

# WORKERS' COMPENSATION FOR D.C. PRIVATE SECTOR WORKERS



## WHEN I AM INJURED ON THE JOB, WHAT PROTECTIONS DO I HAVE?

D.C. private sector workers who are injured on the job are entitled to **medical care**, **wage replacement** for work time lost due to the injury or disease, and **help with job training** or job placement if unable to return to work.

You can receive 2/3 of your average weekly wage for as long as you are unable to work. These compensation benefits are not taxed. The amount of monetary benefits to which a claimant is entitled depends on:

- 1) Whether the injury results in a partial or total disability;
- 2) Whether the disability is permanent or temporary;
- 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.

## WHO IS COVERED?

Employees of private companies in the District of Columbia are covered by the workers' compensation system. 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., which generally means that most of the work was completed in D.C. and/or the employer is located in D.C. If you are not covered by D.C. workers' compensation, you are likely covered by another state's workers' compensation system. If you are not sure where to file your claim, consult an attorney. **Injured workers who are undocumented are eligible to receive workers' compensation benefits in D.C.**

## HOW DO I RECEIVE WORKERS' COMPENSATION BENEFITS?

In order to receive workers' compensation benefits, you must provide notice of your injury to your employer within 30 days of the injury and file a claim with the D.C. Office of Workers' Compensation within one (1) year of the injury. You must be able to prove that your injury was work-related by providing evidence from a doctor. Here are some suggestions for gathering this information:

- ✓ 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 his/her 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.

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

No. A workplace injury must "*arise out of and in the course of*" employment. This is a very broad statement 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 jobs, such as working on a certain machine all day, or repeatedly bending or stooping on the job: injuries caused by these repetitive motions likely would be covered.

Injuries also can be emotional. You can only receive 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.

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

In certain cases, it may be difficult to say that your job was the *only* cause of your injury. There is no requirement that the job be the main or only cause of the injury/illness in order to be covered by workers' compensation. If a doctor can determine that the injury/illness "*arose 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.

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

If your job worsened an injury you already had, you may still be eligible for workers' compensation. The right to workers' compensation 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 pre-existing knee problem.

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

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.

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

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.

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

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. If you are fired, you should ask for job retraining benefits.

*For more information about your workplace rights come to EJC's Workers' Rights Clinic from 6:00 p.m. – 9:00 p.m. on Wednesdays at Bread for the City, NW (1525 7<sup>th</sup> Street, NW, between P and Q Streets, NW; list starts at 5 p.m.) or, from 3:00 p.m. – 6:00 p.m. one Monday per month at Bread for the City, SE (1640 Good Hope Road, SE). The clinic is first-come, first served, and no appointment is necessary. For more information, 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.*

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