



Workers' Compensation

A Guide to Help Local 688 Members Understand the Law & Break through the Red Tape

Getting hurt on the job is serious business. Lost wages and benefits and rising medical bills can be overwhelming. That is why understanding your rights is so important. The Missouri Legislature enacted Workers' Compensation Law to help workers deal with on-the-job injuries, but the bureaucratic red tape can be confusing. So, we prepared this guide to help Local 688 members protect their rights on the job.

What's the history & purpose of workers' compensation law?

The purpose of workers' compensation law is to provide benefits for workers who become injured or ill from activities while performing their job duties. The injuries or illnesses must have been directly or indirectly caused by the work activity. The injury can be either a sudden trauma or accident or can be an aggravation of a preexisting medical condition that becomes worsened by the job.

You should understand that State law, not your collective bargaining agreement, governs Workers' Compensation. The Missouri Legislature first enacted the Workers' Compensation Law in 1925. The Law was an attempt to reach a compromise between the interests of workers and those interests of employers and insurance companies. It is important to understand two important foundations of the Law.

✓ "No-Fault" System

First, the law is a basic "no-fault" system. This means benefits may be awarded regardless of whether the employee or employer is at fault for the injury suffered, provided the employee was performing his or her expected work duties. The most important determination for a claim is whether the injury was suffered while the employee was within the "course and scope" of employment. An employee is within the course and scope of employment if he or she is performing expected or assigned work activities and those activities provide a benefit to the employer. An employee who is participating in "horseplay" or performing an activity that is solely for the benefit of the employee may be denied benefits. The "no-fault" system protects workers in two ways. Employees are not necessarily denied coverage because they broke a company or safety rule or were performing work that was not normally assigned to the worker. However, an employee who does violate a safety

rule or is found to be intoxicated or under the influence of drugs may be denied all benefits or may be penalized 15 percent of the benefits due for the injury. The main benefit of the "no-fault" system is that workers are not forced to prove employer negligence to receive benefits.

✓ Exclusive Remedy

Second, the Missouri Workers' Compensation Laws are the exclusive remedy for employees who suffer work-related injuries. This means employees must work within the constraints of the Law to address such injuries. This protects employers from multi-million dollar lawsuits in civil court. The exclusive remedy provision of the System makes it even more important for Local 688 members to understand how the Law works for you. *Workers' Compensation Law generally provides the only rights workers have against employers for work-related injuries.*

Who's covered?

All employers with five or more workers are required to provide workers' compensation coverage for employees. All construction industry employers must provide coverage even if they employ less than five workers. Missouri law provides exceptions that include those providing work in private homes, real estate agents and unpaid volunteers.

Employers pay for workers' compensation insurance one of two ways. They either obtain benefits through a commercial insurance company, which is the practice of most employers, or by self-insurance. Either way, companies must provide employees the benefits set forth under the Law, such as medical, wage-loss and permanent disability.

What can you do to protect yourself?

- ✓ Report the injury to the company (usually your supervisor) immediately and insist it be properly recorded.
- ✓ Inform the employer as to the status of your medical condition and as to what date you will return to work
- ✓ Note in writing any injury you suffer at work.
- ✓ Keep track of the specifics by writing down who, what, when and where.

What's the employers' responsibility?

- ✓ You should receive appropriate medical care for any injury suffered on the job.
- ✓ The employer must report the injury to the insurance company within five days of the injury or of your reporting the injury. You should check with the insurance company or State of Missouri to make sure the employer made the report. If not, demand your employer complete and file the report as required by law.

What should you do if you believe your injury was mishandled?

- ✓ Speak with your Local 688 Business Representative about your situation. Your representative can recommend an attorney. It is important to remember that a Workers' Compensation problem is probably not a violation of the collective bargaining agreement.
- ✓ The Division of Workers' Compensation provides a dispute management service for problems that cannot be resolved. You can take advantage of this process before you decide to file a claim for Temporary Total Disability and medical treatment.
- ✓ You can file a claim with the Division of Workers' Compensation. Ask for the "Claim for Compensation" form (Form WC-21). Even if an employee does not file a formal claim, the Division of Workers' Compensation may have notice of an injury and schedule a conference with a legal advisor to help assist an employee in the process.
- ✓ If you have any questions, call the Missouri Division of Workers' Compensation at 1-800-775-2667. The address for the central office is P.O. Box 58, Jefferson City, Missouri 65102-0058. There are eight division offices in Missouri, including locations in St. Charles and St. Louis.

What if you must file a claim?

Don't forget to stay within the following time limits if you want to file a claim:

- ✓ Two years from date of injury or two years from date of last workers' compensation payment.
- ✓ If the employer did not file a report then you must file the claim within 3 years from date of injury.
- ✓ If it's an occupational disease then there is a 2 or 3-year timeline, depending on whether the employer reported the injury once it was reasonably discovered.

Can you choose your doctor? What about a second opinion?

Unfortunately, employers and insurers can choose the doctor, hospital, medical facilities and services. The employer or insurer may not have to pay for any treatment you seek on your own, even if it is directly related to your work injury. But the employer can authorize you to see a doctor of your own choosing. The employer is not required to provide a second opinion, but it can be authorized if requested.

Note: If your employer refuses to provide medical care for your injury, you can then seek treatment on your own. If the State determines your injury to be work related, the employer might be held responsible for reimbursing medical costs.

Are Workers' Compensation benefits taxable?

Workers' Compensation benefits are not taxed. Social Security contributions are not deducted.

What are the benefits available to those who suffer work-related injuries? What rates are paid?

Medical Treatment includes bills, medicine, and crutches. The employee should not have to pay deductibles or co-payments. If you receive a bill, notify your employer or insurer immediately. Insurance will cover reasonable travel expenses if treatment outside the metropolitan area is necessary (250 mile maximum).

Temporary Total Disability (TTD) is to be provided to cover the healing period while recovering from work injuries that prevent the employee from performing regular duties. The benefit equals 66 and 2/3 of your average weekly wage (the average wage taken from the 13 weeks prior to date of injury, including hourly pay, overtime and bonus), with a maximum set by the Legislature (Missouri: \$696.97 from 7/1/05 to 6/30/06). You will not be paid for the first three days off work unless you are off work due to injury for more than 14 days. In such cases you will be reimbursed for the first three days. Pay should be disbursed on regular schedule or a minimum of every two weeks. Benefits are available for up to 400 weeks.

Temporary Partial Disability (TPD) comes into effect if you return to work but earn less due to the work injury. This is only paid if you are still in medical treatment. The rate is 2/3 of the difference between the pre-injury and post-injury wages, subject to the statutory limit. These benefits are available up to a limit of 100 weeks.

Permanent Partial Disability (PPD) is a lump sum benefit paid after an employee has completed healing from a work injury. The benefit represents payment for the extent of any permanent disability suffered because of the work injury. The Legislature has assigned the maximum number of weeks available for this PPD in regards to a particular body part and for a particular period of time (Missouri: \$365.08/week from 7/1/05 to 6/30/06). Refer to the Permanent Partial Disability Schedule for payments. If an employee suffers scarring or other types of disfigurement the Law provides for 40 weeks maximum compensation.

Permanent Total Disability (PTD) covers an injury that keeps an employee from returning to any type of work after suffering a work-related injury. This benefit may be paid only if the employee cannot return to any useful employment and is not limited to the same type of employment at the time of injury. It is paid at the same rate as Temporary Total Disability, but for will be paid for life if awarded by a court.

Death Benefit will make a payment to dependents of a worker who dies due to a work-related accident or disease. The benefit is based upon the workers' weekly wage and number of dependents and is subject to the same weekly rate as TTD. Funeral expenses are also paid up to a maximum of \$5000.