

A Guide to Workers' Compensation Benefits

For Employees of Self-Insured Businesses



Washington State Department of
Labor & Industries

Workers' Compensation Services

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Introduction

This guide to workers' compensation benefits is for employees of self-insured businesses.

It explains the benefits available to you if you are injured on the job or develop an occupational disease. These benefits vary, depending on the injury. They can include medical treatment related to your on-the-job injury or occupational disease, partial wage replacement, and other services to aid you in your recovery and return to work.

This guide summarizes what happens when you file a claim and how you can help make the process work smoothly for you. It also explains your rights and responsibilities, and tells you what choices you have if you disagree with a decision. This booklet, however, is not a legal interpretation of the law.

The Washington Department of Labor & Industries (L&I) published this guide. L&I is the agency responsible for implementing the state's workers' compensation law. Information is current as of the publication date. Changes that occur will be included in subsequent editions.

For more information, contact your employer or L&I's Self-Insurance Section at 360-902-6901 or visit www.Lni.wa.gov/SelfInsurance.



Legislative change effective 12-03-2009

In 2009, the Washington State Legislature passed a law that requires registered domestic partners to be treated the same as married spouses under state law. References in this publication to spouse, marriage, marriage certificate, divorce, divorce decree and other terms related to legal marriage also apply to registered domestic partnerships.

What Is Workers' Compensation Insurance?

An injured worker is entitled to no-fault accident and disability coverage whether covered by L&I's Washington State Fund or a self-insured employer. This "workers' compensation" covers medical expenses and pays a portion of wages lost while a worker recovers from a workplace injury or occupational disease.

Your employer is self-insured. This means the company you work for must cover the costs of an on-the-job injury or occupational disease. L&I regulates self-insurance programs.

As an employee of a self-insured business, you have the same rights and responsibilities as other workers in Washington State.

To file a claim for benefits, you'll work with your employer or an appointed employer representative instead of L&I. This guide will help you obtain the health care, financial, and vocational services you might need during your recovery.



What to Do if You Are Injured at Work

Don't delay. Claims for injuries must be filed within one year. Claims for occupational diseases must be filed within two years after receiving written notice from a health-care provider that the condition exists and may be work-related.

- 1. Report your injury or exposure to your employer as soon as possible.** Your employer needs to know about your condition and what caused it. Without knowledge of your work-related injury or occupational disease, your employer may ask L&I to deny your claim. L&I will issue a decision to allow or deny a claim after reviewing all available information.
- 2. File a claim for benefits** by submitting a completed "Self-Insurer Accident Report" (SIF-2) to your employer or your employer's representative, also referred to as a "third party administrator." The form is available from your employer. Since you must be able to show your injury or disease is job-related, you should file right away. Someone else may file a claim on your behalf if you are unable to do so.
- 3. Communicate with your health-care provider.** Make sure your health-care provider:
 - Knows your injury or disease is job-related; and
 - Completes a "Provider's Initial Report" and sends this report to your employer or their representative.
- 4. Stay in touch with your employer or third party administrator.** Notify your employer immediately if your address changes to avoid delays in receiving benefit checks or other correspondence.
- 5. Cooperate with all reasonable requests** from your health-care provider, employer, and others authorized to assist in your treatment and recovery.

Your Benefits

Health-Care Services

When your claim for work-related injury or occupational disease is approved, your employer will pay your medical bills while you recover.

What health-care services and costs are covered?

All health-care provider, hospital, surgical, pharmacy, and other health-care services necessary for treatment of your work-related injury or occupational disease are paid directly by your employer. Health-care services are provided until your work-related injury has stabilized and reached a point where further recovery is not expected.

Other services may include, but are not limited to, emergency ambulance service, special or home nursing care, dental repair, convalescent center care, glasses, hearing aids, crutches, braces, and prostheses. Workers receiving a prosthesis (an artificial limb, for example) also receive lifetime prosthesis maintenance, including replacements needed because of normal wear and tear of the prosthesis or related physical changes.

May I choose my health-care provider?

The first time you see a doctor, you may choose any health-care provider who is qualified to treat your injury. **For ongoing care, you must be treated by a doctor in the L&I medical network.** (Find network providers at www.Lni.wa.gov/FindADoc.)

If you are receiving medical care out of state, your provider does not need to be in the network.

Qualified providers include: medical, osteopathic, chiropractic, naturopathic and

podiatric physicians; dentists; optometrists; ophthalmologists; advanced registered nurse practitioners; and physician assistants.

May I change health-care providers once my claim is filed?

Yes. You may change health-care providers or ask for a consulting opinion from another provider if you feel you are not making progress with your current provider. However, to ensure proper payment of medical bills, you must get approval from your employer or their representative before changing providers or seeking another opinion.

Note: If you transfer care to a new provider or seek a consulting opinion, you will need to see a provider who is a part of the L&I Medical Provider Network. (Find network providers at www.Lni.wa.gov/FindADoc.)

Who pays my medical bills?

Health-care providers should send their bills to your employer or your employer's representative for payment.

Usually, there are no out-of-pocket expenses to you. However, if your eligibility for benefits is in doubt, a provider may bill you. In that case, keep a copy of your invoice and receipt. If your claim is approved, the provider must reimburse you the amount you paid and seek payment from your employer or their representative.

Time-Loss Compensation (Wage-replacement Benefits)

If you are unable to work as a result of your injury or occupational disease, you will be paid a portion of your regular wages. These time-loss compensation payments will not provide you with the same income you earned when you were working.

How do I qualify for time-loss compensation?

Your health-care provider must notify your employer that your condition is work-related and that you are unable to work. Your provider must also provide objective findings to support their certification.

How long do I have to be off work to qualify for time-loss compensation benefits?

These benefits are paid if you are unable to work for more than the three days immediately following the date of your injury. Injured workers are not compensated for those first three days unless they are still unable to work on the fourteenth day following the injury. (You may be eligible to receive time-loss benefits for the first three days, if you returned to work, found you could not continue working, then remained off work through the fourteenth day.)

When will I get my first benefit check?

Your employer must pay you within 14 days of being notified of your claim.

How long will I receive time-loss compensation benefits?

You will receive time-loss payments twice a month or every two weeks as long as your health-care provider verifies that your condition prevents your return to any work. You and your provider must keep your employer informed of your progress. Without

this information, your time-loss compensation check could be delayed or stopped.

Will I ever have to return time-loss compensation benefits?

If your claim ultimately is rejected because your employer found that your injury or disease was not work-related or if new information shows your check should have been for a lower amount, you will be required to refund all or part of the money you received. Also, time-loss compensation must be refunded if it is later found that you were able to work or did work days for which you received benefits.

In most cases, your employer has one year from the date of the incorrect payment to notify you that you must make repayment. If you are not notified within one year, you are not required to repay the overpayment. This time limit does not apply if your claim has been rejected.

How Time-Loss Compensation Is Calculated

The amount of your time-loss benefit check is 60 to 75 percent of your total wages and certain benefits, depending on your family status and number of dependents you have when you are injured. These benefits cannot exceed specified limits and are based on a standard formula established by law.

Establishing your gross income

The following is taken into account to establish your gross income at the time of injury:

- Your wages earned before taxes, including income from a second job.
- Your employer's contribution to your medical, dental, and vision benefits.

- The reasonable value of room and board, housing, fuel or similar considerations received from your employer as part of your income.
- Any bonus you received as a part of the contract of hire with the employer at the time of injury.
- Tips you reported to your employer for federal income tax purposes.

Possible effects of Social Security benefits

You should report to your employer any Social Security payments you receive as this can affect your workers' compensation benefits.

Other Benefits

Refunds for traveling to a health-care provider or job-training appointment

When your employer authorizes you to travel, you can be reimbursed for out-of-pocket expenses.

You will be reimbursed for all miles traveled for:

- An independent medical examination or other examination scheduled by your employer.
- Vocational services
- Vocational retraining

If you must travel more than 15 miles from home (one way) for an authorized trip to get treatment or for the fitting of a prosthetic device, you will be reimbursed for all mileage except the first 15 miles from your home and the last 15 miles of your return trip.

Out-of-pocket expenses for approved travel can include mileage, food and lodging. They will be reimbursed at rates set by L&I. These rates may be less than your actual cost. You can also be reimbursed for other transportation costs, such as parking or bridge or ferry tolls. Receipts may be required.

To ensure you receive reimbursement, your employer should pre-approve your travel. Contact your employer in advance to request pre-approval and to find out what documentation they need in order to process your request for reimbursement. You must send your request for reimbursement to your employer within one year of the trip and clearly indicate the date, destination and reason for the travel.

Property damage refunds

In some cases, your benefits may cover the cost of personal clothing, footwear, or protective equipment that is damaged or lost because of a workplace injury. The same is true if those items are damaged or lost because of emergency treatment offered on the scene. Receipts for repair or replacement of articles are required. Copies of receipts and your request for reimbursement should be sent to your employer or your employer's representative.

Motor vehicle modification

The costs of modifying a motor vehicle may be covered for workers suffering amputation or paralysis. Dollar limits apply. The modification must be necessary to meet the worker's need for safe transportation. Any vehicle modifications must be pre-approved by your employer or their representative.

Home modification

The costs of modifying a home may be covered for workers suffering catastrophic injuries. Dollar limits apply. Some examples of catastrophic injuries are brain injury, paralysis, loss of arm(s) or leg(s), and severe or progressive lung or heart disease. The modifications must be necessary to meet the worker's needs for safety, mobility, or activities of daily living. Any home modifications must be pre-approved by your employer or their representative.

Returning to Work

Modified Jobs

Depending on the severity of the injury or the type of work, you may have difficulty returning to work right away. Your employer has the option of providing a lighter-duty job for you. Your health-care provider must review the job description and approve the duties. Issues that will be considered to determine whether a modified job is feasible for you include:

Can your regular job be temporarily modified?

In some cases, the physical demands of a job can be changed temporarily to accommodate physical restrictions. This may include part-time or lighter-duty work.

Can your regular job be permanently modified?

Employers are sometimes able to permanently change the physical demands of the job so that it is tailored to your physical restrictions.

Can you return to a new job with your employer?

A different permanent job, in keeping with your physical restrictions, is sometimes available with your same employer.

If you earn less on light duty than you did at the time of your injury, you may be eligible for benefits to supplement your lower income.

Your employer and L&I require you to actively participate in all return-to-work activities while you are receiving benefits.

Employability Assessments

Some workers have injuries that make it impossible to return to work with their employers. If this is the case, your employer may refer you to a vocational counselor for an employability assessment. The counselor will evaluate your skills and abilities.

Your employer uses this assessment to determine whether:

- You are employable in your area's job market and not eligible for further vocational services, OR
- You are eligible for further vocational services. A vocational counselor then will develop a vocational plan with the goal of helping you become employable, OR
- You are not able to work and are not eligible for further vocational services.

You may be found employable in or be retrained in an occupation that pays less than what you made when you were injured. Your time-loss payments cannot continue if you are employable (unless you are participating in a vocational plan). L&I's Self-Insurance Section will approve or disapprove your employer's decision about your employability.

Vocational Benefits

Vocational benefits are discretionary. They are aimed at helping a worker who cannot return to their old job due to the effects of their injury and does not have the training or skills for a different job to become employable. Vocational benefits may include approved training plans.

Vocational Plans

If vocational assistance is necessary to assist you in becoming employable, your employer will provide a vocational counselor who will work with you to develop a training plan for L&I's approval.

A vocational retraining plan includes a job goal based on your skills, interests, and medically documented limitations. The plan can include schooling or on-the-job training and cannot exceed two years' duration.

When a vocational retraining plan is approved, you can select one of two options: begin the approved plan with the assistance of the vocational expert, or an alternative that allows you to pursue training independently.

Disputing Decisions about Vocational Benefits

L&I's Self-Insurance Section approves or disapproves your employer's decisions about your employability or your vocational plan. If you disagree with the decisions L&I makes, you have the right to dispute. If you decide to take this step, you must send a written dispute to the Vocational Dispute Resolution Office, Department of Labor & Industries, P.O. Box 44880, Olympia, WA 98504-4880.

You must write to L&I within 15 days after receiving the notice with which you disagree. Explain your concerns in detail. The Vocational Dispute Resolution Office will investigate your complaint and help resolve the dispute. Its recommendations then will go to the director of L&I, who will make the final decision.

Resolving Your Claim

Closing Your Claim

Several factors must be considered before your claim is closed, including:

- Your medical condition.
- Your ability to work based on your injury.
- Whether you have any permanent impairment due to your injury.

Awards: Permanent Partial Disabilities

If your injury or occupational disease caused permanent loss of bodily function, you may be entitled to a permanent partial disability award. The amount you receive for any physical loss does not include compensation for pain and suffering.

The degree of a partial loss of function is determined by a disability rating. These ratings are conducted either by the health-care provider who treated you (the attending provider), or by one or more independent medical examiners using established medical standards and guidelines. Normally, ratings are performed after your condition is medically stable, and no further treatment is needed.

You will not jeopardize a permanent partial disability award by working. You should return to your job as soon as your provider releases you for work. Any permanent partial disability award you receive is based on the degree of impairment suffered, not on whether you can work.

Pensions: Total Permanent Disabilities

If your accident results in the loss or total paralysis of both legs or arms, one leg and one arm, or a total loss of eyesight, you are eligible for a pension by law, even if you are able to return to work.

If vocational and medical evaluations determine that your injury prevents you from ever becoming gainfully employed, you may be entitled to a pension.

Pension benefits are paid monthly. As with time-loss compensation benefits, the amount you are eligible to receive depends on factors such as your wages, family status, number of dependents, employer-provided health-care benefits, Social Security benefits, the state's average wage at the time of your injury and your pension option choice. Previously paid permanent partial disability awards reduce your pension benefit amount.

While pension benefits will come directly from L&I, your employer is responsible for funding the benefits. More information will be provided to you at the time a pension is determined.

Structured Settlement Agreements

A structured settlement is an agreement between a worker and the employer to resolve a claim. The agreement generally resolves all future benefits except medical. Workers are still eligible to receive medical treatment for conditions allowed on their claim.

In most structured settlements, the claim is closed. The worker is paid a set amount of compensation in a series of payments spelled out in the agreement.

To be eligible, an injured worker must:

- Be age 50 years of age or older, *and*
- Have an allowed workers' compensation claim in Washington, *and*
- Wait at least 180 days after the self-insured employer received the claim.

An employer may initiate a structured settlement discussion with an eligible employee; however, structured settlements are voluntary and must be agreed upon by all parties and be approved by the Board of Industrial Insurance Appeals.

For more information or to initiate structured settlement discussions, please visit www.Lni.wa.gov/Settlement.

Your Legal Rights and Responsibilities

Disputing a Decision about Your Claim

Every decision about a claim requires the use of judgment, and you may not always agree. If you believe a decision made by your employer is wrong, first contact your employer or your employer's representative. If you are unable to resolve the issue, you may ask for help from the Department of Labor & Industries by:

- Writing a letter
Department of Labor & Industries
Self-Insurance Section
P.O. Box 44892
Olympia, WA 98504-4892
- Reporting your dispute online
www.Lni.wa.gov/SIClaimProblems

Requesting a Penalty If Benefits Are Delayed

If there is an extended delay in the payment of your benefits, such as your time-loss compensation or medical bills, you can ask L&I to decide if your employer should pay a penalty. These penalties are not automatic; L&I may discover legitimate reasons for the delay. However, if L&I does approve a penalty, it will be payable to you — \$500 or 25% of your delayed benefit, whichever is greater.

To request a penalty, write a letter to L&I explaining your reasons, attach any supporting documents, and mail to the address above.

Protesting or Appealing a Legal Order and Notice

Formal decisions about your claim will be communicated to you in a legal document called an Order and Notice. If you disagree with a decision in an Order and Notice:

Protest to the Department of Labor & Industries

Within 60 days of receiving the Order and Notice with which you disagree, you must send a written protest to L&I or submit a protest online. (See mailing and web addresses at left.) For some vocational decisions, you may have a shorter timeframe to reply: be sure to review the timeframes in the document you've received. Explain in detail why you think the decision is unfair and supply any additional information you think may help us in our evaluation.

We will review your claim and send you an Order and Notice in response to your protest.

Appeal to the Board after Protest to Labor & Industries

If you disagree with the Order and Notice sent in response to your protest, you may appeal in writing to the Board of Industrial Insurance Appeals. You must send your appeal to the Board within 60 days of receiving this Order and Notice. Write to the Board of Industrial Insurance Appeals, 2430 Chandler Ct. SW, P.O. Box 42401, Olympia, WA 98504-2401 or submit it on an electronic form at www.BIIA.wa.gov. The Board's phone number is 360-753-6823 or 1-800-442-0447 (in-state toll-free line).

The Board, which is independent of L&I, conducts hearings on claim issues that cannot otherwise be settled to the satisfaction of you, your employer, or the department. The Board issues a written decision about your case after personal arguments and testimony have been taken. This decision may be appealed to a Washington State Superior Court. For more detailed information, ask the Board for its pamphlet, Your Right to be Heard.

Pay During Appeal

If you have appealed an L&I order that awarded benefits to you, in most cases your employer must continue paying benefits during the appeal. Payment must continue until the Board of Industrial Insurance Appeals formally allows the employer to stop payment during the appeal, or makes a decision on the appeal.

If the Board of Industrial Insurance Appeals decides that the benefits should not have been awarded to you, you may have to repay them. If you want to stop the payment of benefits to you during the appeal, send a written request to the employer, L&I, and the Board.

If you have questions about what benefits should be paid during the appeal, please contact your claims administrator or L&I.

If You Need Legal Assistance

You are not required to have an attorney to protest any L&I decision. However, you may want an attorney's advice before appealing an L&I decision to the Board of Industrial Insurance Appeals.

Attorney fees are limited by law to a maximum of 30 percent* of any increased benefit you receive as a result of your protest. Because this maximum fee may not always be reasonable, either L&I or the Board will set a reasonable fee for your attorney's services upon request.

To request a fee review from L&I, write to Director of Labor & Industries, P.O. Box 44001, Olympia, WA 98504-4001. To request a fee review from the Board, write to Board of Industrial Insurance Appeals, P.O. Box 42401, Olympia, WA 98504-2401.

**Attorney fees for a Structured Settlement Agreement are limited to 15 percent of the settlement amount.*

Reopening a Claim

You may apply at any time to reopen your claim. If objective medical evidence shows the condition caused by your injury or disease has worsened and requires additional health-care attention, your claim may be reopened. In most cases, we will decide whether to reopen your claim within 90 days of receiving your application.

If your claim is reopened, any benefits will be payable beginning 60 days prior to L&I's receipt of your reopening application. If more than seven years have passed since the date your claim was first closed (or 10 years for an eye injury), you may not be eligible for time-loss compensation or permanent partial disability benefits. However, you will still be eligible to receive medical benefits.

The application form to reopen your claim is available through your health-care provider's office: "Application to Reopen Claim Due to Worsening Condition." If your provider doesn't have the form, you can request one by contacting an L&I office. You'll find telephone numbers for these offices at the end of this booklet.

Complete the reopening application form and promptly mail it to L&I's Self-Insurance Section, P.O. Box 44892, Olympia, WA 98504-4892.

Rights Cannot Be Waived

An injured worker may not waive his or her rights under the Workers' Compensation Act.

Protection from Employer Discrimination

If you believe your employer has discriminated against you because you filed a claim, or expressed an intent to file, you can submit a discrimination complaint by writing to: L&I Investigations, P.O. Box 44277, Olympia, WA 98504-4277. You must act within 90 days of the incident.

Requesting Copies of Files

Your employer or your employer's representative maintains a complete copy of your claim file. You can request a copy of the file. You must submit your request in writing. Your employer or the employer's representative has 15 days from the day they receive your written request to provide a copy to you. The first copy will be provided free of charge to you or your representative.

To request new or updated material, you must submit another written request. All new material, not previously provided, also will be provided free of charge. However, your employer is entitled to charge a fee for copying any materials already provided.

You may review the information that L&I has in your claim file by using the online Claim & Account Center at www.Lni.wa.gov/ClaimInfo.

Consequences of Knowingly Giving False Information

Any person claiming benefits under the Workers' Compensation Act who knowingly gives false information relating to a claim of \$500 or more will be guilty of a Class C felony. When the claim involves less than \$500, a person knowingly giving false information will be guilty of a gross misdemeanor.

When Injuries Are Caused by a Third Party

In Washington, you cannot sue your employer or coworkers when a work-related injury or disease occurs. However, you can sue another company or individual if they are responsible. An example might be a company that manufactured a defective product that caused your injury. Such an individual or company is called a *third party*.

In these cases, you may choose to initiate legal action yourself to recover damages. If so, you may wish to consult an attorney. Or, you may have your employer initiate action on your behalf. In either case your employer may recover their claims costs from the settlement.

Your injury may increase your employer's insurance costs. For this reason, your employer may decide to take legal action even if you don't.

Initiating third-party legal action will not jeopardize your right to workers' compensation benefits. You'll receive all the benefits for which you qualify, regardless of the outcome.

If you believe a third party may have been responsible for your injury or occupational disease, contact your employer.

About Medical Insurance

Your workers' compensation coverage pays medical costs related to your work injury or occupational disease. It does not provide medical insurance for you or your family.

To find information about private insurance and public health-care programs, contact the Office of the Insurance Commissioner and ask to speak to an advisor in the Statewide Health Insurance Benefits Advisors (SHIBA) Program. The program provides free, unbiased counseling about available health-care coverage.

SHIBA can help you:

- Understand health-care coverage options and rights.
- Find affordable health-care coverage.
- Evaluate and compare health-insurance plans.

The toll-free number for SHIBA is 1-800-562-6900.

Help With Claim-Related Problems

L&I's Oversight Role

Your claim is managed by your employer. If you have a problem with a claim, your first point of contact should be your employer, or their administrator. However, if you have been unable to resolve your problem with your employer, L&I is responsible for overseeing how claims are managed. If you have a problem with a claim, you can contact L&I by:

- Phone 360-902-6901
- Fax 360-902-6900
- Mail Department of Labor & Industries
Self-Insurance Section
P.O. Box 44892
Olympia WA 98504-4892

Online Customer Service

You can also use our online system to report problems related to time-loss compensation, medical care, or other issues. L&I's customer service website can also be used by health-care providers, attorneys, or individuals authorized to act on your behalf.

► www.Lni.wa.gov/SIClaimProblems

How We Work With Employers

L&I staff can often resolve problems by working with an employer. However, in some cases, we may not be able to resolve your problem, or at least not immediately. Telling L&I about problems with claims is still very important. Each customer service issue is tallied and, if there's a pattern, we will take action to improve how the employer manages claims.

If you do not want your employer to see your report about your problem, contact the independent Office of the Ombuds (below) instead of using our website.

Get Help from the Office of the Ombuds — an Independent Advocate

This office operates independently of L&I to advocate for injured workers employed by self-insured businesses. The Governor appoints the Ombuds.

The office is available to answer questions about workers' compensation and explain your rights and responsibilities under the law. The office investigates workers' compensation complaints and works with your claims administrator, and/or L&I, to resolve claim-related issues.

How to File a Complaint with the Ombuds

You may contact the Ombuds' Office in writing or by phone. If you file a complaint by mail or fax, please include your name, contact information, claim number and a brief description of your issues.

Confidentiality

The files and records of the Ombuds' Office are confidential. Your information will not be disclosed without your authorization.

Contact the Ombuds

- Office of the Ombuds for Injured Workers of Self-Insured Businesses
P.O. Box 44001
Olympia WA 98504-4001
- Phone: 1-888-317-0493 (toll-free)
- Fax: 360-902-5650

For more information, visit www.Lni.wa.gov/Ombuds.

Labor & Industries Service Locations

Region 1

Northwest Washington

Bellingham360-647-7300
Everett.....425-290-1300
Mount Vernon.....360-416-3000

Region 2

King County

Bellevue.....425-990-1400
Seattle.....206-515-2800
Tukwila.....206-835-1000

Region 3

Pierce County/Peninsula

Bremerton360-415-4000
Port Angeles360-417-2700
Tacoma253-596-3800

Region 4

Southwest Washington

Aberdeen.....360-533-8200
Kelso.....360-575-6900
Tumwater.....360-902-5799
Vancouver360-896-2300

Region 5

Central Washington

East Wenatchee509-886-6500
Kennewick.....509-735-0100
Moses Lake.....509-764-6900
Yakima.....509-454-3700

Region 6

Eastern Washington

Pullman509-334-5296
Spokane.....509-324-2600

Upon request, foreign language support and formats for persons with disabilities are available. Call 1-800-547-8367. TDD users, call 360-902-5797. L&I is an equal opportunity employer.

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