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Maryland Workers' Compensation Law:

Available Benefits, Who Files the Claim? and the Commission Process

Please note that the U.S. Department of Labor Office of Workers' Compensation Programs OWCP administers four major programs including: the Energy Employees Occupational Illness Compensation Program, the Federal Employees' Compensation Program, the Longshore and Harbor Workers' Compensation Program and the Black Lung Benefits Program. The OWCP provides wage replacement benefits, medical treatment, vocational rehabilitation and other benefits to federal workers or their dependents who are injured at work or acquire an occupational disease. Go to their web site for information if you are covered under these programs. [CLICK HERE http://www.dol.gov/owcp](http://www.dol.gov/owcp)

This page is intended only to provide a brief, general description of the Maryland Workers' Compensation Law and benefits. It is not a comprehensive review of the law nor is it intended as a replacement for Legal guidance and advice from a competent lawyer. The Maryland Workers' Compensation Act may be found in the [Labor and Employment Article, Title 9, Annotated Code of Maryland](#).

Available Benefits: Types

Payment of Benefits

How to File a Claim & Contact the WCC

[See a detailed WCC Claim Process Diagram - Adobe?? Reader required](#)

Introduction

Since the early 1900's, every State has had some form of protection for employees who are hurt while working. The old system requiring lawsuits against employers just wasn't effective. Negligence by the employer was often difficult if not impossible to prove and the legal process was very time consuming and expensive, with no benefits paid to injured workers during the process. This is why the States passed workers' compensation laws, providing a statutory solution to the problem. Workers' compensation was a new kind of insurance which all employers were required to obtain to protect their employees.

Covered Injuries

Not all injuries are covered by the Workers' Compensation Law even if the injury happened "on the job." In Maryland, in order for an injury 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." Those words from the Maryland statute are VERY important. Just because a person is hurt "while working," "on the job" or "at work" may not be enough for the insurance to apply. Additionally, if you can prove that you have an occupational disease you may be entitled to Workers' Compensation benefits.

Employees Only

In determining whether an injury falls under the coverage of workers' compensation the first thing to understand is that this law protects only employees. The Workers' Compensation statute provides legal guidance on who is a covered employee and employer. A genuine employer-employee relationship must exist. Some businesses are set up in such a way that some persons don't actually work for the business but work with it as independent contractors. Other businesses don't have any employees because they are a sole-proprietorship or partnership. Persons in these categories, if they want workers' compensation insurance, may elect to be covered and can obtain the necessary insurance. There is a statutory procedure for electing coverage.

Accidental Personal Injury & Occupational Diseases

If there is an employer-employee relationship between the worker and their company, the next factor considered is if the injury was an accident. An accidental injury is one that happens "by chance or without design, taking place unexpectedly or unintentionally."

Exceptions to the accident requirement are occupational diseases. These are illnesses caused by the nature of the circumstances surrounding the worker's job. For example, asbestosis is a disease that may have been caused by a worker's job of removing asbestos from buildings. Some forms of skin, eye or lung disease may have been caused by long term exposure to chemical solvents or other solutions used on the job. Conditions such as these may result in the employee's being covered by workers' compensation even though there was no specific "accident;" they are covered as occupational diseases.

Arising Out of Employment

For a compensable accidental injury claim, the injury must "arise out of the employment". If the conditions under which the work is required to be performed by the employer causes the worker's injury, it is said to "arise out of" the employment. The focus of this factor is on the exposure of the employee to risk or danger because of the job requirements. For example, if a person must work in an environment that is usually wet and slippery--for instance, a car wash facility or a water amusement ride at an entertainment park--then a slip-and-fall injury experienced by that worker could be said to arise out of the person's employment.

Arising in the Course of Employment

For a compensable accidental injury claim, the injury must also "be in the course of employment." "In the course of employment" is a slightly different factor. Here the attention centers on the time, place and circumstances of the injury. If the injury occurs during the period of time when an employee was at work, the employer's place of business or such other location as may have been designated by the employer, and while the employee was performing their job duties or something related to them when the injury took place, the injury is said to have arisen in the course of that person's employment.

If all of the above factors are satisfied -and that's not always easy to determine initially- a worker's injury will generally be covered by workers' compensation insurance. Frequently, an investigation of the claim is necessary. If a worker believes they have sustained a compensable injury, an Employee Claim may be filed with the Workers' Compensation Commission to receive a determination regarding the type and amount of any benefits to which the worker may be entitled. Initial determinations that may have been made by insurance carriers are not binding on the Commission.

The legislature of each State determines the type and amount of benefits which are payable under workers' compensation insurance, just as the various States differ in determining what kinds of injuries are compensable and which are not. Based upon the laws enacted in each State the insurance companies who provide this type of insurance coverage consider the probabilities of injury for different occupational categories and set their premium rates accordingly. This is the amount charged to employers for their workers' compensation insurance. The Workers' Compensation Commission does not establish rates of premiums, nor does the Commission itself provide insurance coverage. Workers' compensation payments are not taxable to the employee as income.

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

Temporary Total Disability Benefits This is the period of time frequently referred to as the "healing period". If an employee's injury has resulted in a disability that prevents the person from returning to work at all -that is, the person is completely disabled for all work purposes- then the employee may receive temporary total disability payments. If the period of disability is fourteen (14) days or less then the compensation benefit payments may not be allowed for the first three (3) days of

disablement except for payments for hospital, nursing or other medical services, funeral expenses or medicine. If the period of temporary disability lasts for more than fourteen (14) days, then the compensation is allowed from the date of disability.

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Temporary Partial Disability Benefits

These are benefits to which an injured employee may be entitled during the process of recovery when the worker during a temporary period is NOT totally disabled. They are intended to be temporary and generally apply when the worker can only perform limited or part-time duties at a reduced income level. That is, when their wage earning capacity is lower. The employer or its insurer pays the covered employee compensation that equals 50% of the difference between the average weekly wage of the covered employee and the wage earning capacity of the covered employee in the same or other employment while temporarily partially disabled, subject to a maximum payment of 50% of the State average weekly wage.

Generally, if a covered employee is temporarily totally disabled due to an accidental injury or an occupational disease the employer or its insurer shall pay to the covered employee compensation that equals two-thirds of the average weekly wage on the covered employee, up to a maximum of the average Maryland weekly wage. The "average Maryland weekly wage" is calculated every year by the Department of Labor, Licensing and Regulation (DLLR) and provided to the Commission for use in its calculations. In no case are the benefits to covered employees less than \$50.00 (fifty dollars) per week, regardless of the individual's average weekly wage.

Temporary total disability benefits are intended to replace the income being lost, at least in part, during the interval when the injured employee can't work at all. The benefit is terminated when, during the process of treatment and recovery, the point is reached where the worker is no longer totally disabled -that is, they can return to work in some capacity- or if a medical determination is made that the injured worker has reached maximum medical improvement, even if the person has not fully recovered to their pre-injury condition.

Permanent Total Disability Benefits

Some injuries are so serious that a worker is permanently, totally disabled. Absent conclusive proof to the contrary, in Maryland the loss or loss of use of any of the following constitutes a permanent total disability: both arms, both eyes, both feet, both hands, both legs; or a combination of any two of the following: an arm, eye, foot, hand or leg.

Permanent Partial Disability Benefits

Injuries that are not so serious as to leave a worker permanently, totally disabled may nonetheless result in some permanent impairment. This is called permanent partial disability.

Generally, a covered employee who is entitled to compensation under the Workers' Compensation Act shall receive a minimum weekly compensation of \$50.00 for permanent partial disability unless that employee's average weekly wage was less than \$50.00. If the worker's average weekly wage was less than \$50.00, they will receive compensation that equals their average weekly wage at the time of the accidental injury or the last injurious exposure to the hazards of their occupational disease.

Benefit payments for permanent partial disability continue for a period of weeks established by the statute; a period that varies according to the body part injured and the severity of the injury. For example, the total loss of a thumb or the use of the thumb results in payments for 100 weeks. The total loss or loss of use of the 4th finger (also called the little finger) results in payments for 25 weeks. When the period allowed by a Workers' Compensation Commission finding and prescribed by the law has run, the compensation payments cease.

If a covered employee has an accidental injury or an occupational disease that results in a permanent total disability, the employer or its insurer shall pay to the covered employee compensation that equals to two-thirds of the average weekly wage of the covered employee, subject to a maximum payment equal to the State average weekly wage. No payment for permanent disability shall be less than \$25.00.

Benefits paid for permanent total disability are subject to an annual cost of living adjustment not to exceed 5% as determined by the Department of Labor, Licensing and Regulation. These benefits are reduced in the case of workers who are also entitled to Federal Social Security Disability Benefits to the extent necessary to avoid a diminution of the Federal benefits.

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Medical/Hospitalization Benefits

In addition to the various types of disability benefits to which an injured worker may be entitled, if a covered employee has suffered an accidental injury, compensable hernia or occupational disease, the employer or its insurer promptly shall provide to the covered employee, as the Commission may require-

Medical, surgical or other attendance or treatment:

Hospital and Nursing Services

Medicine

Crutches and other apparatus

Artificial arms, feet, hands, legs and other prosthetic appliances

The entitlement to these services may continue indefinitely or for whatever period is required by the nature of the accidental injury, compensable hernia or occupational disease if there is evidence to establish that the need for these services is reasonable, necessary and causally related to the accidental injury or occupational disease.

Wage Reimbursement Benefits

In addition to any other compensation paid to a covered employee entitled to compensation under the Workers' Compensation Act, the employer or its insurer is required to reimburse the covered employee for lost wages due to time spent being examined by a physician or other examiner at the request of the employer or its insurer and time spent attending and traveling to and from a Commission hearing scheduled as a result of a continuance caused by action of the employer or its insurer, if the claimant is otherwise entitled to compensation benefits.

Vocational Rehabilitation Benefits

When a covered employee is disabled from performing work for which they were previously qualified as the result of an accidental injury or an occupational disease, the covered employee is entitled to vocational rehabilitation services. Training may last up to 24 (twenty four) months and other services may include:

Coordination of medical services, vocational assessment, vocational evaluation, vocational counseling, vocational rehabilitation plan development, vocational rehabilitation plan monitoring, vocational rehabilitation training, job development, job placement.

Individuals having questions relating to vocational rehabilitation may call the Commission's Vocational Rehabilitation Office at (410) 864-5320.

Death and Funeral Benefits Page (Updated October 2011)

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Payment of Benefits

The Workers' Compensation Commission does not itself make benefit payments to injured workers. The Commission's role is to process and adjudicate claims. Once appropriate determinations have been made in specific cases, it is the responsibility of the insurance carriers and self-insured employers to make timely benefit payments to injured workers as required by the Commission's awards and orders.

Filing a Claim

Any worker who believes that they have suffered an injury covered under the Workers' Compensation Act may file an Employee's Claim with the Workers' Compensation Commission. Certain time limits on filing apply.

The WCC Employee Claim Form can be accessed and completed online; you must print, sign and mail the submitted form to the WCC. Click Here for more information.

Printed Employee Claim forms may be obtained from your employer or by contacting us:

Maryland Workers' Compensation Commission

10 East Baltimore Street

Baltimore, Maryland 21202-1641

(410) 864-5100

Outside Baltimore Metro Area Toll Free 1 (800) 492-0479

Maryland Relay for the hearing impaired Dial 711 in Maryland or 1-800-735-2258