

MAINE STATE LEGISLATURE

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Facts About Maine's Workers' Compensation Laws



Revised November 2017

The Maine Workers' Compensation Board prepared this guide to help you understand Maine's workers' compensation system. This guide attempts to answer the questions most commonly asked by injured workers. Much of the information in this guide only applies to employees who were injured on or after January 1, 1993, although there is some information about earlier dates of injury. A glossary of commonly used terms is also provided.

If you would like additional information, please contact one of the regional offices of the Workers' Compensation Board listed below:

AUGUSTA

24 Stone Street, Suite 102
Augusta, Maine 04330
(207) 287-2308 or 1-800-400-6854 (Maine only)

BANGOR

106 Hogan Road, Suite 1
Bangor, Maine 04401
(207) 941-4550 or 1-800-400-6856 (Maine only)

CARIBOU

One Vaughn Place
43 Hatch Drive, Suite 110
Caribou, Maine 04736
(207) 498-6428 or 1-800-400-6855 (Maine only)

LEWISTON

36 Mollison Way
Lewiston, Maine 04240
(207) 753-7700 or 1-800-400-6857 (Maine only)

PORLTAND

1037 Forest Avenue, Suite 11
Portland, Maine 04103
(207) 822-0840 or 1-800-400-6858 (Maine only)

Workers' Compensation Board Mission Statement

The Board's mission is to serve the employees and employers of the state fairly and expeditiously by ensuring compliance with the workers' compensation laws, ensuring the prompt delivery of benefits legally due, promoting the preventing of disputes, utilizing dispute resolution to reduce litigation and facilitating labor-management cooperation.

Maine Workers' Compensation Board

Augusta	1-800-400-6854
Bangor	1-800-400-6856
Caribou	1-800-400-6855
Lewiston	1-800-400-6857
Portland	1-800-400-6858

ENGLISH

Interpreters Available

When calling for assistance, please say the name of your language in English and an interpreter will be called for you. Please stay on the line.

SPANISH

Tenemos intérpretes a su disposición

Si necesita que le atiendan en español por favor diga "Spanish" y le conectaremos con un intérprete. Por favor manténgase en la línea.

PORTUGUESE

Temos intérpretes à sua disposição

Se precisar de atendimento em Português, por favor diga "Portuguese" e um intérprete será prontamente chamado. Por favor, aguarde na linha.

ITALIAN

Abbiamo intèrfretri disponibili

Se avete bisogno di assistenza in Italiano, Vi preghiamo di dire "Italian" e un intèrfretri sarà messo a Vostra disposizione. Vi preghiamo di rimanere in linea.

FRENCH

Des interprètes sont à votre disposition

Lorsque vous appelez pour demander de l'aide, prononcez le mot "French" et nous mettrons un interprète à votre disposition. Prière de rester en ligne.

POLISH

Tłumacze dostępni na życzenie.

Aby uzyskać pomoc tłumacze, proszę powiedzieć po angielsku "Polish" i czekać na linii.

RUSSIAN

"К вашим услугам имеются переводчики"

"Когда Вы обращаетесь за помощью по телефону, пожалуйста скажите, что Вы говорите по-русски (произнесите "РАШН"), и мы обеспечим Вас переводчиком. После этого, пожалуйста, оставайтесь на линии."

提供口譯服務

打電話請求幫助時，請用英語說“換音呢斯”(CHINESE)——我們將為您提供口譯人員。請不要挂斷電話。

通訳サービスをご利用いただけます

通訳を必要とされる場合は「ジャバニーズ」とおっしゃり、通訳ができるまでそのままでお待ちください。

한국어 통역을 이용하실 수 있습니다.

도움이 필요하여 전화를 거실 때 영어로 코리언(KOREAN)이라고 말씀하시면 통역자를 연결해 드릴 것입니다. 전화를 끊지 마시고 기다리십시오.

“Có Thông Dịch Viên”

“Khi gọi điện thoại để được giúp đỡ, xin quý vị hãy nói “VIETNAMESE” để chúng tôi cho thông dịch viên giúp quý vị. Xin quý vị chờ trên đường dây.

مترجمون شفهيون متخصصون لخدمتكم عند اتصالكم للمساعدة او لطلب خدمة معينة نرجو منكم ان تذكروا (أ-ر-ب-ك .)ولهذا سنقدم لكم مترجمًا شفهيًا . ابقوا على الخط من (ضلاكم) .

افراد مترجم در دسترس می باشند.
را که بدان صحبت می کنید به انگلیسی ذکر کنید تا
راجع به امری به ما تلفن می کنید، لطفاً نام زبانی
قطع نکنید. هنگامیکه برای درخواست کمک با
شما تماس گرفته شود. لطفاً روی خط منتظر بمانید.
با یک مترجم برای

Turjunaanno waa la helayaa

Marka aad caawinaad inoogu soo yeeraneysid, fadhlani luqaddaada af Ingiriisi inoogu sheeg turjubaan ayaa iguugu yeeri doonaaye. Taleefoonkana ha dhigin.

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GLOSSARY OF FREQUENTLY USED TERMS

Administrative Law Judge: An employee of the Workers' Compensation Board who holds hearings and writes decisions which resolve disputes between you and your employer.

Average Weekly Wage: In most cases the average amount of money you earned each week for the 52 weeks prior to your injury. Special rules apply to employees who customarily work less than 26 weeks per year, or who work in certain kinds of jobs. Fringe benefits may also be added to your average weekly wage.

Compensation Rate: What you are paid for time you have missed from work because of an injury. The compensation rate equals 2/3 of your average weekly wage or, for dates of injury before January 1, 2013, 80% of your after tax wages. Effective July 1, 2017, the maximum compensation rate is \$804.40. For dates of injury before January 1, 2013, the maximum compensation rate is \$723.96. The maximums are adjusted annually on July 1.

Compensable: The word compensable can describe an injury that is related to work. It can also describe a medical bill or a claim for lost wages that your employer must pay.

First Report of Injury: A written report prepared by your employer for any work-related injury you report. The report must be completed within 7 days after you have notified your employer of an injury. Your employer must give you a copy.

Health Care Provider: Any doctor, nurse, chiropractor, physical therapist or other person who provides medical treatment.

Insurer: An insurance company that pays workers' compensation claims for your employer. It also fulfills many of your employer's obligations under the workers' compensation laws and represents your employer when disagreements occur between you and your employer.

Lost Time: A phrase used to refer to the time missed from work because of an injury.

Lost Wages: A phrase used to refer to earnings that are lost because you have missed time from work because of an injury.

Mediator: An employee of the Workers' Compensation Board who holds conferences to help you, insurers, and your employer voluntarily resolve disputes.

Memorandum of Payment: Often called a "MOP." A written notice sent from your employer to you and the Workers' Compensation Board to notify you that a payment for lost time has been made.

Notice: When you tell your employer (which can mean a supervisor or someone from management) that you are injured and that your injury is related to your job, you give notice of your injury. You must give notice of your injury to your employer within 30 days of your injury. If you were injured prior to January 1, 2013, you have 90 days to tell your employer that you are injured and that your injury is related to your job.

Notice of Controversy: Often called a "NOC" (pronounced "knock"). A form sent from your employer to you and the Workers' Compensation Board to let you know that your employer is denying your request for benefits.

Payment without prejudice: Your employer may pay you benefits without being certain that your injury is related to work. These payments are made without prejudice. In other words, they are voluntary.

Petition: A written request by a party asking that an Administrative Law Judge hold a formal hearing. Common petitions include:

Petition for Award: Used to demand payment of lost wages.

Petition for Payment of Medical: Used to demand payment of medical bills and expenses. This is also known as a Petition to Fix.

Petition for Reinstatement: Used to demand that your employer give you a job.

Petition to Remedy Discrimination: Used to demand relief for discrimination related to a workers' compensation claim.

Petition for Review: Used by you to request that an Administrative Law Judge review a suspension of benefits. Used by your employer to end or reduce payments for lost time.

Statute of limitations: If you are injured at work, there is a time limit within which you must file a claim. This is called the statute of limitations. More information regarding the statute of limitations can be found on page 17 of this guide.

Troubleshooter: An employee of the Workers' Compensation Board whose job is to resolve disputes between you and your employer. The Troubleshooter also provides assistance and information to parties who use the workers' compensation system. A Troubleshooter is also called a Claims Resolution Specialist.

Weekly compensation benefits: If you miss time from work because of an injury, you will receive benefits to replace some of your lost wages. These payments are called weekly compensation benefits.

Worker Advocate: An employee of the Workers' Compensation Board who helps you prepare for mediation and formal hearing and also attends mediation and formal hearing with you.

Workers' Compensation Board: The state agency that oversees the workers' compensation system. The Workers' Compensation Board helps injured workers and employers resolve disputes about workers' compensation benefits.

A SUMMARY OF WORKERS' COMPENSATION

Workers' Compensation is a type of insurance provided by your employer. It provides benefits to employees who suffer injuries on the job. These benefits include:

- Weekly payments for lost time from work because of an injury.
- Payment of medical bills, prescriptions, and related costs.
- Payment for the loss of a specific body part.
- Payment of the cost of vocational rehabilitation (such as job retraining and job placement).
- Payment of death benefits to the dependents of a worker whose death was work related.

There are certain steps you must take if you are injured at work:

- You must tell your employer (which can mean a supervisor or someone from management) that you were injured within 30 days of the injury.
- If your employer has selected a health care provider, you must go to your employer's health care provider for the first 10 days of treatment.
- If you want to change health care providers after the first 10 days, you must tell your employer that you are going to do that and tell them the name of the new health care provider.

When you tell your employer you have been injured at work your employer must:

- Fill out a First Report of Injury and give you a copy.

- Pay your claim for lost time within fourteen days; or,
- Send a Notice of Controversy to you and to the Workers' Compensation Board if your employer does not want to pay your medical bills and/or lost time benefits.

If there is a dispute about whether your employer must pay your claim:

- A Troubleshooter will contact you and try to resolve the dispute.
- If the Troubleshooter cannot resolve the dispute, a mediation will be held.
- If mediation does not resolve the dispute, you may request a formal hearing.

Qualified injured workers are entitled to the services of a Worker Advocate. Worker Advocates help injured workers prepare for mediation and formal hearing.

QUESTIONS AND ANSWERS

What should I do if I am injured at work? You must tell your employer (which can mean a supervisor or a member of management) as soon as possible that you have been injured.

When must I tell my employer that I have been injured at work? You must tell your employer within 30 days of your injury, or when you learn of your injury, that you have been injured. If you wait more than 30 days after the injury, you will lose the right to claim workers' compensation benefits.

If you were injured prior to January 1, 2013, you must tell your employer within 90 days of your injury.

What should my employer do when I report an injury? Your employer must complete a First Report of Injury within 7 days. Your employer must give you a copy of the First Report of Injury. If you lose a day's work because of your injury, your employer must also file the First Report of Injury with the Workers' Compensation Board. If your employer does not complete the First Report of Injury, you should call a regional office of the Workers' Compensation Board and ask to speak to a Troubleshooter.

Can I get medical help for my injury? Yes. For the first 10 days, your employer has the right to select a health care provider to treat your injury. After the first 10 days of treatment you may choose a different health care provider. You do this by telling your employer that you wish to have a different person treat your injury.

Can my employer ask me to see another doctor? Yes. Section 207 of the Workers' Compensation Act says that your employer can require you to see a different doctor for another opinion if you are treating with a health care provider of your own choice. This is not the same thing as an Independent Medical Exam under Section 312, a process that is explained later in this guide.

Will my employer pay for any other medical costs? Yes. Your employer will pay for medicine and for mileage to and from your visits to health care providers. It will also pay for medical aids such as wheelchairs, crutches and hearing aids.

How long may I receive treatment for my injury? You can receive treatment until you recover from your injury. Your employer must pay for reasonable and proper treatment that is related to your injury.

If I need treatment while my employer disputes my claim, will my health insurer pay my bills? Yes. If the workers' compensation insurer will not pay your claim for medical treatment, you can submit the bills to your health insurer for payment. Your health insurer must pay the bills if the workers' compensation insurer is denying your claim and has not made any payments to you based on your claim. Your health insurer can be paid back if your claim is later deemed to be work-related.

What if I have to miss time from work because of my injury? If you miss more than 7 days of work because of an injury, you are entitled to receive weekly compensation benefits. If you lose between 7 and 13 days, you will be paid for those days. If you miss more than 14 days, you will be paid for all of the days that you have missed. For example, if you miss 9 days of work, you would receive 2 days of benefits. If you missed 16 days of work, you would receive 16 days of benefits.

Will my employer pay me my full salary while I am out? No. If you were injured on or after January 1, 2013, your employer will pay you 2/3 of your average weekly wage. This is called your compensation rate. There is a limit on how much you can receive. As of July 1, 2017, the maximum benefit you can receive is \$804.40 per week. The maximum is adjusted annually on July 1.

If you were injured on or between January 1, 1993 and January 1, 2013, your employer will pay you 80% of your after-tax average weekly wage. As of July 1, 2017, the maximum benefit you can receive is \$723.96 per week. The maximum is adjusted annually on July 1.

If you were injured prior to January 1, 1993, your employer will pay you 2/3 of your gross average weekly wage.

When does my employer have to decide if it is going to pay me for my lost time? Your employer must decide whether or not to pay your lost time claim within 14 days of the time you tell your employer about your injury.

What if my employer does not do anything for the first 14 days? If your employer does not dispute your claim within 14 days, it must begin paying you weekly compensation. Your employer must continue paying you at least until it files a Notice of Controversy.

How will I know if my employer is going to pay my claim? If your employer decides to pay your claim, it will send you a Memorandum of Payment.

My Memorandum of Payment says that my claim has been “accepted.” What does that mean? This means that your employer agrees that you have been injured at work and that you are entitled to benefits.

My Memorandum of Payment says that my “claim is voluntary payment pending investigation.” What does that mean? This means that your employer is paying your claim even though it is not sure that your injury is work-related. This type of payment is often called “payment without prejudice.”

What if I can work but I can not find a job? You may be entitled to receive 100% of your compensation rate if your injury stops you from returning to work. You can show that your injury prevents you from returning to work by doing a “work search,” in other words, by keeping a list of the jobs that you have applied for but have not gotten.

What if I can go back to work, but I cannot earn as much as I used to earn? If you can return to work, but your injury stops you from earning as much as you used to earn, you may receive partial benefits. Partial benefits are equal to 2/3 of the difference between your average weekly wage before the injury and your average weekly wages after the injury.

If you were injured before January 1, 2013, your partial benefits are equal to approximately 80% of the difference between what your average weekly wage was before your injury and your earnings after you return to work.

Do I have to do anything when I return to work after an injury? Yes. If you are receiving compensation for your injury, you must notify the Workers' Compensation Board and the employer you were working for when you were injured that you have returned to work. You must do this within 7 days of returning to work.

How long can I receive benefits for lost time? Regardless of your date of injury, if your incapacity is total, you may receive benefits for as long as you are unable to work. Total incapacity means that you are unable to work at all because of your injury.

Partial incapacity benefits are due if you are able to work but still have some restrictions on what you can do because of your injury. If your incapacity is partial, you can, with an exception, receive benefits for a maximum of 520 weeks. If you were injured on or after January 1, 2013, the exception to the 520 week limit on benefits may be available if you have a whole person impairment above 18%, have worked 12 of the last 24 months of the 520 week period, and your earnings over the most recent 26 weeks are 65% or less than your pre-injury average weekly wage. If you were injured on or between January 1, 1993 and January 1, 2013, the exception to the 520 week limit may be available if your injury has caused permanent impairment that exceeds the threshold established by the Board. If you were injured on or between January 1, 1993 and January 1, 1998, the permanent impairment threshold is 11.8%. If you were injured on or between January 1, 2002 and January 1, 2003, the permanent impairment threshold is 13.2%. If you were injured on or between January 1, 2004 and January 1, 2005, the permanent impairment threshold is 13.4%. If you were injured on or between January 1, 2006 and January 1, 2013, the permanent impairment threshold is 12%.

You can also ask the Workers' Compensation Board to order your employer to continue paying benefits after the 520 week cap has been reached. To do this,

you must prove that you will suffer an extreme financial hardship because you cannot return to work.

If you were injured between October 17, 1991 and December 31, 1992, you may receive partial incapacity benefits for a maximum of 520 weeks.

If you were injured between November 20, 1987 and October 16, 1991, you may receive partial incapacity benefits for a maximum of 400 weeks after you have reached maximum medical improvement. (Maximum medical improvement means the date after which further recovery is no longer reasonably anticipated.)

If you were injured prior to November 20, 1987, there is no limit on the amount of partial incapacity benefits you can receive.

Can my employer stop paying benefits without my agreement? Yes. If your claim is "accepted," your employer can stop paying benefits if you return to work for your employer or receive an increase in pay from your employer. Your employer may also file a Petition for Review to stop or reduce your weekly benefits.

If your claim is being paid without prejudice, your employer can stop paying benefits if you return to work for your employer or receive an increase in pay from your employer. In addition, the employer can stop your benefits by filing a 21-day certificate of discontinuance.

What is a 21-day certificate of discontinuance? If your employer is paying you without prejudice, it can notify you that it intends to discontinue weekly benefits no earlier than 21 days from the date that it mailed the notice to you. Your employer must state the reasons it is going to stop your benefits.

What can I do if I receive a 21-day certificate of discontinuance? You can file a Petition for Review and request a provisional order. When you file these forms, you will be asking an Administrative Law Judge to decide, within about 21 days, whether or not your employer should be able to stop your benefits before a hearing is held. You can contact a regional office of the Workers' Compensation Board and speak to a Troubleshooter who can assist you.

What if my injury bothers me in the future? You can ask that your employer or your employer's insurer pay for more medical care and lost time. You can make a claim only if the statute of limitations on your claim has not run out.

What is the statute of limitations? The statute of limitations is the time limit within which you must file a claim for benefits. Once the statute of limitations expires, you cannot make a claim for further benefits. The statute of limitations is different for different dates of injury. If your employer makes a payment for workers' compensation benefits within 2 years of your injury or within 6 years of the last time it made a payment, your statute of limitations will not expire for 6 years. If it has not made a payment, you need to file a petition within the later of 2 years of the date injury or within 2 years of the date your employer filed a first report of injury with the Workers' Compensation Board if that report was required to be filed. There are certain cases where a longer period between payments can go by without your statute of limitations expiring. If you have questions about your statute of limitations, you should call a regional office of the Workers' Compensation Board and ask to speak to a Troubleshooter.

What if my employer refuses to pay my claim? If your employer refuses to pay your claim it will file a Notice of Controversy. A Notice of Controversy is often called a "NOC." The Notice of Controversy should indicate why your employer is not agreeing to pay your claim.

What happens if my employer files a Notice of Controversy? If your employer files a Notice of Controversy, your case will be sent to a Troubleshooter. The Troubleshooter will try to contact both you and your employer and try to resolve the disagreement. If you receive a Notice of Controversy, and you do not hear from a Troubleshooter within 2 weeks, you should call a regional office of the Workers' Compensation Board and ask to speak to a Troubleshooter.

What if the Troubleshooter cannot resolve the dispute? If the Troubleshooter cannot resolve the dispute, your case will be sent to a Mediator. The Mediator will meet with you and a representative for your employer and your employer's insurance company. The meeting will be held in an informal setting. The parties, with the Mediator's help, will attempt to come to an agreement. The Mediator will not take sides at the mediation. Any agreements you reach must be reached voluntarily.

If my case is sent to mediation, will someone be available to help me? Yes. There are Worker Advocates at each regional office who help you with your claims. You can receive assistance from a Worker Advocate if you were injured on or after January 1, 1993, have participated in troubleshooting, do not have an attorney, and request the services of a Worker Advocate. The addresses and phone numbers of the Worker Advocate offices are listed at the back of this guide.

What will the Worker Advocate do? The Worker Advocate will help you prepare for mediation and will attend mediation with you. She or he will also help you negotiate with your employer to resolve your dispute.

Can I get a lawyer to help me? Yes. If you were injured on or after January 1, 1993, you will be responsible for paying your attorney for his or her services.

If you were injured prior to June 30, 1985, your employer will pay your attorney's fees if you make a claim in good faith, or if your employer begins the process.

What if the Mediator cannot resolve the dispute? If the Mediator cannot resolve the dispute, either you or your employer can file petitions that request a formal hearing. There are different petitions which you can use to request different benefits. For example, if you want your employer to pay lost time benefits, then you would file a Petition for Award. If you want your employer to pay medical bills, then you will file a Petition for Payment of Medical and Related Services. These forms are available in all regional offices and online at www.maine.gov/wcb/.

After an unsuccessful mediation, you, your employer, or an Administrative Law Judge may request an independent medical exam. Independent medical exams are explained later in this guide.

Will the Worker Advocate be able to help me after the mediation? Yes. If your claim goes to formal hearing, the Worker Advocate will help you prepare for the hearing and will attend the hearing with you.

What is a formal hearing? The formal hearing is your opportunity to present your case to an Administrative Law Judge. The Administrative Law Judge will listen to your evidence and the evidence that your employer wants to present. After the Administrative Law Judge has heard all of the evidence, the Administrative Law Judge will write a decision. The decision is binding on you and your employer.

What if I disagree with the Administrative Law Judge? You may appeal the decision of the Administrative Law Judge to the Appellate Division of the Workers' Compensation Board. However, a finding of fact by an Administrative Law Judge is not subject to appeal.

What is an independent medical exam? When a request for an independent medical exam is granted, the Workers' Compensation Board will ask a doctor to examine you and whatever records you and your employer want him or her to review. The independent medical examiner will write a report that explains whether or not your injury is related to work. The independent medical examiner's decision will be binding on you and your employer unless there is clear and convincing evidence that the examiner's findings are wrong.

What is the difference between an independent medical exam under Section 312 and a medical exam under Section 207? An examination under Section 207 is an examination by a doctor that your employer has chosen. The doctor's medical opinion is not binding on you and your employer. An independent medical exam is an exam under Section 312 by a doctor that the Workers' Compensation Board has chosen. Unlike a Section 207 exam, the findings of an independent medical examiner are binding unless there is clear and convincing evidence that the examiner's findings are wrong.

Does my employer have to give me my job back? If you are able to return to work, and your job is open, your employer must offer you your previous job. If your old job has been filled, or if your injury prevents you from doing that job, your employer must give you an available job that you can do even with your injury. Your employer must also make reasonable accommodations for your injury. That means that your employer must make changes to a job that will allow you to return to work, as long as the changes would not impose an undue hardship on your employer.

What if I cannot return to my old job, and there is no other work at my employer's business? If you cannot return to your old job because of your work related injury, you may be entitled to receive vocational rehabilitation. Vocational rehabilitation may include job retraining and job placement.

What if my employer will not pay for vocational rehabilitation? If your employer will not voluntarily pay for vocational rehabilitation, you can ask the Workers' Compensation Board to recommend a vocational rehabilitation plan. If recommended but your employer refuses to pay for the plan, the Workers' Compensation Board will pay for you to go through with the rehabilitation plan. In that case, you will not be responsible for any of the cost of the plan. The length of this plan may not extend beyond 52 weeks except in case of a special order to extend the plan up to an additional 52 weeks. If you are participating in a rehabilitation plan ordered by the Workers' Compensation Board, your benefits may not be reduced unless you return to work or the durational limit described on pages 15 and 16 is reached.

Can my employer discriminate against me if I file a workers' compensation claim? No. Your employer cannot discriminate against you for filing a workers' compensation claim. Your employer cannot discriminate against you for testifying in a workers' compensation claim. If you think your employer has discriminated against you because you filed a claim or testified, you can file a Petition to Remedy Discrimination.

Are there penalties in the Workers' Compensation Act? Yes. Employers and employees can be penalized for not filing required reports and forms and for willful violations of the Workers' Compensation Act, fraud or intentional misrepresentation. Employers can be penalized for making late payment of benefits and for failure to carry mandatory workers' compensation coverage.

What is the "MAE" Program? The Office of Monitoring, Audit and Enforcement (MAE Program) actively monitors cases to ensure that all obligations under the Act are met.

Where can I get more information? You can get more information at any one of the regional offices listed at the front of this guide or on the Board's website: www.maine.gov/wcb/.

