

# Arkansas Workers' Compensation Questions & Answers

## What is Workers' Compensation?

Arkansas' no-fault compensation law was created by an initiated act in 1939 to guarantee prompt, automatic benefits to workers injured on the job. Before the Workers' Compensation Law, an injured worker had to sue the employer to recover medical costs and lost wages. Lawsuits took months and sometimes years. Juries and judges had to decide who was at fault and how much, if anything, would be paid. It was a costly, time consuming and unfair system.

If an employee is unable to work because of a job injury, the employer's workers' compensation policy takes care of the medical expenses and pays the employee money to live on until he/she is able to go back to work. In most cases, these benefits are started automatically, without delay or red tape.

Effective July 1, 1993, reform legislation was enacted and Act 796 of 1993 became the law for workers' compensation claims. The following questions and answers concern injuries occurring after July 1, 1993.

## Who is covered?

Almost every working Arkansan is protected by the Workers' Compensation Law, but there are a few exceptions. Businesses where there are two or fewer employees may not be covered. Railroad and maritime workers are covered by federal laws. The Arkansas Workers' Compensation Law does not apply to employment of agricultural farm labor, domestic help, or employment by non-profit, religious, charitable or relief organizations. Also exempt from the law are personnel covered exclusively by federal law.

## How do I know if my employer has workers' compensation coverage?

If a notice is not displayed at the work place, then ask your employer; if you are not satisfied with your employer's answer, contact the Arkansas Workers' Compensation Commission.

## What is covered?

Workers' compensation covers accidental injuries which arise out of, and in the course of employment, cause internal or external harm to the body, are caused by a specific incident and are identifiable by time and place of occurrence. There are three exceptions to the specific incident, and time and place requirement: (1) rapid repetitive motion injuries, including carpal tunnel; (2) gradual on-set back injuries; and (3) hearing loss. These three injuries are compensable only in those cases in which the resultant condition is the "major cause" of the need for treatment and/or disability or death. Major cause is defined as more than 50% of the cause.

Mental injuries and heart attacks are addressed by specific statutory provisions. A mental injury must be caused by a physical injury to the employee's body, and disability benefits are limited to 26 weeks. However, the physical injury requirement shall not apply to any victim of a crime of violence.

A heart attack is compensable only if an accident is the major cause of the physical injury. The exertion of work which caused the heart attack must have been extraordinary and unusual in comparison to the employee's regular employment. Or, some unusual and unpredicted incident must have occurred which was the major cause of the physical harm.

The law also provides coverage for occupational diseases which arise out of and are in the course of employment. Ordinary diseases of life to which the general public is exposed are not covered as a general rule.

## When is coverage effective?

Coverage begins the first minute on the job and continues during employment. You do not have to work a certain length of time, and there is no need to earn a certain amount in wages before being protected.

## How do I get the benefits?

You should report the injury to your employer or supervisor immediately. You should give the employer written notice of the time, place and nature of the injury and such additional information to

enable the employer to arrange medical treatment and to complete all necessary reports. Prompt reporting is the key. Benefits are automatic, but nothing can happen until the employer knows about the injury. Protect your rights to benefits by giving the employer notice of the injury, no matter how slight. Even a cut finger can be disabling if an infection develops.

### **How is medical care provided?**

The employer or insurer should provide you with a copy of your rights to medical care (WCC Form AR-N). The law obligates the employer to provide all reasonably necessary medical care. It also entitles the employer who has contracted with a certified managed care organization or has obtained internal managed care certification to designate the initial provider of that care. The employer and insurer may not be required to pay for treatment you seek on your own without their knowledge. However, the employer and insurer may authorize you to see your own doctor. You should check with the employer or the insurance company about any medical treatment you need. Problems concerning treatment can be solved by cooperation between the worker and the employer or insurer in most cases.

If the claim for benefits is denied, the employer or insurance carrier may still be responsible for treatment of services if: (1) you request medical assistance in writing prior to seeking medical attention; (2) the employer refuses to refer you to a medical provider within 48 hours after the written request; (3) the alleged injury is found to be compensable; and (4) the employer has not made a previous offer of medical treatment.

### **What if I need emergency treatment immediately and am unable to seek the medical treatment provided by the employer and insurer?**

In an emergency requiring immediate treatment, you may seek emergency treatment and the employer or insurer may be required to pay for such treatment.

### **How can I change physicians?**

The Arkansas Workers' Compensation Law sets forth specific procedures which must be followed to determine if a change of physician is appropriate. If the employer or insurance carrier has not approved your change of physician request, you may contact the Legal Advisor Division of the Workers' Compensation Commission regarding the change of physician procedure. Failure to follow the change of physician rules could result in denial of payment for medical treatment from that physician. Change of Physician requests cannot be approved over the telephone by the Legal Advisor Division.

### **If unable to work as a result of an accidental injury on the job, how long must I be off before I am entitled to disability benefits?**

Disability benefits are not paid for the first seven days of disability, commencing the day after the injury, if the disability does not last fourteen (14) calendar days. If the disability does last fourteen (14) calendar days, benefits are payable beginning the day following the injury.

### **What are the benefits?**

The law provides three kinds of workers' compensation benefits:

(1) Medical care to treat the injury - not just doctor bills, but also medication, hospital costs, fees for lab tests, x-rays, crutches and so forth. There is no deductible and all costs for reasonably necessary services are paid directly to the provider by the employer's insurance company or the self-insured employer;

(2) Rehabilitation services. Sometimes this is just an extension of medical treatment, for example, physical therapy to strengthen muscles. However, if the injury results in permanent disability, you may qualify for vocational rehabilitation; and

(3) Cash payments. More often than not, cash payments made to injured workers are in the form of temporary total disability benefits. These payments are made during the healing period while the employee suffers a total incapacity to earn wages. If the injury results in a permanent impairment, such as the amputation of a finger or loss of use of the shoulder, you will be paid permanent partial disability benefits after being released to return to work. If your impairment has affected your pre-injury wages, you may be entitled to wage loss. If the injury resulted in death, payments may be made to surviving dependents.

**How much are the cash payments?**

The benefits provided for temporary total disability are calculated at sixty-six and two-thirds percent (66-2/3%) of the injured worker's average weekly wage - not to exceed a maximum rate as set by state law. Workers' compensation payments are tax-free. Should you have any questions about your benefit rate, you can contact the adjuster at the insurance company or a Legal Advisor at the Arkansas Workers' Compensation Commission.

**How often should compensation for lost time be paid?**

Every other week, normally.

**When are the cash payments made?**

If you report the injury promptly, you should receive the first compensation check within fourteen (14) days, not including the date of injury. After that, you should receive a check every two weeks until you are no longer disabled. In extremely serious injuries, the payments may continue for life.

**Do I need to apply for benefits with the Workers' Compensation Commission?**

No. Employers or insurers should provide medical treatment, appropriate disability payments and file the required reports and notices with the Workers' Compensation Commission. If they do not, you should call the Workers' Compensation Commission regarding your legal rights.

**What if there is a problem?**

Most claims are handled routinely. After all, workers' compensation benefits are automatic and the amounts are set by the Legislature. But mistakes and misunderstandings do happen. If you think you have not received all benefits due, you can contact the employer or the insurance company. Many questions can be cleared up with a phone call. If still not satisfied with the explanation, they may get advice from the Workers' Compensation Commission office (phone numbers listed in the back of this brochure). The Commission staff includes trained persons who are ready, willing, and qualified to advise you about your rights and benefits under our law. These persons can also arrange preliminary conferences where you can meet with the employer or the employer's representative to discuss any problems in getting benefits. Many problems and disputes can be resolved by Legal Advisors through the Preliminary Conference procedure or mediation, saving the parties litigation costs.

If the problem still cannot be resolved, it may be necessary to file a "Form C" with the Workers' Compensation Commission. This state agency reviews cases when you believe you have been denied benefits unjustly. The claim should be filed on WCC Form AR-C. Claim for Compensation, which may be obtained at any Workers' Compensation Commission office or by contacting the Arkansas Workers' Compensation Commission, P.O. Box 950, Little Rock, Arkansas 72203-0950.

**When must the claim be filed?**

The law requires that your claim be filed within two (2) years from the date of injury or death, or one year from the date of last payment of compensation.

**What happens after I file a claim?**

If the dispute cannot be resolved at a preliminary conference or mediation, the case will be assigned upon request, to an Administrative Law Judge of the Commission, who will conduct further proceedings in the matter. Either party may hire an attorney to represent them at the hearing.

**What will the attorney's fees be for handling a workers' compensation claim?**

Under the Workers' Compensation Law, fees for legal services are not valid unless approved by the Commission. In contested cases, one-half (1/2) of the attorney's fee is paid by the employer or the insurance carrier and one-half (1/2) by you out of compensation awarded. This means that under normal circumstances, unless you are awarded benefits, you do not owe an attorney's fee.

**What compensation is provided if I receive an anatomical impairment rating from my physician as a result of the accident or injury?**

You are entitled to receive permanent partial disability benefits for a prescribed number of weeks. The Arkansas Legislature has assigned values in terms of weeks of compensation to various

parts of the body and to the entire body.

The value assigned by the Legislature is multiplied by the impairment assigned by the physician to determine the number of weeks of benefits to which you are entitled.

**What if I am not satisfied with the amount of disability reported by the physician?**

You do not have to accept an impairment rating from a physician or a settlement proposed by the employer or its representatives. You may, as with any dispute which arises in the case, request a preliminary conference or mediation with a Legal Advisor of the Workers' Compensation Commission regarding your legal options.

**While temporarily unable to work as a result of the injury, for how long can I receive disability payments?**

The workers' compensation Law provides for temporary total disability benefits while you are in your healing period and unable to earn wages.

**Must the employer keep the job open until I return?**

Although the Workers' Compensation Law provides that an employer cannot discharge or discriminate against you for exercising your rights under the Workers' Compensation Law, there is no specific requirement that an employer keep a job open while you are off work. However, any employer who, without reasonable cause, refuses to return you to work may be responsible for paying the difference in your average weekly wage and any benefits received for a period not to exceed one (1) year.

**What if I am permanently and totally disabled as a result of an accidental injury on the job?**

If permanently and totally disabled, then you are entitled to benefits for life.

**What if I want to settle my case with the employer and insurer?**

All final settlements must be approved by the Arkansas Workers' Compensation Commission, and the case can only be settled if so approved.

**Am I entitled to any reimbursement for travel expenses for medical treatment?**

In the normal case, you are allowed mileage for medical travel. If a dispute arises as to what expenses shall be provided, the Workers' Compensation Commission may determine the expenses to be paid.

**What if I have an accidental injury on the job with an employer who is required to have workers' compensation coverage, but has not been approved as a self-insurer or obtained a workers' compensation insurance policy?**

You may still file a claim with the Commission under the Workers' Compensation Law or file a civil lawsuit against the employer in Circuit Court.

**What is required for vocational rehabilitation?**

The injury must result in a permanent impairment, and the rehabilitation plan proposed must be reasonable in relation to the disability.

**How does the payment for physical and/or vocational rehabilitation affect other compensation?**

The payment of the additional benefits for physical or vocational rehabilitation is in addition to any other compensation which you may be entitled to.

**What happens to any employee or employer who misrepresents a work-related injury?**

Anyone who makes false statements for obtaining or defeating the payment of benefits can be found guilty of a Class D Felony and subject to a fine of up to ten thousand dollars (\$10,000.00).

**I have a question about workers' compensation not answered in this pamphlet. What should I do?**

Contact the Arkansas Workers' Compensation Commission and ask to speak with a Legal Advisor.

**Where are the Workers' Compensation Commission Offices?**

**Main Office Location:**

324 Spring Street  
Little Rock, AR 72201  
501-682-3930  
Legal Advisor Division  
501-682-2707

**Mailing Address:**

P.O. Box 950  
Little Rock, AR 72203-0950

**Branch Office:**

Springdale Division  
244 South 40th  
Springdale, AR 72762-3845  
479-751-2790

You may call the Commission at no cost by using our toll-free numbers listed below:

1-800-622-4472 - Little Rock  
1-800-250-2511 - Legal Advisor Division, L. R.  
1-800-852-5376 - Springdale  
1-800-285-1131 - Deaf Access

**NOTICE**

This pamphlet is not intended to be a detailed or definitive statement of the law. If you have specific questions about your rights or obligations under the Arkansas Workers' Compensation Act, you may wish to employ a private attorney.

This Commission does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

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