

Facts about On-the-Job Injuries in Missouri

Filing an accident report

Report any injury (no matter how slight) immediately to your employer or his representative, such as a manager or co-manager, and your shop steward. In no case should you wait more than 30 days after the accident or more than 30 days after being diagnosed with an occupational disease. If you are unable to report the injury, then a member of your family should report the injury.

When reporting the injury, ask that a written record be made of your injury report or provide your employer with written notice, including your name and the time, place and nature of the injury, including all body parts affected by the injury.

Getting medical treatment

If you have a job-related injury, disability or occupational disease, your employer has an obligation to provide such medical, surgical, chiropractic and hospital treatment, including nursing care, custodial care, ambulance transportation, medicines, crutches, x-rays, etc., as may be reasonably required after your injury or disability to cure and relieve the effects of the injury.

If you desire, you do have the right to select your own doctor, hospital, medical facilities and services, but you do so at your own expense. Unless you are willing to pay for these yourself, **your employer has the right to choose and direct which doctors treat you, where you are treated, etc.**

Your employer does not have to pay you for work missed due to doctor appointments for treatment or physical therapy. In fact, for injuries occurring after August 28, 2005, your employer may require you to take paid leave, personal leave, or medical/sick leave when work time is missed for treatment, therapy or medical evaluations.

In addition, for injuries occurring after August 28, 2005, your employer does not have to pay mileage for travel to and from medical treatment unless you receive medical treatment or physical therapy outside your principle place of employment.

Second opinions

Although you always have the right to seek medical treatment on your own, it is at your expense. The Missouri Workers' Compensation Law does not require that your employer provide a second opinion.

Temporary total disability benefits

While you are temporarily unable to do any work as a result of your injury, you are entitled to receive cash compensation for that period which can not exceed 400 weeks. The determination of the amount of each weekly benefit is based on your weekly earnings at the time your injury occurred.

The basic rule is that the weekly rate of compensation for temporary total disability payments shall be 66 2/3% of your average weekly earnings as of the date of your injury, subject to certain minimum and maximum limitations. Overtime should be included in this calculation.

Temporary total disability benefits begin after you are authorized off work more than three “regularly scheduled work” days. However, if you are authorized off work for 14 days or more, whether regular work days or not, compensation is then due for the initial three day waiting period.

Benefits for permanent disability

If you are “**permanently and totally disabled**” as a result of a work-related injury or occupational disease, you are entitled to receive weekly compensation benefits for your lifetime. Your weekly benefit is determined in the same way as your weekly benefit for temporary total disability.

“Permanent partial disability” means a disability that is permanent in nature and partial in degree. If you have any permanent partial disability after you have been released from medical care, you should receive compensation from your employer for it.

If your work related injury results in certain level of permanent disability, whether partial or total, you may qualify for additional compensation from the **“Second Injury Fund”** for any pre-existing disabilities which also create a certain level of disability. The pre-existing disability need not be from a work-related injury.

If your claim is denied

If your benefits are denied or terminated and you would like to appeal the denial or termination, you have the right to file a claim and request a hearing before the Division of Workers' Compensation. The Division of Workers' Compensation shall set the matter for hearing within sixty days and render a decision within thirty days of the date of hearing.

Should your employer or its insurance carrier refuse medical care or compensation to you or terminate any benefits when you feel you are still entitled, you should immediately contact an attorney, and/or the main office of the Division of Workers' Compensation, P.O. Box 58, Jefferson City, Missouri 65102.

Likewise, if the company doctor tells you that your condition is not work-related, you should seek advice from an attorney before accepting this to be true.

Filing a claim

When any dispute arises between you and your employer or his insurance company regarding any benefits you believe are due, you or your attorney should file a "Claim for Compensation" with the Division of Workers' Compensation.

A claim **MUST** be filed:

- A within two years after the date of injury, death, or last compensation payment made; or
- B if the employer does not file a report of injury, within 3 years from the date of injury, death or last compensation payment made, if not an occupational disease; or
- C in the case of an occupational disease, the claim should be filed within 2 years from the time that the occupational disease "becomes reasonably discoverable and apparent that a compensable injury has been sustained."

If any injury results in death or if an employee dies during a period in which a claim could have been brought but his death was not attributable to a work-related accident, then the surviving dependents of the employee may file a claim.

Other Concerns

If you receive compensation for a work-related injury, the compensation you receive could impact other benefits such as **Social Security Disability and Medicare**. The laws in this area are always changing and therefore an attorney should be consulted if you are, or will become, eligible for these other benefits during the pendency of your workers' compensation claim.

In addition, if the wrongful conduct of a person or company, other than your employer, caused your injury, you may have the right to sue the third party in **civil court** for **damages** beyond those provided under the Workers' Compensation Law.

Representation

The law does not require you to have a lawyer to either file a claim or appear before any Administrative Law Judge of the Division of Workers' Compensation. If you do retain an attorney, an Administrative Law Judge must approve the attorney's fee. The normal practice is for attorneys to handle workers' compensation claims on a contingency basis, which means the attorney is awarded a limited percentage of any compensation, he or she obtains for the employee-client. Costs incurred, such as those for medical evaluations or copies of medical records, are the responsibility of the employee-client and thus are deducted from the employee-client's recovery.

One thing you should remember in deciding whether you want or need a lawyer with respect to your claim is that **your employer or its insurance company will have a lawyer** representing them. This lawyer is obligated to protect the interests of his client, rather than your interests.

Prior to January 2006, the Division of Workers' Compensation employed "legal advisors" who were responsible for advising unrepresented workers of their rights under the Missouri Workers' Compensation Law. Although the legal advisors were not there to represent or advocate for the injured workers, those who served in this position were able to educate many workers who had little, if any, knowledge of their rights or of the benefits provided under the Missouri Workers' Compensation Law. As of January 2006, all legal advisors were eliminated from the system. In addition, the law after August 28, 2005 requires that the Judges at the Division of Workers' Compensation approve all settlements as long as they are not the result of undue influence or fraud. There is no longer a requirement that the settlement be fair.

According to an analysis of Division of Workers' Compensation data by *Missouri Lawyers Weekly* (20 M.O.L.W. 1,206), unrepresented workers received significantly less compensation for permanent injuries as compared to those workers who were represented by an attorney when comparing the twelve month period between August 2004 – August 2005 and August 2005 - August 2006.

If you would like to speak to our union attorneys regarding your workers' compensation claim, please contact Hammond, Shinnors, Turcotte, Larrew and Young at (314) 727-1015 or toll free at 1-888-727-1015 and inform the receptionist that you are a member of Local 73 calling on a workers' compensation matter. Advice over the phone is free of charge. Please be advised that our lawyers have also agreed to provide legal services for Local 73 members on a reduced fee basis for handling workers' compensation claims. Please also look for the firm's website at www.hammondshinnors.com.

The Missouri Labor and Industrial Relations Commission

The Labor and Industrial Relations Commission - Division of Workers' Compensation is the State agency responsible for administering workers' compensation. They can be reached at:

www.dolir.state.mo.us

Main office (573) 751-4231

St. Louis office (314) 340-6865

St. Charles office (636) 940-3326