

## **What is workers' compensation?**

Workers' compensation pays benefits if you are injured on the job or get a work-related illness. The law requires your employer to have workers' compensation insurance, which pays for necessary medical treatment and provides partial wage replacement if you are out of work and/or have medical bills as a result of a work-related injury or illness.

Workers' compensation is a no-fault system. Therefore, it does not matter who is to blame for the illness or injury. To collect wage and medical benefits, you only need to prove that your injury or illness is work-related.

## **Who is eligible for workers' compensation?**

All workers are eligible for workers' compensation benefits, even if the employer fails to properly report the injury or does not have workers' compensation insurance. In addition, your immigration status is not relevant; undocumented immigrants are eligible for benefits, and you do not have to provide a Social Security number to file a claim.

## **Can my employer retaliate against me for filing a workers' compensation claim?**

It is illegal for your employer to punish or fire you for having a job injury or illness or for filing a workers' compensation claim.

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*The content of this brochure is general in nature and is not intended as legal advice for individual situations. For specific legal planning and advice, a lawyer should be consulted.*

January 30, 2014

**Have you been injured  
on the job?  
Has your job made you sick?**

## **Workers' Compensation in Massachusetts: A Short Guide**

Greater Boston Legal Services  
Employment Unit  
197 Friend Street  
Boston, MA 02114  
(617) 371-1234

## **What should I do if I am hurt on the job?**

### **Report the injury to your employer**

Tell your supervisor right away. If your injury or illness developed gradually (such as hearing loss), report it as soon as you learned it was caused by your job.

### **Get treatment**

If it's a medical emergency, go to an emergency room right away. Otherwise go to your health care provider as soon as possible. Be sure to continue receiving treatment as long as necessary. Inform the health care provider that you are seeking treatment for a work-related injury.

### **Keep good records**

- Make notes regarding the details of your injury. These should include the exact date and time, the circumstances surrounding the injury or illness, and the names of all witnesses who may have knowledge regarding your claim.
- Keep notes of all discussions you have with anyone involved with your case.
- Keep track of your medical condition and how it affects your ability to work. Request copies of all medical reports and other documents.
- Save pay stubs and time sheets showing your income, the dates you worked, and when you were out of work.
- Keep records of any out-of-pocket expenses like prescriptions or travel costs for medical appointments.

### **Make sure that your employer reports the injury to its insurer**

If your employer does not report the injury, you should file a claim on your own. You need to file an Employee's Claim Form with the Massachusetts Department of Industrial Accidents, located at 1 Congress Street, Suite 100, Boston, MA 02114. The telephone number is (617) 727-4900. More information is available at [www.mass.gov/dia](http://www.mass.gov/dia).

### **Consult an attorney**

The laws and procedures surrounding workers' compensation are complex and at times very confusing. What applies to one injured worker may not apply to you. Learn what your rights are and don't be afraid to ask questions.

While you do not need an attorney to file a claim for benefits or to appeal a denied claim, one is highly recommended. A good workers' compensation attorney will plan a strategy for your case, gather information to support your claim, keep track of deadlines, and represent you in hearings and appeals if necessary.

Attorneys' fees are set by law and are on a contingent basis. If you win, the insurance company pays the attorney's fee. In some cases your workers' compensation payments may be reduced to pay for your legal representation. If you lose, your attorney can only charge you for very specific expenses.

The following lawyer referral services can provide information on attorneys who handle workers' compensation cases:

- National Lawyers Guild: (617) 227-7008
- Mass. Bar Association: (617) 654-0400
- Boston Bar Association: 617-742-0625

## **How does the process work?**

If you need medical attention but are not out of work for at least five days, then your employer simply notifies its insurer of the medical bills. You will get a claim number to give to your doctor, and then the doctor will send the bills directly to the insurer.

If you have been injured and have been unable to earn full wages for five or more days, your employer must submit a report form to its insurance company and to the Department of Industrial Accidents within seven days, not including Sundays and legal holidays.

The employer should give you a copy of this report form. If you do not hear from the insurer shortly after you get your copy of this form, call the insurance company to make sure they are aware of your injury and are processing your claim. Your employer is required by law to have a notice posted in the workplace with the name of the workers' compensation insurance company.

The insurance company then has 14 days from receipt of the first report of injury to mail you a check or, if it intends to contest the claim, to send you a form stating its reasons for denying compensation.

If denied, your claim will be discussed at an informal meeting, called a conciliation, where the parties will attempt to reach a voluntary agreement. If no agreement is reached, the matter will go before an administrative judge, who will either order the insurer to pay your benefits or rule that the insurer is not liable. You can appeal this decision if it is not in your favor.