



Mississippi Workers' Compensation Commission

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<http://www.mwcc.state.ms.us>

2010

MISSISSIPPI WORKERS'

COMPENSATION

FACTS

WHAT IS WORKERS' COMPENSATION?

Workers' compensation is essentially a no-fault insurance plan mandated by State law, supervised by the Workers' Compensation Commission and paid for entirely by employers. The Workers' Compensation Law was enacted by the Legislature in 1948 to guarantee the payment of certain medical and wage loss benefits to persons injured on their job. As part of this Law, the Workers' Compensation Commission, with its office in Jackson, MS, was established to supervise and monitor claims which arise under the Law. An employer covered by the Law is required to secure the payment of workers' compensation benefits to its employees by purchasing workers' compensation insurance from an insurance company or by obtaining approval from the Commission to self-insure.

WHO IS COVERED?

Most working Mississippians are protected by the Workers' Compensation Law, but there are exceptions. All employers with five (5) employees regularly employed are required to provide workers' compensation insurance coverage. If the employer has less than five (5) employees, workers' compensation coverage is not mandatory but may be provided voluntarily by the employer. Domestic and farm labor, and employees of non-profit fraternal, charitable, religious or cultural organizations are not covered under the Law unless coverage is provided voluntarily by the employer. The Workers' Compensation Law likewise does not apply to federal employees or certain transportation and maritime employments covered by federal compensation laws. Finally, independent contractors are ordinarily excluded from coverage although special protection is given to employees of subcontractors.

WHAT IS COVERED?

Any injury, however slight or serious, is covered if it arises out of the course and scope of employment. Occupational illnesses and diseases are also covered if job-related, as are work related deaths.

WHEN DOES COVERAGE BEGIN?

The worker is covered and eligible for benefits as soon as he or she begins employment. There is no waiting period or minimum earnings requirement.

WHAT MUST AN INJURED WORKER DO IN THE EVENT OF INJURY?

In the event of an injury, you should immediately notify your supervisor or other person designated by your employer. Prompt and accurate reporting is essential. Your employer is then required to make a report of the injury and notify its insurance company and/or the Workers' Compensation Commission. An injured employee should try to give the employer notice of the injury within 30 days. If no disability benefits are paid to the injured worker by the employer or carrier within two (2) years of the date of injury, then the right to any and all benefits is barred unless the employee files a claim with the Commission during this two (2) year period. This is what is known as the two (2) year statute of limitations.

PLEASE BE ADVISED:

"Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining or wrongfully withholding any benefit or payment under [the Workers' Compensation Law] is guilty of a felony and on conviction thereof may be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00) or double the value of the fraud, whichever is greater, or by imprisonment not to exceed three (3) years, or by both fine and imprisonment."

WHAT BENEFITS ARE AVAILABLE?

The Workers' Compensation Law provides two basic benefits to the injured worker:

- ▶ *Medical Benefits.* An injured worker is entitled to whatever reasonable and necessary medical services are required to treat the injury and achieve maximum cure. These include but are not limited to doctor and hospital services, nursing services, medication, physical therapy, crutches and any other apparatus or medical service which is necessary. Mileage expense reimbursement for trips to the doctor is also included; consult the Commission's internet site at www.mwcc.state.ms.us for current rates. Certain rehabilitation services may also be provided to assist the worker in his recovery and return to gainful employment.

- ▶ *Wage Loss Benefits.* If an injured worker is required because of the injury to miss time from work, then he or she is entitled to a wage loss benefit equal to as much as two-thirds of the workers' average weekly wage, subject a maximum weekly amount and to certain time limits which are set by the Legislature. While the worker is under the continuing care of a doctor and is unable to work or to earn full pay, this benefit is known as a "temporary disability" payment. Once the doctor finds the worker has achieved maximum cure or improvement, additional wage loss benefits known as "permanent disability" payments may be due if the worker has a permanent disability or handicap. All wage loss benefits are required to be paid at least every 14 days so long as the covered disability continues, subject to certain statutorily provided time limits.

WHAT IF DEATH OCCURS?

If the injury causes death, the Workers' Compensation Law guarantees the payment of benefits to any surviving spouse and certain surviving dependents. These benefits are payable at least every 14 days, and may continue for up to 450 weeks after the decedent's death. These benefits equal a certain percentage of the deceased worker's average weekly wage, and are subject to a weekly maximum amount set by statute. Also, the employer or its insurance carrier is obligated to pay up to \$2,000.00 in funeral expenses, as well as an immediate lump sum payment of \$250.00 to the surviving spouse.

MORE ABOUT MEDICAL BENEFITS.

The Workers' Compensation Law provides that an injured worker has the right to select one physician or medical provider of his or her own choosing to render treatment. This chosen provider may make one referral of the worker to a another specialist to continue treatment without any approval from the employer or its insurance carrier. However, any additional selections or referrals must be approved in advance by the employer or its insurance carrier. The worker is not limited to a licensed medical doctor and may choose, for example, a chiropractor for treatment. The worker is also entitled to mileage reimbursement for trips to the doctor.

IS THERE A DEDUCTIBLE?

There is no deductible to be paid by the worker for any of the benefits received. An employer may have a deductible arrangement with its insurance company, but all workers' compensation benefits are provided at no cost to the employee.

PLEASE BE ADVISED:

"Any employee receiving [medical] treatment or service under the [Workers' Compensation Law] may not be held responsible for any charge for such treatment or service, and no doctor, hospital or other recognized medical provider shall attempt to bill, charge or otherwise collect from the employee any amount greater than or in excess of the amount paid by the employer, if self-insured, or its workers' compensation carrier."

"No agreement by an employee to pay any portion of premium paid by his employer or to contribute to a benefit fund or department maintained by such employer for the purpose of providing compensation or medical services and supplies as required by [the Workers' Compensation Law] shall be valid. Any employer who make a deduction for such purpose from the pay of any employee entitled to [workers' compensation] benefits . . . shall be guilty of a misdemeanor. . ."

HOW ARE PAYMENTS MADE?

All payments are made by the employer or its insurance company, *not* by the Workers' Compensation Commission. Medical payments should be made directly to the doctor or other medical provider by the employer or its insurance company. Wage loss payments should be made directly to the injured worker or the workers' legal representative. Once started, wage loss or disability payments to the worker should be made at least every 14 days until concluded.

ARE BENEFITS PAID FOR ALL DAYS MISSED FROM WORK?

Medical benefits are paid regardless of the number of days missed from work. If the injured worker suffers fewer than 14 days of disability (days on which the worker is unable due to injury to earn his regular wage) as the result of a job related injury, wage loss payments are not made for the first 5 days. Payment will be made only for the number of days of disability in excess of 5. This is known as the 5 day waiting period. If the worker suffers 14 or more days of disability, then wage loss payments are made for the total period of disability, including the first 5 days.

HOW MUCH ARE WAGE LOSS PAYMENTS?

Depending on the nature of the injury and disability, payments will be as much as two-thirds of the workers' average weekly wage, subject to a maximum weekly amount set by the Legislature. No worker is entitled to receive more than 450 times the maximum weekly amount established by the Legislature, regardless of the type of injury. In death cases, this limit applies to the total of payments to spouse and dependents.

Effective for injuries or fatalities occurring on or after January 1, 2010, the maximum weekly benefit for disability or death is \$422.31. The maximum overall limit is 450 times this amount, or \$190,039.50. These figures represent the maximum amount which can be paid for an injury or death. Depending on one's average weekly wage, benefits may be less, since you are entitled to the lesser of 2/3 of your average weekly wage or the weekly maximum in effect at the time of your injury. Please consult the minimum/maximum benefits chart available at www.mwcc.state.ms.us for the maximum benefit rate for years other than 2010.

HOW LONG WILL WAGE LOSS PAYMENTS CONTINUE?

For a worker permanently and totally disabled, payments will be made for a maximum period of 450 weeks. For injuries which result in less than permanent and total disability, the time limit for payments varies according to the nature of the injury and disability. In cases of death, payments to dependents may not exceed 450 weeks.

WHAT IF THERE IS A PROBLEM?

If you encounter a problem with the way your claim is being handled, or you think you have not received all benefits due, first contact the employer or insurance company representative handling your claim. Many problems can be cleared up with a phone call. Remember, if your claim is accepted and paid, it will be paid by the employer or its insurance carrier and not by the Workers' Compensation Commission. If the problem cannot be resolved in this manner, you may contact the Mississippi Workers' Compensation Commission at 601-987-4200 and ask to speak with a Claims Representative. A Claims Representative may be able to help you resolve your problem.

DOES THE INJURED WORKER NEED AN ATTORNEY?

Fortunately, the majority of claims are handled routinely and without any dispute. However, there are instances when you may not be able to resolve disputes yourself or through a Claims Representative of the Commission. In such cases, the assistance of an attorney can be invaluable. You are not required to hire an attorney, but you may consult with and hire an attorney of your own choosing at anytime. Most attorneys are paid by retaining a percentage of the compensation you receive after the attorney is hired. So long as your claim is pending before the Commission, an attorney may not retain more than 25% of the total compensation paid to you. If your claim is appealed to a court of law, up to 33 1/3% of the total compensation may be set aside for attorney's fees.

SAFETY IS IMPORTANT!

While the Workers' Compensation Law exists to guarantee certain benefits for persons who sustain bona fide work related injuries or illnesses, these benefits are limited and often will not make the injured person whole again. Prevention is the most valuable benefit and every worker should strive to prevent an injury from occurring. By adhering to safe work practices, many injuries can be prevented.