



# WORKERS' COMPENSATION (DC Private Sector Workers)

**Q: WHEN I AM INJURED ON THE JOB, WHAT PROTECTIONS DO I HAVE?**

**A:** The law protects D.C. private sector workers injured on the job by requiring employers to provide workers' compensation benefits. You can receive 2/3 of your average weekly wage as long as you are unable to work. These compensation benefits are not taxed.

The amount of monetary benefits a claimant is entitled to depends on:

- 1) Whether the injury results in a partial or total disability,
- 2) Whether the disability is permanent or temporary, and
- 3) How much money the worker was earning prior to the injury.

**Note:** Compensation is not paid for the first 3 days of disability *unless* the disability exceeds 14 days. Additionally, the first installment of compensation generally becomes due on the 14<sup>th</sup> day and must be paid within 14 days after it is due. However, if your employer challenges your right to compensation within 14 days after she has knowledge of the injury, your payments might be delayed.<sup>1</sup>

Workers' compensation also includes **medical care** for your injury or disease and **help with job training** or job placement if you are unable to return to your old job.

**Q: WHO IS CONSIDERED A DC PRIVATE SECTOR WORKER?**

**A:** An employee of a private company in the District of Columbia. Accordingly, the employee's injury must occur in D.C., or if it occurs outside D.C., the employment must be "localized principally" in D.C. "Localized principally" means that most of the work you do must take place in D.C., that your employer's business is located principally in D.C., or that your employment contract was made and performed in D.C. However, there are situations where employees of non-resident companies, that temporarily enter D.C., are not covered by D.C.'s workers' compensation. Nevertheless, you may be covered by other state laws because some of them require the employer to provide benefits if you are not covered by D.C. law. If you are not sure whether this applies to you, consult an attorney.

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<sup>1</sup> "Employee's Rights and Obligations – District of Columbia Workers Compensation Law" from D.C. Dept. of Employment Services's official website,  
[http://does.dc.gov/does/frames.asp?doc=/does/lib/does/Employees\\_Rights.pdf](http://does.dc.gov/does/frames.asp?doc=/does/lib/does/Employees_Rights.pdf)

**Q: WHAT DO I NEED TO PROVE TO GET WORKERS' COMPENSATION?**

**A:** You must be able to prove that your injury was work-related. That's why evidence from doctors is key to workers' compensation cases.

- ✓ Start gathering medical evidence early, since it can sometimes take a long time to get medical opinions from doctors.
- ✓ Write a letter to your doctor asking for their opinion about:
  1. The cause of injury and if the injury was caused in whole or in part by work.
  2. The extent of injury, including whether the injury interferes with your ability to work (relying on objective medical evidence whenever possible).
  3. The treatments the physician recommends.
- ✓ Make sure the doctor writes his/her opinion early enough so you can meet your filing deadline.
- ✓ If a doctor sends an incomplete evaluation, contact him/her to get additional clarification.

**Q: DOES MY INJURY HAVE TO BE FROM A SPECIFIC INCIDENT, LIKE AN ACCIDENT, TO BE COVERED BY WORKERS' COMPENSATION?**

**A:** No. Workplace injury must "*arise out of and in the course of*" employment. This is a very broad standard and can include specific physical injuries, such as a broken leg, an occupational disease, or an infection, as well as injuries that happen gradually. For instance, many workers are injured from doing the same motions over and over again at their job, such as working on a certain machine all day, or repeatedly bending or stooping on the job: injuries caused by this repetitive motion likely would be covered.

Injuries also can be emotional. You can only get compensation for emotional injuries if you can prove that the actual conditions of employment were the cause of the injury. You must be able to prove that a particular incident or situation at work was so stressful that any worker would suffer an emotional injury as you did. These claims are very difficult to establish, and injuries sustained as a result of sexual harassment are not compensable

**Q: WHAT IF WORK WAS NOT THE ONLY CAUSE OF MY INJURY?**

**A:** In certain cases, it may be difficult to say that your job was the only cause of your injury. Take, for example, a heart attack that occurred while you were running up two flights of stairs on your job on a hot and humid day. There is no requirement that the job be the main or only cause of the heart attack in order to be covered by workers' compensation. If a doctor can determine that the heart attack did "*arise out of and in the course of*" your employment, you are entitled to workers' compensation. However, it is more difficult to prove your case if there is more than one cause of the injury, or if the cause is uncertain.

**Q: WHAT IF I AGGRAVATE A PRE-EXISTING INJURY WHILE I AM AT WORK?**

**A:** If your job made an injury you already had worse, you may still be eligible for workers' compensation. The right to workers' compensation is not limited to employees who happen to enjoy good health. The right to workers' compensation also extends to employees who have existing conditions that make it more likely for them to be injured at work. For instance, you can receive compensation when your job requires standing all day on concrete floors and this aggravates a preexisting knee problem.

**Q: CAN I GET WORKERS' COMPENSATION EVEN THOUGH I WAS AT FAULT FOR A WORK ACCIDENT?**

**A:** Maybe. Generally, even if you were somehow at fault for the accident because of carelessness, you are still entitled to benefits, because workers' compensation operates on a "no-fault" system. Because of this policy, you do not have to prove that the employer was at fault and the employer cannot avoid paying workers' compensation if you were careless. However, if the injury happened because you were drunk or on drugs, or because you hurt yourself on purpose, you are not entitled to receive workers' compensation.

**Q: CAN MY EMPLOYER FIRE ME OR DISCRIMINATE AGAINST ME BECAUSE I APPLY FOR WORKERS' COMPENSATION?**

**A:** No. It is against the law for an employer to fire or discriminate against you because you have filed for workers' compensation. If you were fired or somehow discriminated against for filing a workers' compensation claim, you may have a right to get your job back and be compensated for the wages you lost.

**Q: CAN MY EMPLOYER FIRE ME WHEN I AM UNABLE TO WORK DUE TO MY INJURY?**

**A:** If you cannot return to your position within a reasonable period of time, your employer may be able to fire you. However, the employer cannot stop providing workers' compensation benefits simply by terminating your employment and if you are fired, you should ask for job retraining benefits.

**Q: WHAT IF I AM AN UNDOCUMENTED WORKER?**

**A:** You still may apply for and receive workers' compensation benefits in D.C. To avoid complications with your status, ask to use your attorney's address instead of your own whenever possible.

**Q: WHAT IF I AM PARTICIPATING IN A WELFARE-TO-WORK PROGRAM?**

**A:** You still may apply and receive workers' compensation benefits in D.C. The place that is providing you with work experience or other welfare-to-work activities is required to maintain workers' compensation insurance.

**Q: WHAT IS THE APPLICATION PROCESS FOR WORKERS' COMPENSATION?**

**A:** **1) NOTIFY YOUR EMPLOYER.** To receive workers' compensation, you must first:

- ✓ Notify your employer using the D.C. Department of Employment Services' (DOES) special notice form called **DCWC Form 7**; you must do this **within 30 days of the injury** or you might lose your right to receive benefits.
  - You can pick up this form at 64 New York Ave., N.E. 2<sup>nd</sup> Floor, Room 2808, Washington D.C. 20002 or ask to get one mailed to you at (202) 671-1000.
  - If you have access to the internet, you can get a form at <http://www.does.dc.gov> under the Worker Protection section.
  - If you are unable to obtain a copy of **Form 7**, you should send a letter to your supervisor notifying her of the injury. The letter should include: where, when, and how you were injured, and explain why the injury is work-related.

You must deliver the form to your supervisor and should get a signed statement from them confirming that they have received a copy. If you are mailing it, send the form by certified mail with a return receipt. Make sure that you keep a copy of the form and the notice for your records. You must also make sure that the Office of Workers' Compensation at DOES receives a copy of the notice. If you are delivering it in person, you should give it to someone who is in charge there and have her sign a form stating that she received the notice. You should keep this form and a copy of the notice. You can also mail a copy of the notice via certified mail to:

District of Columbia Government  
Office of Workers' Compensation  
PO Box 56098  
Washington, D.C. 20011

- ✓ For further questions call the **Office of Workers' Compensation at (202) 671-1000**.

**2) FILE A CLAIM FOR WORKERS' COMPENSATION.** To receive benefits, you must:

- ✓ Fill out an application for workers' compensation and turn it into the D.C. DOES. This application is called **DCWC Form 7a** and looks similar to the notice you previously gave your employer, but is an entirely different form that also must be filled out. You must do this within **1 year after your injury**, but note that you must wait at least three days after your injury to file. If you do not apply within that year, you may be prevented from receiving future compensation.
- ✓ Make sure that you keep a copy of the form you submit.
- ✓ Also, make sure that you get proof that the Office of Workers' Compensation at DOES (address above) received a copy of your application. Again, if you drop the form off in person, make sure that you have a staff person sign a form stating that they received your application. If you mail the form in, make sure that you send it certified mail with proof of receipt.

**NOTE:** Both the Notice and the Application must be filled out and turned in.

**Q: WHAT DO I DO IF MY APPLICATION IS DENIED?**

**A:** If you apply for workers' compensation but are denied benefits, you may ask to have an informal conference to review the decision. The next step is to have something called an **administrative hearing**. For more information on this process, call the **Office of Hearings and Adjudications at (202) 671-2233**.

You should try to get a lawyer to represent you at this hearing. There are many lawyers who represent injured workers at these hearings and who will not expect to get paid unless you win your case. Our office keeps a list of these lawyers at our Workers' Rights Clinics. Information about these clinics are below.

If you lose at the administrative hearing, you have a right to appeal the decision to deny you benefits.

**Q: WHAT ELSE SHOULD I DO IF I AM INJURED ON THE JOB?**

**A: 1) START A FILE AND KEEP A LOG.**

From the day of your injury start keeping written records of everything that occurs relating to your injury. For example:

- ✓ Keep a record of all **phone calls** you make and receive relating to your injury, including the names and phone numbers of specific people you speak with, and the time of the phone calls.

- ✓ Keep a record of **how your injury has affected your life**. For instance, keep track of the things that your injury prohibits you from doing, what sorts of activities cause you pain, etc.
- ✓ Keep **all papers** relating to your injury, medical treatment, and workers' compensation, such as "notice of decision" letters, medical records, and medical bills.
- ✓ Keep a **calendar** where you note when forms were filed, when appeals are due, the time of medical appointments, etc.

**2) GET AND KEEP MEDICAL REPORTS FROM YOUR DOCTOR.**

This is important because *if you don't have a doctor stating that you are injured and that the injury is work related, you probably will not win your case.*

- ✓ Keep a record of all **medical appointments**, what occurred at the appointments, and what **treatments** you receive.
- ✓ Make sure that your medical reports explain how the injury is related to your job, the full diagnosis of the injury, the course of treatment, and any permanent or partial disability resulting from the injury.
- ✓ Always make sure your **doctor fills out the medical forms** properly and fully to avoid having a hearing delayed because a doctor forgot to check a box or answer a simple question.
- ✓ Always make sure that the reports from your treating doctor are the most recent in the record.
- ✓ Keep copies of all medical bills and receipts for medical-related expenses, such as prescription medication, and transportation costs going to and from doctors' appointments.
- ✓ Always get copies of your own medical records. This should include your doctor's written report, copies of the medical form sent by your doctor's office into workers' compensation, and copies of the results of any X-rays, MRI's, EMG's, blood tests, etc.
- ✓ If the insurer sends you to an independent medical examiner/evaluating doctor, always ask for copies of medical reports written by the examiner.

**Q: WHAT OTHER RIGHTS DO I HAVE AS AN INJURED WORKER?**

**A: 1) YOU HAVE A RIGHT TO SAFE WORKING CONDITIONS.**

The Occupational Health and Safety Act of 1970 (29 U.S. § 651 *et seq.*) states that all employers must provide a workplace that is free from dangers that are likely to cause death or serious physical harm to their employees. If you believe that your injury was caused by unsafe working conditions, report the problem to the Occupational Health and Safety Administration (OSHA). OSHA is the government agency that monitors safety conditions.

- ✓ You can make a report on the telephone by calling 1-800-321-6742 (*Spanish language assistance available*).
- ✓ If you would like to make a report in writing, please contact the number above, or D.C.'s area office in Linthicum, Maryland at (410) 865-2055 or 2056.
- ✓ If you have access to the internet, you can make a complaint online at the OSHA web page [www.osha.gov](http://www.osha.gov)

**2) YOU MAY HAVE A RIGHT TO MEDICAL LEAVE.**

If your injuries are serious enough, you may have a right to take up to 12 or 16 weeks of leave to care for your serious health condition without losing your job. How much time you can take off depends on what law applies to you. Refer to the EJC's fact sheet on the **Family Medical Leave Act** for more information.

### **3) YOU MAY HAVE A RIGHT TO ACCOMMODATIONS FOR YOUR DISABILITY.**

If you have a disability, an employer may be required to make reasonable accommodations to your job position or workplace so that you can successfully perform the basic duties of that position. These accommodations may include allowing you to take time away from work to treat your disability. For more information on what rights you might have under the relevant disability laws, refer to the EJC's fact sheet on **Disability Rights**.

*For more information about your rights to workers' compensation, come to the Workers' Rights Clinic run by the D.C. Employment Justice Center on Wednesdays, 6:00-7:30 pm at Bread for the City NW (1525 7th Street NW, between P and Q Streets NW, near Howard Univ/Shaw Metro stop on the Green Line), and on Mondays, 3:00-4:30 pm at Bread for the City SE (1640 Good Hope Road SE). No appointment is necessary, and you may call (202) 828-9675 x 11 for additional information about the clinic. You can also visit the D.C. Employment Justice Center website at [www.dcejc.org](http://www.dcejc.org).*

**This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in Washington, D.C. Because laws and procedures frequently change, the D.C. Employment Justice Center cannot ensure that the information in this fact sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your legal rights in your situation.**

#### **DC EMPLOYMENT JUSTICE CENTER**

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