

WORKERS' COMPENSATION QUESTIONS AND ANSWERS



NOTE: All local government employees should reference their negotiated contracts or local ordinances as to how benefits are affected while on Workers' Compensation

Q What is an injury?

A Definition of injury

Ohio Revised Code (O.R.C.) §4123.01(C) defines an injury as "...any injury, whether caused by external accidental means or accidental in character and result, received in the course of, and arising out of, the injured employee's employment." "Injury" does not include:

- (1) psychiatric conditions unless there is a physical injury or occupational disease;
- (2) injury or disability caused primarily by the natural deterioration of tissue, an organ or part of the body;
- (3) sports/recreation injury where a waiver has previously been filed

MEDICAL ONLY AND LOST TIME CLAIMS

What is a medical only claim?

- ◆ A medical only claim occurs when there are 7 or fewer days of lost time;
- ◆ Medical only claims remain open for six years from the date of injury, if no compensation has been awarded. Claims occurring on or after 10/20/93 remain open for 6 years from the last date of payment of medical benefits.

What is a lost-time claim?

- ◆ Claims that result in time lost from the job beginning the 8th day.

- ◆ Lost-time claims remain open for ten years from the last date of payment of either compensation or medical benefits.

How to file the medical-only or lost time claim:

Since the implementation of the Health Partnership Program (3/1/97), new claims may be filed either via the health care provider or with the assistance of the employer through the employer's managed care organization (MCO). Every effort is being made through this process to be sure that work related injuries are being reported to BWC immediately.

- ◆ All claims are now filed using the single page form **FROI-1** *First Report of Injury, Occupational Disease or Death*.
- ◆ All claims may be filed through the MCO for the employer.
- ◆ Via telephone by calling BWC's automated customer service line 1-800-OHIO-BWC or 1-800-644-6292 using Option 1.
- ◆ Online at www.ohiobwc.com

Applications may also be filed in your local Customer Service Office. By filing the forms in person at the Bureau's Central Office in Columbus or at one of the District Service Offices (in order to ensure expedient handling and processing, the applications should be filed with the Service Office that has responsibility over the claimant's geographic location). Ask that an extra copy be date-stamped by the clerk at the same time she/he stamps the one you are submitting and the one you keep for your files. If you must file by mail, mail return receipt requested and

attach a request that the date-stamped extra copy be returned and include a stamped, self-addressed envelope.

Q What are the time limitations for filing a claim?

A In all cases of injury or illness, (illness being a one time event) claims must be filed within two years from date of injury. In all cases of death resulting from injury, the time limit is also two years to file claim from date of death. Where death results from causes other than the injury, an application for benefits not received during the life of the employee may be made by a dependent within one year after the death.

Q What happens after the claim is filed?

A The injured worker and the employer are notified of the claim number by the Bureau. Keep this number as you will need it when you call about your claim. A computer generated letter is also sent to the claimant acknowledging receipt of the claim and may request additional information that the Bureau needs prior to processing the claim. In lost time cases, the claimant will also receive a Physician's Report Form, that needs to be filled out by the attending physician and returned as soon as possible. A routine check is made to see whether there is already a claim on file. If all the necessary information is provided, and the claim form is properly filled out and meets the requirements of the Workers' Compensation Act, the claim will be held in the district office that maintains the claim file. If additional information is needed, compensation will not be paid during this review.

Q What needs to be done with the Physician Report?

A The claimant should take the form to the doctor immediately. Ask the doctor to fill out the form as soon as possible. The quick return of the form to the Bureau will speed up the allowance of the claim and the payment

of compensation to the claimant. It will also expedite payment of the doctor bill.

Q Can anyone examine a claim file?

A No, the Bureau takes the position that claim information cannot be given to anyone other than the parties to the claim and their representatives. Persons who are interested in claim information for other purposes are not allowed to examine a claim file, unless they have obtained a release of information, signed by the claimant, bearing the correct claim number, recent date (no more than 60 days), and specifically addressed to the Bureau.

Q Do I always have to go to a local service office or call the BWC customer service line to review the status of my claim file?

A No. Once you have received your claim number, you can review your claim file over the internet by accessing the BWC website at <http://www.bwc.state.oh.us>

Q May I receive disability leave as an advancement on my Workers' Compensation claim?

A A State of Ohio employee incurring an injury or illness in the course of performing job duties or arising out of any employment covered by Workers' compensation may receive, as an advancement, disability leave benefits. To be eligible for such advancement, an employee must have been denied an initial claim for Workers' Compensation lost time wages.

The employee must file a claim for disability leave benefits and a copy of the Bureau of Workers' Compensation order within twenty (20) days of the notification by the Bureau of the denial of an initial claim for Workers' Compensation benefits. Disability leave benefits may then be advanced for a period of up to twelve (12) weeks or until the employee has been awarded benefits by the Bureau of Workers' Compensation,

whichever is earlier. Advancements may be made only on initial Workers' Compensation claims. All disability leave benefits received by the employee as advancement, must be reimbursed by the employee to the disability leave benefits program if the employee has been awarded weekly wage payments by the Bureau of Workers' Compensation or the employee has been paid a lost time wage settlement for the same time period for which the advancement was made.

Q What can I do to ensure my claim is processed quickly and without unnecessary delay?

A The single most important thing is to fill out the form completely and properly by yourself, the employer and physician. Stress the importance of providing complete and detailed information on the application with your physician.

Q Will I get paid during the waiting period until I get a Workers' Compensation benefit check?

A You may use any leave balances you have during this time.

Q Can my employer legally mandate that I use my leave balances during my waiting period for Workers' Compensation?

A Legally NO.

Q Do I have the right to buy back any sick, personal, vacation leave or compensatory time balances used pending determination of a Workers' Compensation claim?

A The employer shall allow the employee to buy back those leave balances within two pay periods after the Workers' Compensation award is granted in accordance with Article 34.02 of the Union Contract.

Q May I use leave balances to supplement Workers' Compensation?

A You may utilize sick leave, personal leave or vacation to supplement Workers' Compensation up to one hundred percent (100%) of your rate of pay. If you are receiving a Workers' Compensation lost time benefit for a psychological illness which arose from a physical injury received by a client, inmate, resident, student or patient and you work in an institutional agency, you can supplement Workers' Compensation with OIL up to 100% of your regular rate. The total amount of OIL you can use to supplement Workers' Compensation is 60 hours and is within the total limit of 960 hours.

Q What happens to my health insurance?

A In accordance with OCSEA negotiated benefits in Article 34.01 of the Union Contract, employees who have a Workers' Compensation claim pending or are receiving Workers' Compensation benefits shall continue to be eligible for health insurance at no cost to the employee not to exceed 24 months. This means the employee does not have to make his/her premium co-pay during this time.

Q What about PERS retirement contributions?

A Neither the employer nor the employee makes contributions to PERS retirement while the employee is receiving Workers' Compensation. The employee does, however, receive service credit for Workers' Compensation time. You may want to check with PERS [(614) 466-2985 or (800) 222-7377] to verify that your agency has filed the proper service credit form with PERS for you.

Q Do employees accrue any vacation, personal or sick leave credits while on Workers' Compensation?

A Employees on approved leave of absence or receiving Workers' Compensation shall be credited with those sick or personal leave hours which normally would have accrued during their Workers' Compensation leave upon their approved return to work. Vacation leave will not accrue while on Workers' Compensation.

Q How does being on Workers' Compensation affect my seniority, longevity and step increase?

A Length of service for state seniority, longevity and step increases is not affected by Workers' Compensation, e.g.:

1. Seniority credit - Seniority credits shall accrue while on leave for periods of Worker's Compensation (up to three years).
2. Pay raises, longevity and step increases are credited to the employee while on Workers' Compensation, however, the employee shall not receive the benefits until the employee returns to the state payroll.

Q Do I have any rights if my Workers' Compensation claim is contested?

A Yes, you have the right of appeal. **BWC must receive an appeal in writing.** You can file an appeal with the Notice of Appeal (IC-12) or send a written document to BWC with the following pertinent information:

- The name of the injured worker and employer;
- The claim number;
- The date of the order being appealed;
- The reason for the appeal.

Also, sign and date the appeal. File the appeal by mail, fax or in person at the local

BWC customer service office of the Industrial Commission of Ohio (IC).

The time frame for filing an appeal is generally 14 days after you receive the order. The time frames are spelled out on the order. You can appeal any BWC decision as long as it is within the appropriate time frames.

Q How can the employer's suspicion of drug or alcohol use effect my claim?

A House Bill 223, also known as the rebuttable presumption law, puts the burden of proof on employees to prove that alcohol or drugs in their systems were not the proximate cause of a workplace injury.

The new law allows employers to ask for disallowance of a workers' compensation claim filed by an employee who tests positive on a qualifying chemical test. The law also applies if the injured employee refuses the test. For the claim to be allowed the injured employee must produce sufficient evidence to prove that being intoxicated by alcohol or being under the influence of any of nine controlled substances (not prescribed by the employee's physician) did not cause the injury. This law took effect on October 13, 2004. (Cross Reference, Fact Sheet No. 221 – Drug & Alcohol Testing)

OCSEA

AFSCME Local 11 - AFL-CIO

Revised 05/18