

If you are having health problems because of your job, you have a right to benefits.

Here's what you need to know about:

Workers' Compensation

in Massachusetts



If you are injured or become ill because of your job, you have a right to benefits under a system called “Workers’ Compensation.” Workers’ Compensation is a type of insurance that all Massachusetts employers are required to have for their employees.

Who is eligible for Workers’ Compensation?

- Almost all workers are covered by Workers’ Compensation. You are covered no matter how many hours you work per week or how your employer pays you. You are covered even if you are paid in cash “under the table.”*
- You are covered even if you are a volunteer or work for no pay, if the injury or illness occurs on the job.
- You are covered even if you are not a US citizen. You are covered if you are an immigrant worker even if you do not have “papers.”
- If you are in business for yourself (“self-employed”) you are covered only if you take out your *own* Workers’ Compensation insurance.

*But you must be able to prove that you were an employee. If you are paid under the table you may want a lawyer to help you get Workers’ Compensation benefits. See Page 8-9 of this booklet for information about lawyers.

What do Workers' Compensation benefits include?

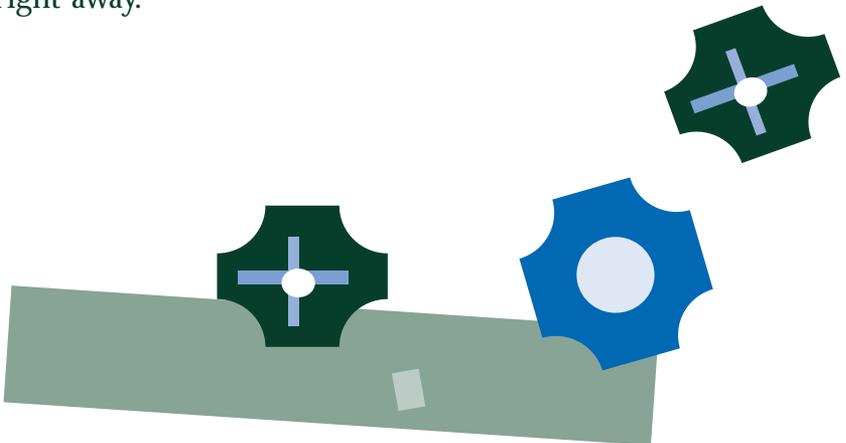
- ◆ **1. Payment of medical bills** related to the health problem (even if you do not miss work).
Workers' Compensation covers medical care for conditions such as:
 - Illness, hearing loss or other health problems that result from something you were exposed to at the workplace.
 - Repetitive stress, cuts, sprains, burns and other injuries that happen at the workplace.
 - Health problems you already have (previous conditions) that are made worse by the job.
 - Injuries and illnesses that happened on the job regardless of who (your employer, you, a co-worker, a customer) "caused" it.
 - Depression and mental health problems if you can prove they were caused by the job.
- ◆ **2. Pay that you lost** because of the health problem.
 - **Payment of 60% of your average weekly pay*** (before taxes) if you are disabled for 5 or more days. (The "5 or more days" do not have to be in a row. They can be spread out.)
- ◆ **3. Reasonable cost of travel to and from medical visits.**
- ◆ **4. Other benefits if you become disabled** (for example: compensation for loss of use of a body part; training to learn a new job).
- ◆ **5. Death benefits for your spouse and dependents in the case of a fatal injury.**

* The maximum payment is \$882.57 per week (2002); Workers' Compensation benefits are not taxed.

What should I do if I'm injured at work or made sick from my job?

You should report it to your employer right away. Here is how to get started:

- Do not wait! Tell your employer right away even if it does not seem serious at the time. You may have symptoms later. If you wait until the next day, you may have to prove that you were not injured outside the workplace.
- Try to get medical treatment right away, even if you have to leave work.
- Document everything:
 - Report the incident to your employer in writing. Keep a copy of your letter.
 - Get a copy of anything you are asked to sign.
 - If anybody saw (witnessed) your injury, write their names down, so you don't forget.
 - Start a diary: write down what the injury was, how it happened. Every day, write down your symptoms.
- If you are in a union, tell your union representative right away.



What benefits will I be eligible for?

If you are disabled for less than 5 days:

You will be eligible for payment of medical bills but not lost pay.

- It's the law: your employer has to notify the Workers' Compensation insurance company about what happened to you.*
- The Workers' Compensation insurance company will send you a claim number.
- Tell your doctor that your health problem is work-related. Give your doctor the insurance company information as soon as you receive it. Your doctor will bill the insurance company. You will not have to pay.
- Ask your doctor to use Workers' Compensation, not your regular medical insurance. (The insurance company for Workers' Compensation is a different company from your regular medical insurance or MassHealth, etc. Workers' Compensation system is a separate system from regular medical insurance.)
- It is illegal for your employer to ask you to use your regular medical insurance instead of Workers' Compensation.

If you are disabled for 5 or more days:

You may also be eligible for up to 60% of your lost pay.

- Your employer must file a "First Report of Injury" form (Form 101) with the insurance company and

* Caution: If your employer asks you not to file a Workers' Compensation claim, you may want to talk to a lawyer. See Pages 8-9 for information about lawyers.

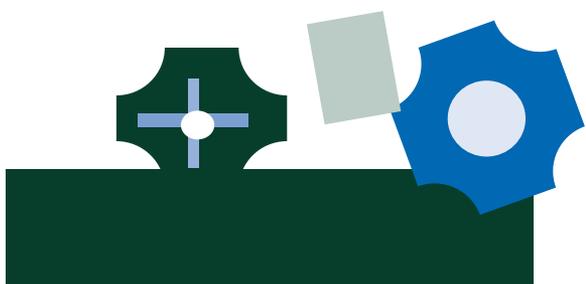
the Department of Industrial Accidents (DIA, a state agency) if you missed 5 or more days of work.

Your employer must file the Form 101 within 7 days of your missed work. The Form 101 is your request for benefits from the insurance company.

If your employer does not file Form 101, you should report the injury to the insurer in a letter.

If your employer does not file Form 101, refer to page 14 of this booklet.

- The insurance company must respond to the claim within 14 calendar days after they receive the First Report. The insurance company will either:
 - Accept the claim and mail your benefit check to you *or*
 - Send you a letter stating that they are denying the claim. The insurance company will send their response to you by certified mail.



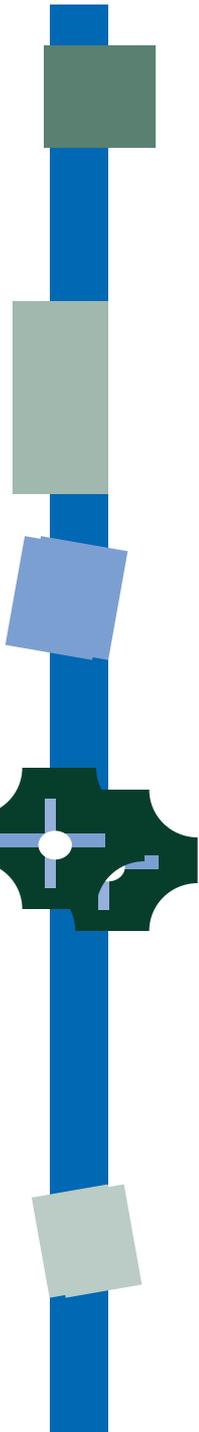
What can I do if the insurance company rejects my claim?

- If the insurance company rejects your claim, you can file an Employee's Claim form (Form 110) with the DIA. You can get this form by calling DIA at 1-800-323-3249 ext. 470 or visiting their website at www.state.ma.us/dia
- When you file Form 110, you go to the first step. There could be two or more steps at the DIA. At each step an agreement can be reached or a decision will be made about your claim. You can appeal any decision. The company also has the right to appeal any decision.
- It is recommended that you get a lawyer to help you with a rejected claim (see page 8-9 of this booklet).



Do I need a lawyer to get Workers' Compensation benefits?

- You do not have to get a lawyer to receive Workers' Compensation benefits. But, sometimes insurance companies refuse to pay benefits for certain illnesses and chronic injuries. If you have a work-related illness or chronic injury, or you are having trouble getting benefits, get a lawyer to help you. Even if your claim is rejected, a lawyer can help you try again.
- If you are not sure if you need a lawyer, call one and describe your situation. Most Workers' Compensation lawyers will talk to you over the phone or in person for free.
- You can get a lawyer at any time - even if you started asking for Workers' Compensation benefits without a lawyer.
- When you talk to lawyers, ask about their experience handling Workers' Compensation cases like yours. Ask about any expenses that you might have to pay (expenses should be very limited - see page 9).



Who pays for the lawyer?

- Your lawyer is not paid until the case has been decided. If you win, the insurance company will pay the lawyer's bill. In *some* cases, the insurance company can pay part of the lawyer's bill from the first 30 days of your benefit checks.
- If you get a "lump-sum" settlement, the lawyer is paid 15-20% of the lump-sum. A lump-sum settlement is an agreement between the Workers' Compensation insurance company and a worker. The insurance company gives the worker a "lump-sum" of money instead of weekly checks. In some cases, the employee may still get medical benefits and job re-training. There are pros and cons to a lump-sum settlement. Speak to a lawyer before you accept a lump-sum settlement.
- If you lose your case, your lawyer can only charge you for expenses they had to pay, such as fees for doctors' reports and hospital records.

How do I find a lawyer?

- ◆ Call one of the non-profit organizations listed on page 17, or contact a local Bar Association such as:
 - Massachusetts Bar Association: www.massbar.org
1-866-627-7577 (toll-free)
 - National Lawyers' Guild: www.nlgmass.org
617-227-7008 9AM-1PM

A Summary of Your Rights

You have a right to:

- *Get medical treatment for an injury or other health condition caused by work and get the treatment paid for by your employer's Workers' Compensation insurance company.*

It does not matter whether you have health insurance or not.

It is illegal for your employer to ask you to use your own health insurance to pay for the cost of treatment if your injury or health problem was caused by work.

- *Be paid a portion of your lost pay if you are disabled 5 or more days because of the injury or health problem.*

You can get up to 60% of your lost pay.

- *Choose your own doctor to treat you for the injury or health problem.*

In some cases, the Workers' Compensation insurance company may ask you to see their doctor for an evaluation.

You must see that doctor also.

- *Know the name of your employer's Workers' Compensation insurance company and the insurance policy number.*

Under Workers' Compensation

State law says that employers have to post this information in the workplace.

You will need to give this information to your doctor.

- *File a claim for Workers' Compensation even if your employer does not have Workers' Compensation insurance.*

Remember that it is illegal for your employer not to have Workers' Compensation insurance.

- *Return to work.*

Your employer cannot fire you or discriminate against you because you got hurt at work or because you filed a Workers' Compensation claim.

- *Get a copy of your Workers' Compensation case file from the the Department of Industrial Accidents.*

- *Speak up if you think your workplace may be unsafe.*

Your employer cannot fire you or discriminate against you because you talked to your co-workers, union or supervisor about workplace safety.

How do I get medical care for my health problem from work?

Your doctor is very important to help you get your Workers' Compensation benefits. You will need an accurate diagnosis from a doctor who understands what you do on your job.

- You have the right to choose your own doctor to treat your health problem.
- Your employer may require you to see a “preferred provider” for the first visit only.* After this first visit, you can go to your own doctor.
- You can change your own doctor one time without permission from the Workers' Compensation insurance company.
- If you want to change doctors again, first you have to ask the insurance company for permission. If you do not get permission from the insurance company, the medical bills will not be paid!

What is the “IME”?

Sometimes, the insurance company can require you to see their own doctor for an evaluation. This is called an Independent Medical Evaluation (IME). You see this doctor for an evaluation only - you do not get treatment from this doctor. If your case is not complicated, the insurance company may not ask you to go to an IME.

*This will happen if your employer has a “preferred provider” arrangement. You may go to the company doctor or a certain clinic. This is not the same as the IME.

What should I tell the doctor about my health problems from work?

- Tell each doctor you see that your health problem is work-related. Describe your job and how it caused your health problem. Describe all your physical complaints and symptoms.
- Ask your doctor to use Workers' Compensation insurance to pay for the medical bills. (Tell the doctor the name of the insurance company and your claim number when you know it.) If you use your regular medical insurance there will be no record of your health problem from work. This may be a problem later if you need to prove that the health problem caused some disability.
- Ask your doctor to write down what work tasks you can and cannot do. If you cannot work ask your doctor to write that down in the report.
- Caution: any personal information you tell your doctor can go into the doctors' report from your visit. Your employer will be able to see the doctor's report about this health problem.

After your doctor's visit:

Ask your doctor for a copy of the report from your visit. The Workers' Compensation insurance company should pay the bill. You do not pay a co-payment. You can also be reimbursed for travel to and from the doctor's office - ask the insurance company how to get reimbursed.

Frequently Asked Questions

Q: How do I find out the name of my employer's Workers' Compensation insurance company?

A: Ask your employer. By law, all employers must post this information in the workplace. If you are injured and cannot work for five or more days, your employer must report your injury to its insurance company and to the DIA. Your employer is required to give you a copy of this report (Form 101), which contains the name and address of the insurance company. If you cannot get this information, call the Office of Insurance in Boston at 617-727-4900, ext. 404 or 405.

Q: My employer refuses to file a First Report of Injury. What should I do?

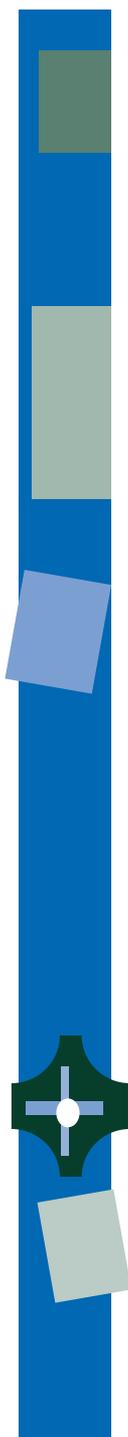
A: Get a lawyer to help you file a claim for benefits (Form 110). Without the First Report of Injury (Form 101), the insurance company will probably fight your claim.

Q: What is the time limit for filing a claim?

A: You can file a Workers' Compensation claim up to four years from the date of injury or from the date that you became aware that you had a health problem from your job.

Q: The insurance company sent me a notice about having its doctor examine me. Am I required to go?

A: Yes, you must submit to reasonable requests for an exam by the insurance company's doctors. You will not receive treatment from this doctor - it is only an





exam (see page 12 for more about the “IME”). The insurance company cannot charge you for the visit. It must reimburse you for reasonable travel expenses. Remember, you have a right to choose the doctor who will treat you for the health problem.

Q: I was hurt at work and my employer does not have Workers’ Compensation insurance. Can I still get Workers’ Compensation benefits?

A: Yes. You can file a claim for benefits from the Workers’ Compensation Trust Fund at the DIA. This is a fund that provides benefits for workers whose employers did not have insurance. Also, if you were injured on or after December 12, 1985, you may be able to sue your employer for not having insurance. If this is the case, talk to a lawyer.

Q: I’m afraid that I’ll be fired if I file a claim. How can I protect myself?

A: It is against the law for your employer to harass you or discriminate against you because you file a claim. You should contact a lawyer if this happens. If you are in a union, tell your union representative. Make sure to write down what has occurred and keep a copy of all records. Remember that you have a legal right to file a Workers’ Compensation claim.



How can I get more information about Workers' Compensation?

Contact the Massachusetts Department of Industrial Accidents, the state agency that runs the Workers' Compensation system. They can give you information and forms.

Department of Industrial Accidents (DIA)
Boston Office (If you need to submit an employee's claim, mail it here.)
600 Washington Street, 7th Floor
Boston, MA 02111
www.state.ma.us/dia
617-727-4900 x470
1-800-323-3249 x470 (toll-free)

Regional offices:

30 Third Street Fall River , MA 02720 Phone: 508-676-3406 Fax: 508-677-0655	436 Dwight Street, Room 105 Springfield , MA 01103 Phone: 413-784-1133 Fax: 413-784-1138
160 Winthrop Avenue Lawrence , MA 01843 Phone: 978-683-6420 Fax: 978-683-3137	8 Austin Street Worcester , MA 01609 Phone: 508-753-2072 TTY: 508-791-3225 (teletype for deaf and hard of hearing)

Books

Hurt on the job: A Guide to the Massachusetts Workers' Compensation System

Published by Western MassCOSH

413-731-0760 to order

Price: \$9.95 plus \$2.05 shipping

Available in English and Spanish

Resources

Non-profit organizations that can help you:

Massachusetts Coalition for Occupational Safety and Health (MassCOSH)

12 Southern Avenue

Dorchester, MA 02124

617-825-SAFE (7233) • www.masscosh.org

MassCOSH is a non-profit non-governmental organization that helps workers with health and safety problems on the job. They can help you find the help you need if you are hurt on the job.

If you are an office worker:

RSI Action

Phone: (voice mail only) 617-247-6827

Email: cnot@rsiaction.org • www.rsiaction.org

RSI Action is an all-volunteer group that offers resources and support for office workers with Repetitive Strain Injuries (RSIs). RSI Action offers monthly meetings for people with RSI.

If you live in Western MA:

Western MassCOSH

640 Page Boulevard

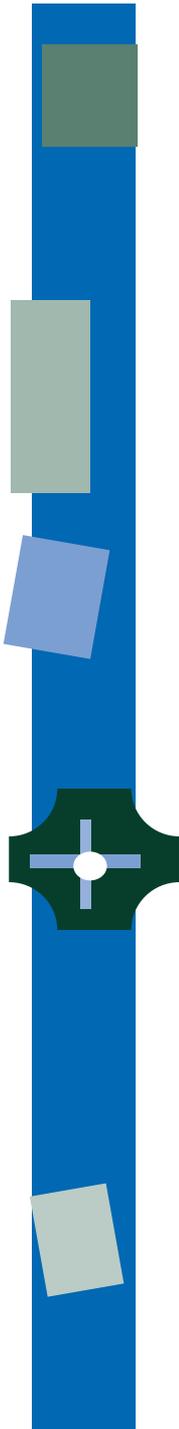
Springfield, MA 01104

413-731-0760

Western MassCOSH is a non-profit non-governmental organization in Western Mass that helps workers with health and safety problems on the job. Western MassCOSH also offers a support group for injured workers.

Workers' Compensation checklist:

- ◆ Report the health problem to your employer right away.
- ◆ Get medical care. (See pages 12-13 for information on getting medical care for your health problem from work.)
- ◆ Write a letter describing the incident (place and time you were injured, names of witnesses, etc.) to your employer, and send it by certified mail.
- ◆ Keep records of everything. Get copies of all forms submitted, medical records, reports from doctors' visits, etc.
- ◆ Keep receipts of all medicine, transportation costs, and other purchases related to your illness.
- ◆ Know the timeline for Workers' Compensation. (See page 6 for information on when your employer should file the claim etc.)
- ◆ Find good legal help. Consult a lawyer, especially if your claim is denied or is complex. (See pages 8-9 for more about lawyers.)
- ◆ Keep a diary of pain (or other symptoms), medical procedures and events related to the health problem. Bring this with you when you see your doctor.
- ◆ If you belong to a union, notify your union rep.
- ◆ Ask for an interpreter when you need one.





The information in the booklet will apply to most people's situations. Some exceptions and other rules may apply to you and affect your situation. Ask for more information from the DIA, one of the non-profit organizations listed or a Workers' Compensation lawyer.

This booklet was developed and distributed by the Massachusetts Department of Public Health Occupational Health Surveillance Program (OHSP) in collaboration with the Massachusetts Department of Industrial Accidents (DIA).

Information about OHSP can be found at <http://www.state.ma.us/dph/bhsre/ohsp/ohsp.htm> or by calling 617-988-3341.

The DIA can be accessed online at www.state.ma.dia or by phone at 617-727-4900 or 1-800-323-3249.

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Massachusetts Department of Public Health



Massachusetts Department of Industrial Accidents (DIA)

