



# **GEORGIA STATE BOARD OF WORKERS' COMPENSATION**

## **EMPLOYEE HANDBOOK**

Please be aware that the Workers' Compensation Law, Rules and Regulations are subject to change on July 1st of each year. If you have any questions about the information contained in this handbook, please contact your employer, adjuster, or the State Board of Workers' Compensation.

July, 2007

## Our Pledge to Employees

If you are injured on the job, you have certain rights, benefits and responsibilities. Your employer also has obligations and responsibilities regarding all employees. The main focus of the Georgia Public Defender Standards Council is to assist job-related injured workers in receiving immediate and quality medical care, to administer workers' compensation claims from the initial injury until the closing of the claim, and to safely return lost-time employees to productive employment. We believe that a healthy, safety conscious and productive company is the result of healthy, safety conscious and cooperative employees.

The staff of the Georgia Public Defender Standards Council understands an employee's and a family's concern when a wage earner is injured on the job and cannot work. We are here to help you through this difficult time.

- We pledge to give each injured employee individual attention.
- We pledge to handle your claim in a prompt and courteous manner.
- We pledge to fully inform you of all workers' compensation income benefits you are entitled to receive and to pay these benefits to you in a timely manner.
- We pledge to pay all authorized medical expenses in a prompt and accurate manner.
- We pledge to make every effort to work with you in returning you to your regular job should your injury require you to lose time from work.

Georgia Public Defender Standards Council

---

Company Name

Please contact Helen Tate at 404-232-8912 or [htate@gpdsc.org](mailto:htate@gpdsc.org) if you have any questions or need assistance.

# State Board of Workers' Compensation

## Bill of Rights for the Injured Worker

As required by law, O.C.G.A. (34-9-81.1), this is a summary of your rights and responsibilities. The Workers' Compensation Law provides you, as a worker in the State of Georgia, with certain rights and responsibilities should you be injured on the job. The Workers' Compensation Law provides you coverage for a work-related injury even if an injury occurs on the first day on the job. In addition to rights, you also have certain responsibilities. Your rights and responsibilities are described below.

### **EMPLOYEE'S RIGHTS**

1. If you are injured on the job, you may receive medical, rehabilitation and income benefits. These benefits are provided to help you return to work. Your dependents may also receive benefits if you die as a result of a job-related injury.
2. Your employer is required to post a list of at least six doctors or the name of the certified WC/MCO which provides medical care. You may choose a doctor from the list and make one change to another doctor on the list without the permission of your employer. However, in an emergency, you may get temporary medical care from any doctor until the emergency is over; then you must get treatment from a doctor on the posted list.
3. Your authorized doctor bills, hospital bills, rehabilitation in some cases, physical therapy, prescriptions and necessary travel expenses will be paid if injury was caused by an accident on the job.
4. You are entitled to weekly income benefits if you have more than seven days of lost time due to an injury. Your first check should be mailed to you within 21 days after the first day you missed work. If you are out more than 21 consecutive days due to your injury, you will be paid for the first week.
5. Accidents are classified as being either catastrophic or non-catastrophic. Catastrophic injuries are those involving amputations, severe paralysis, severe head injuries, severe burns, blindness, or of a nature and severity that prevents the employee from being able to perform his or her prior work and any work available in substantial numbers within the national economy. In catastrophic cases, you are entitled to receive two-thirds of your average weekly wage up to the maximum allowed under the law for a job-related injury for as long as you are unable to return to work. You are also entitled to receive medical and vocational rehabilitation benefits to help in recovering from your injury. If you need help in this area, call the State Board of Workers' Compensation at (404) 656-3875 or toll-free number (800) 533-0682. Your employer will advise you of the amount of your weekly benefit.
6. In all other cases (non-catastrophic), you are entitled to receive two-thirds of your average weekly wage but not more than the maximum allowed under the law for a job-related injury. You will receive these weekly benefits as long as you are totally disabled, but no longer than 400 weeks. If you are not working and it is determined that you have been capable of performing work with restrictions for 52 consecutive weeks or 78 aggregate weeks, your weekly income benefits will be reduced to two-thirds of your average weekly wage, but no more than the maximum allowed under the law, not to exceed 350 weeks.
7. When you are able to return to work but can only get a lower paying job as a result of your injury, you are entitled to a weekly benefit of not more than the maximum allowed under the law for no longer than 350 weeks.
8. Your dependent(s), in the event you die as a result of an on-the-job accident, will receive burial expenses up to the maximum allowed under the law and two-thirds of your average weekly wage, but not more than the maximum allowed under the law. A widowed spouse with no children will be paid a maximum allowed by law at the time of injury. Benefits continue until he/she remarries or openly cohabits with a person of the opposite sex.

9. If you do not receive benefits when due, the insurance carrier/employer must pay a penalty which will be added to your payments.

### **EMPLOYEE'S RESPONSIBILITIES**

1. You should follow written rules of safety and other reasonable policies and procedures of the employer.
2. You must report any accident immediately, but not later than 30 days after the accident, to your employer, your employer's representative, your foreman or immediate supervisor. Failure to do so may result in the loss of the benefits.
3. You must accept reasonable medical treatment and rehabilitation services when ordered by the State Board of Workers' Compensation or the Board may suspend your benefits.
4. No compensation shall be allowed for an injury or death due to the employee's willful misconduct.
5. You must notify the insurance carrier/employer of your address when you move to a new location. You should notify the insurance carrier/employer when you are able to return to full-time or part-time work, and report the amount of your weekly earnings because you may be entitled to some income benefits even though you have returned to work.
6. A dependent spouse of a deceased employee shall notify the insurance carrier/employer upon change of address or remarriage.
7. You must attempt a job approved by the authorized treating physician even if the pay is lower than the job you had when you were injured. If you do not attempt the job, your benefits may be suspended.
8. If you believe you are due benefits and your insurance carrier/employer denies these benefits, you must file a claim within one year after the date of last authorized medical treatment or within two years of your last payment of weekly benefits or you will lose your right to these benefits.
9. If your dependent(s) do not receive allowable benefit payments, the dependent(s) must file a claim with the State Board of Workers' Compensation within one year after your death or lose the right to these benefits.
10. Any request for reimbursement to you for mileage or other expenses related to medical care must be submitted to the insurance carrier/employer within one year of the date the expense was incurred.
11. If an employee unjustifiably refuses to submit to a drug test following an on-the-job injury, there shall be a presumption that the accident and injury were caused by alcohol or drugs. If the presumption is not overcome by other evidence, any claim for workers' compensation benefits would be denied.
12. You shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$10,000 or imprisonment up to 12 months, or both for making false or misleading statements when claiming benefits. Also, any false statements or false evidence given under oath during the course of any administrative or appellate division hearing is perjury.

The State Board of Workers' Compensation will provide you with information regarding how to file a claim and will answer any other questions regarding your rights under the law. If you are calling in the Atlanta area, the telephone number is (404) 656-3875. Outside the metro Atlanta area, call 1-800-533-0682 or write the State Board of Workers' Compensation at: 270 Peachtree Street, NW, Atlanta, Georgia 30303-1299. A lawyer is not needed to file a claim with the Board; however, if you think you need a lawyer and do not have your own personal lawyer, you may contact the Lawyer Referral Service at (404) 521-0777 or 1-800-334-6865.

Willfully making a false statement for the purpose of obtaining or denying benefits is a crime subject to penalties of up to \$10,000 per violation (O.C.G.A. 34-9-18 and 34-9-19).

# Workers' Compensation Questions and Answers

## GENERAL QUESTIONS

### **Q. What is Workers' Compensation?**

Workers' compensation is a benefits program created by state law that provides medical, rehabilitation, income, death and other benefits to employees and dependents due to injury, illness and death resulting from a compensable work-related claim covered by the law.

### **Q. When am I covered?**

Workers' compensation coverage begins the first day of employment. Employers with three or more employees are required by law to provide coverage.

### **Q. What is considered an on-the-job injury, illness and death claim?**

Any injury, illness or death arising out of and in the course of employment is by definition a compensable work-related claim. This means if employees are injured while performing assigned job duties during assigned work hours, they are covered under the workers' compensation program. Injuries sustained while engaging in unassigned duties, during lunch and breaks, are not covered. In addition, injuries that occur during an employee's normal commute to and from work are not covered.

### **Q. If I am injured on the job, what should I do?**

You should **IMMEDIATELY** report your injury to your employer. Obtain and fill out the paperwork required by your company and forward to the appropriate organization for processing. Be as specific as possible when reporting your injury. If anyone witnessed your accident, inform your employer of such a witness. Prompt notification will enable your company to begin your benefits in a timely manner.

### **Q. What happens if I cannot make a report of my injury?**

If your injury is such that you are unable to make a report, you will be provided immediate medical assistance and a report will be made for you. Others reporting the injury should also be as specific as possible when reporting the accident, and the report should be turned over to the employer as soon as possible.

### **Q. Are on-the-job accidents or injuries investigated?**

Yes. Your employer and/or the company responsible for handling workers' compensation claims generally investigate on-the-job accidents and injuries. Investigations are necessary to determine why and how the injury occurred, and to implement policies and procedures to make the workplace safer.

**Q. Are employee misconduct claims resulting from on-the-job injuries covered?**

No. Workers' compensation does not provide benefits for an injury or accident resulting from an employee's willful misconduct (i.e. fighting, horseplay, willful act of third party for personal reasons, injuries related to alcohol or drug abuse).

**Q. Are injuries resulting from haste and inattentiveness covered?**

Yes. These types of injuries would be covered under the workers' compensation program. However, employees are encouraged to follow company policies and safety rules and may subject themselves to company discipline if these rules are not adhered to.

**Q. What if I am concerned about my safety record?**

Many companies have established safety programs to encourage employees to be safety conscious when performing their job duties. These programs usually offer certain awards to employees. Employees do not like to be responsible for causing their work group to miss safety goals. However, failure to report injuries because of safety programs could result in long-term consequences for the employee, as well as out-of-pocket medical expenses.

**Q. Can I receive from my employer money damages in addition to workers' compensation benefits if I am injured on the job?**

No. Workers' compensation is the "exclusive remedy" a worker has against his/her employer for damages resulting from an on-the-job injury.

**Q. Can I sue anyone for a work-related injury?**

If your injury was caused by the negligence of a third party other than another person who is also an employee of the company for which you work, you may have a right to sue that party. If you sue and receive a dollar award, your employer may have a right to recover some or all of the cost expended in your workers' compensation claim. This is known as a subrogation lien. The lien would only be recoverable after you had been fully compensated for your loss resulting from your on-the-job injury.

**Q. How much will an attorney charge to handle a workers' compensation claim?**

Most workers' compensation claims can be handled without having to hire an attorney. However, if you feel that an attorney is needed, the Workers' Compensation Statute limits the attorney's fee to a maximum of 25% of income benefits received, not to exceed 400 weeks of benefits. In addition, you would also be responsible for paying any expenses associated with the pursuit of your claim.

**Q. How can I jeopardize my benefits?**

- Failure to report injuries promptly.
- Failure to cooperate with employer and authorized treating physician regarding medical evaluations, treatment, rehabilitation services and claim investigation.
- Refusal to return to suitable employment.
- Working elsewhere while receiving Temporary Total Disability Benefits.

- Submittal of fraudulent information.
- Refusal to take a drug test.
- Refusal to submit to a medical examination by the authorized treating physician, at reasonable times.

**Q. Are there circumstances where I would not receive workers' compensation benefits as a result of an on-the-job injury?**

Yes. For instance, benefits are not payable if you are injured while engaged in willful misconduct or if your injury is due to the use of alcohol or drugs or the misuse of controlled substances.

**Q. Does the State Board of Workers' Compensation investigate fraud?**

Yes. The Board has an Enforcement Division that investigates allegations of fraud. The Board also has authority to assess civil penalties of up to \$10,000 for violations involving fraud.

**MEDICAL BENEFIT QUESTIONS**

**Q. May I go to my personal physician for treatment for my on-the-job injury?**

No. The law requires that you select from a list of physicians posted by your company in a prominent location. In addition, the law requires that you are informed of this list and understand its function. One of the following referral methods may be used.

**Panel of Physicians** – This must contain at least six qualified physicians. The makeup of the panel must include one orthopedic surgeon, a minority physician and four other properly qualified physicians.

**Conformed Panel** – This must include at least ten qualified physicians.

**Workers' Compensation Managed Care Organization (WC/MCO)** – A WC/MCO offers a much larger choice of treating physicians from many disciplines. The WC/MCO must be approved by the State Board of Workers' Compensation.

If you are dissatisfied with your first selection, you may make one change to another physician from the posted list. Any further change of physician will require concurrence of your company and/or the workers' compensation administrator.

Should you choose to go to a doctor not on the approved list, this is considered unauthorized treatment, and your employer will not be responsible for the cost associated with this medical care. In addition, most health insurance policies will not pay for medical treatment associated with an on-the-job injury.

**Q. How will I identify the List of Physicians?**

The list of physicians will be printed on 8.5' x 14" pink paper titled "OFFICIAL NOTICE. This business operates under the Georgia Workers' Compensation Law." It will contain the name, specialty, address and phone number of the authorized physicians.

**Q. What must I do if I need emergency treatment?**

In a true emergency situation, you may get temporary medical care from the nearest emergency location available. Once the emergency is over, however, you must continue your care by selecting a doctor from the list of physicians provided by your employer.

**Q. What happens if I need surgery?**

Prior to scheduling any major surgical procedures for an on-the-job injury, except in the case of an emergency, your doctor will notify your employer or workers' compensation provider. Once your employer has been contacted, the appropriate workers' compensation professional will work with your physician and/or his/her medical staff to ensure that all the necessary arrangements are made.

**Q. What if the doctor says that I need a MRI or CT scan?**

Your authorized treating physician will arrange for these tests. Feel free to ask your physician what the test is for and why you need it.

**Q. What if I need physical therapy?**

Your authorized treating physician will refer you to a physical therapy provider.

**Q. Am I required to pay a portion of the cost of the medical care I receive resulting from my on-the-job injury?**

No. Your physician's bills and reasonable medical bills are covered if a physician authorized by your employer treats you. All medical charges are paid according to the Georgia Workers' Compensation Medical Fee Schedule. If your medical provider charges above the fee schedule, the charges will be reduced to the fee schedule, and that amount will be paid. **YOU ARE NOT RESPONSIBLE FOR CHARGES ABOVE THE FEE SCHEDULE**; however, if you are billed for those costs, contact your employer or workers' compensation provider to assist in getting the charges corrected.

**Q. If the physician prescribes medicines for me, what do I do?**

Prescription drugs are covered under workers' compensation. Check with your employer or workers' compensation administrator to see if they have any special procedures in place for obtaining prescription drugs. If no special arrangements have been made, you may have to pay for the prescription and submit the bill to your employer for reimbursement.

**Q. Are there any expenses that I incur that will be reimbursed to me?**

The Workers' Compensation Statute provides for reimbursement of certain reasonable personal expenses incurred to obtain medical treatment. This includes such things as mileage, meals, lodging and other expenses, in limited instances, which are deemed necessary and appropriate in order to ensure you receive quality medical care. You should check with your workers' compensation professionals before incurring expenses.

**Q. How long do reimbursements take?**

Approved expenses will be reimbursed within 30 days of submission as required by the Workers' Compensation Statute. However, most carriers process reimbursements in less time. If reimbursements are not paid within thirty (30) days of receipt of documentation requesting reimbursement, penalties shall be added in addition to the reimbursement amount. It is important to submit your approved expenses within a year's time of the date of service otherwise you will have waived your right to collect such charges from the employer or workers' compensation insurer.

## **DISABILITY BENEFIT QUESTIONS**

### **Q. What will happen if I am unable to work because of my on-the-job injury?**

You are entitled to receive weekly **Temporary Total Disability** benefits if you miss **more than seven** days from work. Only if you are out more than 21 consecutive days due to your injury will you be paid for the first seven days. Your first check should be mailed to you within 21 days after the first day of disability. You will receive two-thirds of your average weekly wage, but not more than the maximum rate provided by the Workers' Compensation act at the time of your injury. Your authorized treating physician must verify your disability and absence from work.

### **Q. What if I cannot perform my regular job and another job is not available?**

You would be eligible to receive Temporary Total Disability benefits if you are unable to work due to your on-the-job injury. You should also consult your employer regarding possible vocational rehabilitation opportunities.

### **Q. What happens if my disability becomes permanent?**

If your authorized treating physician determines you have suffered a permanent disability, you would be entitled to receive Temporary Total Disability benefits for as long as you remain disabled. If you are able to work, you would begin receiving a weekly income benefit based on the permanent disability rating given you by your authorized treating physician. (See next question – **PERMANENT PARTIAL DISABILITY**). The benefit would be paid to you regardless of your wage rate or total income.

### **Q. What income benefits are available under the Workers' Compensation Program?**

The Workers' Compensation Statute provides four basic income benefits. The maximum amount of weekly workers' compensation benefits an employee can receive from an on-the-job injury, illness or death depends on the workers' compensation rate at the time of the injury and the employee's average weekly wage.

**Temporary Total Disability Benefits** – This benefit is payable to an employee who is injured on the job and unable to work as determined by the authorized treating physician. The amount is two-thirds of the employee's average weekly wage at the time of the injury, not to exceed the maximum amount allowed under the law. For non-catastrophic injuries, there is a limit of 400 weeks of benefits from date of injury if the injury occurred on or after July 1, 1992. For catastrophic injuries, benefits are unlimited.

**Temporary Partial Disability Benefits** – This benefit is payable to an employee when he/she returns to work in a job paying less as a result of an on-the-job accident. These benefits are payable for up to 350 weeks from the date of injury. This lost wage amount is two-thirds of the difference between the employee's average weekly wage before and after the injury. The maximum amount payable cannot exceed the maximum allowed under the law.

**Permanent Partial Disability Benefits** – This benefit is payable to the employee for a permanent disability resulting from an on-the-job injury. It is payable based upon a percentage given by your authorized treating physician in accordance with current AMA Guidelines. The percentage is calculated by a formula that contains number of weeks assigned by the State Board X the percentage rating X the Temporary Total Disability rate. Not all injuries result in ratings assigned by a physician.

**Death Benefits** – This benefit is payable to eligible dependents (i.e., dependent spouse, minor children) of an employee whose on-the-job injuries result in death. This benefit is payable at the rate of two-thirds of the deceased employee's average weekly wage at the time of the accident not to exceed the maximum

allowed under the law for all eligible dependents. **Funeral Expenses** are payable up to the maximum allowed under the law at the time of injury.

Benefits cannot be combined. Only one type of benefit is payable at a time.

**Q. What happens to my workers' compensation benefits if I receive a light-duty release from my physician while I am out of work?**

Your employer will try to place you in a job that meets the limitations placed on you by your physician. However if a light-duty job is not available and you remain out of work in a light-duty status for 52 consecutive weeks or, if periods of disability are interrupted, a maximum of 78 total calendar weeks, your income benefits will be reduced automatically by law from the Temporary Total Disability benefit to the maximum eligible Temporary Partial Disability benefit.

If you are given a light-duty release and a light-duty job is available, your employer will expect you to return to work. The Workers' Compensation Statute provides for a 15-working-day "grace period." This allows an employee to attempt to perform a light-duty job without fear of losing benefits if they are unable to perform the job duties.

## **QUESTIONS ABOUT SPECIFIC INJURIES**

**Q. Can I be compensated for occupational related diseases?**

Yes. If your disease meets certain tests imposed by law, you can be compensated. There must be a causal relationship between your employment and the disease. It cannot be a disease that is an ordinary disease of life to which others are exposed.

**Q. What happens if I re-injure a pre-existing condition or injury?**

The Workers' Compensation Act limits the extent to which an aggravation of a pre-existing condition or injury is compensable. An aggravation of an on-the-job injury is compensable while the aggravation is the cause of the disability. Once the aggravation resolves and you return to the pre-injury condition, the claim will no longer be compensable.

**Q. Can I be compensated for a repetitive motion injury?**

Yes. Repetitive motion injuries are compensable if they arise out of and in the course of employment.

**Q. What is a catastrophic injury?**

Catastrophic injuries are extremely severe injuries, i.e., loss of limbs, severe burns, etc. Your employer is required to appoint a rehabilitation supplier who has expertise in handling catastrophic cases. This person would assist you in managing your medical care as well as any other assistance you might need in the recovery period following the accident. You will be entitled to Temporary Total Disability benefits for as long as you remain unable to work. Once you have returned to work, the Temporary Total Disability benefits will cease. If you are placed in a lower paying job, you will begin receiving Temporary Partial Disability benefits. After those benefits have been paid, you will begin receiving Permanent Partial Disability benefits.

**Q. Are heart attacks and strokes covered under workers' compensation?**

Heart attacks and strokes are not considered injuries under workers' compensation unless it is shown by a preponderance of competent and credible evidence, which shall include medical evidence, that the condition was attributable to the performance of the usual work of employment.

**QUESTIONS REGARDING TIME LIMITS/FILING CLAIMS**

**Q. What if my employer or workers' compensation administrator denies my claim?**

If your claim is denied, you will be notified of the reason for the denial. You have the right to request a hearing from the State Board of Workers' Compensation if you disagree with the denial of your claim. A claim with the State Board must be filed within one year of the date of injury. The procedure for filing a claim with the State Board of Workers' Compensation is outlined on the back of the Workers' Compensation form titled "Employer's First Report of Injury" (WC-1).

**Q. Is there a time limit or statute of limitation on filing a workers' compensation claim and if so, what is it?**

After properly reporting an injury, you have one year from the date of the injury to file a claim. If you received remedial treatment from your employer for the injury, you have one year from the date of treatment to file a claim for workers' compensation benefits. If you received weekly income benefits as a result of the on-the-job injury, you have two years from the date of your last payment of weekly income benefits to file a claim.

In the case of an occupational disease claim, you have one year from the date you become aware of your disease or, in the exercise of reasonable diligence, should have known of the relationship between your disability and its relationship to your employment. No claim for an occupational disease may be filed after seven years from the last date you were exposed to the employment hazards related to your disease. However, for the diseases asbestosis or mesothelioma related to exposure to asbestos, you have one year from the date of first disablement after diagnosis to file a claim.

**Q. Once I'm treated for my injury and have reached maximum medical improvement and begin having problems in the future due to my injury, may I receive additional treatment for this injury?**

Yes. You can go back to your authorized treating physician and receive treatment in accordance with the established guidelines set by the State Board of Workers' Compensation as outlined above.

**Q. When will my claim be officially closed?**

When appropriate benefits have been paid, or once a settlement agreement is reached by all parties and approved by the State Board of Workers' Compensation and a monetary amount is paid to you or your dependents, your claim is closed. Note that not all claims are closed. Some claims, due to the nature of the injury, remain open until the statute of limitations runs, or until the injured worker's death, whichever occurs first.