

# Workers' Compensation

For the benefit of its workers, our state maintains a Workers' Compensation system. Under this law, workers injured on the job generally do not have the right to sue their employer in court, although the worker may be able to sue others—generally called “third” parties. Under Workers' Compensation in New York, the employer is responsible for payment of injured employees' medical expenses, partial replacement of lost wages, and, in some cases, monetary awards for permanent injuries. This system is faster than the court system, but is complicated and has its own unique rules. An attorney who is experienced in the Workers' Compensation system is an invaluable resource for workers who suffer on-the-job injuries and illnesses.

This guidebook seeks to provide you with information about what to do if you are injured while working in New York State. It provides some insight into the type of injuries covered and compensation paid. It also reminds you that, in certain circumstances involving third parties, you may also sue for injuries in the courts. As you read through the guidebook, we urge you to contact an attorney experienced in these matters with any questions you may have.



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# How Do I Obtain Workers' Compensation Benefits?



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## I've been injured on my job. What next?

Whether or not you hire an experienced attorney, you should follow certain steps to ensure that you protect your rights in the event that you sustain an injury or illness on the job.

First: Am I covered? Most injuries and illnesses that are sustained while working are covered; the important thing to remember is that, in order for it to be covered, the injury or illness must have been caused by the job. Also, it is not necessary that you first "clock in" at work to be covered; injuries that occur while entering or leaving your employer's premises or while running an outside errand for your employer are often covered, too. If you're not sure whether your particular injury is covered by Workers' Compensation, consult an attorney who is experienced in such cases.

Second: How do I report it? The law states that injured workers in New York have thirty (30) days to report an injury on the job, but you should always report these as soon as possible. It is highly recommended to fill out and give to your supervisor (in person, or by certified mail, with return receipt) a written accident report and to keep a copy as soon as you are injured.

Third: What happens then? Once the employer gets the accident report, it is required to forward the report to its insurance company, known as the "Workers' Compensation carrier." It is a good idea at this point to ask your employer for the name, address and phone number of the Workers' Compensation carrier, so you can tell your doctor this information.

Fourth: What about treatment? Seek immediate medical treatment for any on-the-job injury. Consult a doctor who is both a specialist (such as an orthopedist, neurologist, or physical medicine specialist) and who accepts Workers' Compensation. It is

generally not a good idea to go for regular follow-up treatment (after any emergency visits are over) with your family doctor, a hospital outpatient clinic or a doctor your employer sends you to.

Fifth: Anything else? File a C-3 form with the New York State Workers' Compensation Board, a state agency. Most people are surprised to learn that New York State law requires you to file a C-3 form with the New York State Workers' Compensation Board every time you are injured at work. Most people do not know this because your employer will not tell you about this requirement. That is because filing a C-3 form is solely YOUR responsibility—not your employer's! If you do not file this form with the State Workers' Compensation Board within two (2) years of your injury, your case can be barred (lost). An attorney experienced in Workers' Compensation can help you file this form.

Sixth: If the claim is accepted by the carrier, they may start payments under the law once you are out of work longer than 7 days—called the "waiting period." But some carriers may delay, or reject, your claim altogether. At that point, you must request a hearing in front of the Workers' Compensation Board in order to get a decision in your case. Some cases have multiple hearings before they are decided. This can be a long and complicated process. Again, an experienced attorney is invaluable when you must attend hearings; the process is informal, but rarely simple, and the carriers always have an attorney at these hearings to represent them!

Seventh: If your injury was caused by the negligence or carelessness of a "third party," i.e., anyone who is not your employer or co-worker, you may ALSO start a lawsuit in court at the same time you collect Workers' Compensation. Again, consult an attorney who is experienced in such cases as soon as possible if you think you may have a negligence lawsuit. An attorney can advise you about "third-party lawsuits" and how to best protect your rights if you are injured due to someone's carelessness!

## What can I claim under Workers' Compensation?

Workers' Compensation in New York provides several types of benefits, including:

- Medical treatment.
- Benefits for chronic injuries caused by the job such as carpal tunnel syndrome, asbestosis, and other lung diseases.
- Benefits for psychological problems caused by on-the-job injuries.
- Lost wages: Generally, the most you can collect on a weekly basis is 2/3 (two-thirds) of your before-tax salary or the state maximum (currently this figure is \$772.96, but it changes annually), whichever is less.
- Reduced earnings awards: You can, in some cases, collect benefits if your work injury forced you to change jobs to a lighter, lower-paying job.
- Permanent injury awards: Called "schedule loss awards," these are awards for permanent loss of function of a bodily joint caused by a work injury such as loss of function of the hands, arms, knees, hips, etc. Also, there are monetary awards for facial disfigurement, loss of vision, loss of hearing and other permanent impairments caused by on-the-job injuries. It is not necessary that the injured worker be out of work to collect such an award.
- Full reimbursement for out-of-pocket expenses and for travel to medical providers.
- Job search and vocational services.

Many people do not know how to collect all of these benefits. Having an experienced attorney will ensure that you collect all of the Workers' Compensation benefits that you deserve!

