you have reached medical stability from your work injury or illness and are released to go back to work, you have 90 days to apply for unemployment benefits.

Questions about unemployment insurance benefits should be directed to the Department of Workforce Services at (801) 526-4400 or toll free (888) 848-0688.

Resolving Disputes

Q 37. What do I do if my claim is denied?

A First, talk with your workers' compensation claims adjuster to find out why the claim has been denied. You may be able to provide additional information and resolve the problem. If the insurance company continues to deny your claim, you can ask the Industrial Accidents Division for assistance. But if these efforts do not resolve the dispute and you still believe you are entitled to workers' compensation benefits, you can file an Application for Hearing with the Labor Commission's Adjudication Division. A mediation will be held in an attempt to settle the claim. If the claim cannot be settled through mediation, an Administrative Law Judge will then hold a hearing and issue a decision on your claim.

Q 38. Do I need an attorney?

A You are not required to hire an attorney, although you may decide to do so. The Industrial Accidents Division has staff available to explain your rights under the Utah Workers' Compensation Act. In deciding whether you want to hire an attorney, you should review the publication *Employees' Guide to Appealing a Workers' Compensation Claim Denial*, available on-line [Click Here](#).

Q 39. If I do hire an attorney, how is my attorney paid?

A In most cases, the Commission requires your attorney to accept payment on a "contingency" basis - the attorney is entitled to payment only if you prevail on your claim. The Commission also regulates the amount of fees - the Labor Commission Rule R602-2-4 deals with attorneys' fees - for more information [Click Here](#).

If you are claiming medical benefits, and less than \$4,000 in disability compensation is involved, the insurance carrier or self-insured employer may be required to pay your attorney's fees. If your claim involves more than \$4,000 in disability compensation, your attorney's fee will be deducted from your disability compensation.

Compensation Agreements

Q 40. What is a "Compensation Agreement?"

A Compensation Agreements are used to record the injured worker and insurance company's understanding of the amount of temporary disability compensation and permanent partial disability compensation that is due for a work injury or illness. Compensation agreements are submitted to the Industrial Accidents Division for review and approval of the parties' computation of benefits.

Q 41. Does signing a Compensation Agreement prevent me from claiming additional compensation, or cut off my right to medical benefits?

A **No.** You do not lose your right to claim additional disability compensation by signing a Compensation Agreement, nor does signing a Compensation Agreement limit your right to continuing medical care necessary to treat your work-related condition.

Lump Sum Settlements

Q 42. Can my disability compensation be paid to me all at once in a "lump sum?"

A Only with prior approval from the Labor Commission. The "Application for Lump Sum or Advanced Payment" (*Form 134*) can be obtained at www.laborcommission.utah.gov. If a lump sum payment is approved, the amount will be reduced to its discounted present value.

Q 43. Am I allowed to compromise or settle my workers' compensation claim?

A Only with prior approval from the Labor Commission. If a compromise or settlement is approved, it is final - you will not be able to claim additional benefits at a later time. Proposed compromises and settlements must be submitted in advance to the Labor Commission's Adjudication Division for review.

Workers' Compensation Fraud

Q 44. Is it against the law to claim workers' compensation benefits that I know I'm not entitled to?

A Under Utah law, a fraudulent workers' compensation claim for compensation or medical benefits is a crime and any employee found guilty of fraudulently receiving these benefits is subject to fines and incarceration.

Conclusion

This guide is intended to provide general information regarding injuries on the job. If you have any additional questions or problems with your workers' compensation claim, ask your employer or its workers' compensation insurance company, or contact us at:

Utah Labor Commission

Industrial Accidents Division
Toll Free In State
Email

(801) 530-6800
(800) 222-1238
laborcom@utah.gov

Additional copies of the "Employee's Guide to Workers' Compensation" may be obtained by phone or on the Internet at: www.laborcommission.utah.gov



Utah Labor Commission

160 East 300 South, 3rd Floor | PO Box 146600
Salt Lake City, Utah 84114-6600
(801) 530-6800 | Toll free in state: (800) 530-5090
www.laborcommission.utah.gov