

What is Workers' Compensation?

Workers' Compensation is a mandatory insurance program that pays limited benefits to employees who suffer on-the-job injuries or diseases. The most common payments are for medical services, wage replacement for the temporarily disabled, and limited compensation to workers suffering permanent disabilities.

My employer is very small. Am I covered by Workers' Compensation?

Yes. With very few exceptions, all employers in Oregon – from the largest corporation to the corner store with one clerk – must have Workers' Compensation for its employees. Most employers in Oregon buy Workers' Compensation insurance from the State Accident Insurance Fund (SAIF), or from private insurance companies; some employers are large enough to be self-insured.

Does my accident have to be caused by employers' fault?

Absolutely not. Workers' Compensation is a “no-fault” system.

Do I have to sue my employer to obtain benefits?

No. In fact, if your injury is covered by Workers' Compensation, you are prohibited from suing you employer or one of your co-workers, even if it was their fault that caused your injury. However, if someone other than your employer or a co-worker caused your injury, you may sue that person (or company) for damages.

Then how do I obtain benefits if I was hurt on the job?

You must file a claim with your employer or its insurer. While the law does not require you to use any specific form to file a claim, your employer should supply you with the standard “801 Form.”

Is there a time limit for filing claims?

Yes. You must file an injury claim within 90 days. You must file an occupational disease claim within one year of becoming disabled or when your doctor tells you that your disease is work related, whichever comes later. If your employer knows of your injury or disease, the time limits may be extended.

To whom should I report my injury?

You should report your injury to your immediate supervisor, or to whomever your employer may have designated to receive Workers' Compensation claims.

My employer said my injury was my own fault and therefore not covered. Is that true?

No. With few exceptions, such as for drinking or fighting on the job, an employee's fault or negligence does not bar a claim.

My employer told me that she does not have Workers' Compensation Insurance. What should I do?

You should file your claim with the Compliance Division of the Department of Consumer and Business Services, State of Oregon. In those instances where employers break the law and do not carry Workers' Compensation insurance, SAIF becomes the insurer for your injury.

My claim has been denied. What must I do?

To dispute the denial, you must file a request for hearing with the Workers' Compensation Board within 60 days from the date of the denial or all your rights to benefits will be lost.

My claim has been accepted, but I don't believe I am receiving the right amount of benefits. What can I do?

Unfortunately, if your employer or her insurer will not adjust your benefits voluntarily, your only recourse is to request a hearing with the appropriate agency.

Will I need a lawyer to go to a hearing?

You are not required to have a lawyer represent you at a hearing. However, your employer's insurance company almost certainly will have a lawyer, putting you at a great disadvantage if you go alone.

But I can't afford a lawyer.

Fortunately, you can have a lawyer represent you on your Workers' Compensation claim without paying attorney's fees out of your pocket. Most lawyers who represent injured workers use a contingency fee agreement, which means the lawyer gets paid only if the worker obtains more benefits than the worker had before the lawyer became involved. In some cases, the fee is paid by your employer's insurer in addition to your benefits; in other cases the fee will be a percentage (from 10% to 25%) of your additional benefits.

Can I be fired if I file a claim?

No. It is a violation of Oregon law to fire a worker for filing a claim. It can be a violation of state and federal law to fire a worker because the worker has a disability.