

or death, but this is an exceedingly rare situation and has been limited by our Appellate Courts.

Denied Claims

An employee should note that if a claim is denied, a North Carolina Industrial Commission Form 18 must be filed within two years. In cases involving injuries, this two years runs from the date of the injury. In cases involving occupational diseases, this two years runs from the date the employee is both (1) advised by “competent medical authority” of the work-related nature of his or her disease or condition and (2) has disability. This is an absolute rule and the failure to file a Form 18 within a period required means that the claim is forever barred, no matter how meritorious.

The workers’ compensation laws provide guidelines should you disagree with the decision of the insurance carrier/employer.

Some Things Not Covered by the Workers’ Compensation Act

What is commonly known as “pain and suffering” is not compensable. Ongoing pain may contribute to a disability which may be compensable, but the pain itself is not.

Some opinions from other doctors are not automatically covered by the carrier/employer, unless the same is ordered by the Industrial Commission or pre-approved by the carrier or employer, except that the employee is allowed a second opinion from another physician as to the question of an impairment rating only on the question of permanent partial disability.

The North Carolina Industrial Commission’s telephone number is 1-919-807-2500. The Industrial Commission also has an office that is designed in particular to attempt to answer telephone questions and resolve some problems, 1-800-688-8349 and 1-919-807-2501. Any call to the Commission should also include a request to be sent a copy of the Commission’s latest Bulletin.

The North Carolina Industrial Commission’s Web site is www.ic.nc.gov and the forms cited in this pamphlet can be found at this site.

THIS is the LAW



This pamphlet was prepared as a public service by the Communications Committee and is not intended to be a comprehensive statement of the law. North Carolina laws change frequently and could affect the information in this pamphlet. If you have specific questions with regard to any matters contained in this pamphlet, you are encouraged to consult an attorney. If you need an attorney, please contact the North Carolina Lawyer Referral Service, a nonprofit public service project of the North Carolina Bar Association, via phone (1-800-662-7660; local 677-8574) or online (www.ncfindalawyer.org).

©2005 N.C. Bar Association
Revised 2009

**NORTH CAROLINA
BAR ASSOCIATION**
SEEKING LIBERTY & JUSTICE

The North Carolina Bar Association does not intend to signify approval or endorsement of their work or views of agencies and firms distributing this pamphlet. For other pamphlets check your local public library or, for an additional free pamphlet, send a self-addressed stamped envelope to:

**NC Bar Association
Attn: Pamphlet Program
PO Box 3688, Cary, NC 27519**

Visit our Web site at: www.ncbar.org

WORKERS’ COMPENSATION

THIS is the LAW



Workers’ Compensation: What to Do in Case of an On-the-Job Injury

**NORTH CAROLINA
BAR ASSOCIATION**
SEEKING LIBERTY & JUSTICE

Published as a Public Service by the Communications Committee of the North Carolina Bar Association

Workers' Compensation

What to Do in Case of an On-the-Job Injury

The purpose of this pamphlet is to provide a general framework and a broad overview regarding the responsibilities that employees and employers have in the event of an on-the-job injury or a disease believed to be related to or caused by employment. The Act is very specific about the responsibilities of all parties, and particular questions should be addressed to specific provisions of the Act itself, the North Carolina Industrial Commission, or you should consult an attorney.

Who is Subject to the North Carolina Workers' Compensation Act?

Not everyone who works in North Carolina is covered. An employee is covered if he or she works for an employer who regularly employs three or more people full or part time, or is an employee of a construction subcontractor, or where the employer has workers' compensation insurance. An individual who works for the State, a County, or City is covered. An individual who works with or around radiation is covered regardless of the number of employees.

With some exception, agricultural workers, residential workers, residential domestic workers, independent contractors, and casual workers are not covered by the Act. Federal, maritime, and railroad workers are covered under other State and Federal laws.

What to Do in the Event of an On-the-Job Injury or Diagnosis of a Job-related Disease or Condition

The employee should immediately report to his or her supervisor any on-the-job injury including the time and date of the injury, the manner in which it occurred, and the nature of the injury. If an employee is informed by a doctor, or believes that he or she has a disease or condition which is related to or caused by the job, that should be immediately reported as well.

The employee should request the North Carolina Industrial Commission Form 18 from the employer, or from the Industrial Commission if necessary, fill this form out, and give it to the employer, providing the Industrial Commission with a copy. If this form is not provided, the

employee should simply type and sign, or write out, a full report and give it to the employer, keeping a copy, and sending a copy to the North Carolina Industrial Commission.

Employers must keep a record of all injuries received by employees at work.

Insurance

Most workers' compensation claims are administered either by the workers' compensation insurance carrier or, in the case of a self-insured employer, a claims administrator.

Time Requirements

You should notify your employer immediately, or at least within 30 days in writing of your workers' compensation injury or disease.

Payment of medical expenses by an employer, alone, may not bind an employer/insurance carrier to pay other benefits and is not an admission of compensability or acceptance of the claim.

If an insurance company/employer denies that a claim is compensable, it must file a Form 61 with the North Carolina Industrial Commission stating that the claim is denied and the basis for the denial.

What Benefits are Available Under the North Carolina Workers' Compensation Act?

Medical expenses that are reasonably or medically necessary, and some limited mileage expenses, are covered during the healing process. Future medical expenses for any injury which occurred on or after July 5, 1994 are covered for a period of two years after the date of last payment of any compensation including medical compensation. This time can be extended by the filing of a Form 18-M.

If an injury is more serious, additional payments may be required for temporary total disability benefits (TTD), temporary partial disability benefits (TPD), and permanent disability or permanent partial disability benefits (PPD).

Death Benefits

If death has resulted from the injury, compensation payments will be made for a period of four hundred weeks from the date of death and the rate of payment will be the same as the TTD benefits would have been. The death

must have occurred from a compensable injury or occupational disease and within six years of the date of injury, or occur within two years of the final determination of disability, whichever comes later. If the payment is made to a widow or widower who is disabled then those payments will continue during his or her lifetime or until remarriage. Compensation payments to a dependent child continue until that child reaches an age of eighteen. Persons entitled to receive benefits in a death situation are those who are wholly or partially dependent upon the deceased. There is a statutory presumption that a widow, widower, or child is wholly dependent.

If the deceased employee leaves no one either wholly or partially dependent, then the compensation is payable to "next of kin" and that includes only the father, mother, child, brother or sister of the deceased including any adult children, or adult brothers or sisters. Three thousand five hundred dollars is also allowed toward funeral expenses.

Other Benefits

Under some circumstances an injury may result in disfigurement for which compensation would be due. The maximum for head or facial disfigurement is \$20,000. The maximum compensation for other bodily disfigurement is \$10,000. An award for head or facial disfigurement is mandatory. To receive benefits for bodily disfigurement there must be some proof that the disfigurement impairs the employee's wage earning capacity.

Permanent loss of an important bodily organ as the result of an occupational injury or disease may entitle the employee to compensation up to \$20,000.

If caused by an occupational disease or accident, the loss of hearing or a portion of hearing in one or both ears or loss of vision or a portion of vision in one or both eyes is compensable.

Exclusive Remedy

Generally an injured worker's rights are limited to his or her workers' compensation rights and there is no right for the injured worker to sue his or her employer. However, an injured worker may have the right to sue an employer who acted intentionally and knew that the action was substantially certain to cause serious injury