

Workers' Compensation in Maine

With very few exceptions, any worker in the State of Maine who experiences or aggravates an injury, illness, or condition as the result of activities of employment may receive benefits under workers' compensation laws.

▶▶ Any injury or disease which arises out of and on account of your employment activities may be compensable. It doesn't need to be the result of an accident.

▶▶ Pre-existing conditions are not excluded. If your job activities make a pre-existing condition worse, you may still be entitled to workers' compensation benefits.

▶▶ Fault plays no part in Maine's Workers' Compensation system. The only thing you need to prove is that the injury arose out of and because of your employment activities.

When You Are Hurt at Work

Step One - Notify your employer

The first thing you must do is notify your employer that you have injured yourself and that you claim that your injury arose out of your employment. You must tell your employer the time, place, cause, and nature of your injury along with your name and address. If you are seriously injured, this information can be provided by a family member, friend, co-worker, or attorney on your behalf. Notice of your injury must be given to your employer within 90 days of your injury, or you may lose your right to workers' compensation benefits for the injury forever. Be sure your employer makes a written First Report of Injury and provides you with a copy. Even if you only need minor medical treatment, you should receive a written First Report of Injury. It is sometimes possible to pursue a claim if you did not tell your employer at the time, but requires proving he/she had actual knowledge of the injury or problem.

Step Two - Seek Medical Treatment

Your employer or its insurer does not have to pay any benefits until you have had medical treatments for the injury, or lost time at work because of it. It is very important to go for medical treatment as soon as possible to document and establish your claim. See a doctor the same day as the injury, if possible. Your employer has the right to choose your doctor for the first ten days of treatment after the injury. After ten days you may switch to the doctor of your own choice. You may change the doctor from the one you choose, to a second one you choose, once; and you may go to one specialist in each medical specialty required. Your employer may insist you continue seeing the doctor of its choice, as well, but only for the purpose of monitoring your situation, and not to take over treatment.

What Happens Next

Your employer must respond in one of three ways within 14 days of your claim.

1) **Your employer may accept your claim, filing a Memorandum of Payment.** If your claim is accepted you will receive wage benefits until you return to work or your inability to work is challenged.

2) **Your employer may pay you and file a Memorandum of Payment stating "accepted pending investigation."** If you are paid "without prejudice" then you do not have an accepted claim and payments can be stopped with 21 days of advance notice.

3) **Your employer may deny your claim and file a Notice of Controversy, or challenge.**

When You May Become Eligible

You will not be entitled to receive compensation and benefits until:

- ▶▶ you have given notice of injury to your employer; and
- ▶▶ 14 days have passed since you began losing time from work; and
- ▶▶ you have lost 7 days of work time.

If Your Claim is Denied

If your claim is initially denied, there are several sources of help, from private attorneys to the services of the Workers' Compensation program itself.

Troubleshooters

If your employer files a Notice of Controversy, a troubleshooter from the Workers' Compensation Board will contact you to try and help resolve areas of disagreement.

Mediation

If the denial or dispute persists, your claim will go to mediation. The mediator meets with you and the employer or insurance representative to try to resolve the problem.

Formal Hearing

If mediation doesn't work, you must file a petition for a formal hearing. You may have an attorney present at this hearing.

Maine Advocacy Program

If you are still having a problem after troubleshooting and have not engaged an attorney, you can contact one of the Advocacy Program regional offices below for an advocate.

Augusta 1-800-400-6854

Bangor 1-800-400-6856

Lewiston 1-800-400-6857

Portland 1-800-400-6858

Caribou 1-800-400-6855

Hiring a Private Attorney

You may hire an attorney at any time to assist you with your Workers' Compensation claim. You must pay for the attorney's services yourself, and you will not be reimbursed. Many attorneys offer a free initial consultation during which they will talk with you about your claim. If you decide to hire an attorney, make sure you get a written fee agreement so there are no misunderstandings later. The Workers' Compensation law sets limits on how much an attorney can charge you, which may total up to 30% of the weekly incapacity back benefits owed up to the date the case is decided; and/or no more than 10% of the value of a settlement.

BUT

**In Most Cases,
You May Not Sue Your Employer
In Civil Court**

Under Maine Law, you may not sue an employer who is self-insured or has purchased Workers' Compensation insurance, unless that employer also has an additional legal obligation to you under a separate relationship, such as landlord/tenant, and the injury comes about from circumstances related to that second relationship. This is called "dual capacity." If your injury was caused by a third party (someone other than your employer), you may have a legal claim against that party.

Three Kinds of Benefits

You may receive some or all of three kinds of benefits if your claim is approved.

Wage Replacement

As an injured worker you are entitled to receive 80% of your after-tax average weekly wage as computed from your earnings of the previous year, during the entire period of time during which you are totally disabled. You may also receive partial disability if you are only able to resume work on a part-time basis, or if you have to move to a job that pays less because of the injury. Partial benefits may last for 364 weeks unless you are assessed a permanent impairment greater than roughly 12%. The actual percentage is set yearly, and is based on the year of injury.

Medical Expenses

Medical, chiropractic, hospital, medication, and mileage expenses are paid by the Workers' Compensation plan at rates set by the Workers' Compensation Board. If a provider's usual charge for treatment is higher than what the Workers' Compensation plan pays, an injured worker will not be required to pay the difference. There are time limitations regarding the payment of medical bills under Workers' Compensation Law which a lawyer can help explain.

Vocational Rehabilitation

If, because of the injury, you become unable to work in jobs for which you have trained, or in which you are experienced, you can request employment rehabilitation services. These may include job training, job counseling, and placement services.

The Workers' Compensation Laws of Maine were substantially modified in the 1990's, and remain very complicated. For a legal opinion regarding your specific situation, consult an attorney.

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- Agree to establish and maintain objective experience criteria for their panel attorneys,
- Provide a mechanism for client feedback and resolving client complaints
- Do not limit the number of attorneys who may join the Lawyer Referral and Information Service, provided that they meet the objective requirements for panel membership,
- Require and verify that all panel attorneys carry legal malpractice insurance.

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This brochure is intended as general information only, and is not intended as legal assistance or legal advice. For legal advice please contact an attorney.



Lawyer Referral & Information Service

**Workers'
Compensation
in Maine**

The Right Call for the Right Lawyer

1-800-860-1460

