

Workers' Compensation:

Making a claim



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario

What are workers' compensation benefits?

Workers' compensation benefits are payments for injuries or diseases that are related to the work you were doing. Workers' compensation is paid by the Workplace Safety and Insurance Board (WSIB). It used to be called the Workers' Compensation Board. In this booklet we will call it the Board.

Workers' compensation is a “no-fault” system. This means it does not matter whose fault the injury was. Even when someone else does something to you on purpose and you get injured, you can receive benefits.

Your work does not have to be the only cause of your injury or disease, but it must be a significant cause. For example, if you develop a pain in your back after lifting something heavy at work, your job could be the cause.

If your problem starts when you are not at work, your work could still be the cause of your injury. For example, if you have a heart attack at home, or you develop lung cancer years after working in the mines, it could be related to your job.

The injury might happen in an **accident**, for example, falling off a ladder. Or the work-related injury or disease could be something that **happens over time**. For example, you might not think your back pain is connected with your job because you did not have an

accident and you have the pain all the time. But your back pain could be from a lot of lifting at work, or a twisting movement you do over and over in your job. This means it is work-related and you could be entitled to workers' compensation benefits.

You might also get benefits if your work makes an **old medical condition** start up again or get worse. It could be something you had before you worked at your job, such as asthma attacks, and now the chemicals you work with cause your asthma to return.

You may also be able to get benefits if a work-related injury **leads to another injury**. For example, if you injure your knee at work and then develop a back problem because the knee injury changes how you walk, your back problem is also a work-related injury.

Your injury can be physical or **psychological**. You can have an injury to your body, or your mind, thoughts, and emotions. For example, you have an injury if you fall off a ladder and break your leg, but you can also have an injury if you saw a co-worker die in a machine accident and now you are afraid of working near machinery. An injury can also be a combination of physical and psychological problems. For example, you could be depressed because you are in a lot of pain from a physical injury.

If you think your injury or disease might be connected to your work, you should file a claim with the Board right away and they will investigate.

What should I do if I was injured at work or got sick because of my job?

Always report any injury to your employer as soon as possible, no matter how small you think it is. If you do not report your injury right away, it might be hard or even impossible to prove later that it happened at work. It is important to make sure that your employer writes down everything you say about your accident, and that you keep notes about the report you make.

Get medical help right away. Tell whoever is treating you that your injury is work-related.

Your employer must report your injury to the Board if it causes you to:

- miss time from work,
- get less than regular pay for regular work (for example, you switch to part-time work),
- need modified work for more than 7 calendar days,
- need modified work at less than regular pay, or
- need health care that is more than minor first aid.

You must also **file a report with the Board** (see [page 7](#)).

Who do I report my injury to at work?

Report your injury to your supervisor right away. If you cannot report it right away, report it before the end of your shift. Get the names of any co-workers who saw you get hurt. If no one saw you get hurt, make sure you tell someone about it right away.

If you have a union or a health and safety committee representative at work, tell them about your injury also.

What if my employer wants me to take sick pay instead of making a workers' compensation claim?

Do not let your employer talk you out of making a claim for workers' compensation benefits. If you think your injury may be related to your job, you should claim benefits from the Board. If your employer will not accept your accident report, report your employer to the Board.

Even if you get sick pay from a disability insurance plan at work, you should still file a claim with the Board. Getting money from your workplace insurance plan first may make it harder for you to get workers' compensation benefits.

Tell your disability insurance plan that your injury is work-related and that you have applied for workers' compensation benefits.

What should I do after I report my injury to my employer?

First, go to a doctor. See your family doctor, or a doctor at your local hospital or community health clinic. Your employer must pay the travel cost for you to see a doctor on the day of your accident.

Ask your doctor to fill out a Form 8 and send it to the Board. Your doctor probably has this form, or can download one from the Board's website at www.wsib.on.ca.

Tell your doctor all the details of how your accident happened and what parts of your body were injured. Your doctor may not know much about your workplace or your job duties. Make sure your doctor writes down everything you tell them.

On the Form 8, it is not enough to just say that your injury is "work-related". Your doctor must explain how your injury happened and why it is work-related.

Do I have to be treated by the company doctor?

No. You have the right to choose the doctor you want to see. You do not have to be treated by the company doctor.

How do I know if I am covered by workers' compensation?

If you have an injury or disease that is related to your job, always apply for workers' compensation. The Board will decide if you are covered or not. Also report your injury to your employer as soon as possible.

If you are in a union, ask your union representative if you are covered by workers' compensation. If you are not in a union, call the Board to see if your employer is, or should be, registered with them. For most of Ontario call toll-free at **1-800-387-0750**. In the Toronto area call **416-344-1000**.

If your employer is not registered with the Board, but should be, you are still covered.

If your type of employment is not covered by workers' compensation, you may be able to take your employer or someone else to court to get payments for your lost wages and expenses from your injury. You will need to get legal advice about doing this (see [pages 18 to 20](#)).

How do I file my claim with the Board?

Worker's Report of Injury/Disease (Form 6)

To file a claim, you must fill out a Worker's Report of Injury/Disease form (Form 6) and send it to the Board. Contact the Board right away to get the Form 6 sent to you, or download one from www.wsib.on.ca. Fill out the form and return it to the Board. You must also give your employer a copy.

Part of the Form 6 has a section that asks for your signature. When you sign this section, you are agreeing to allow your doctor to give information to your employer and the Board about what parts of your job you can or cannot do. The law says you must agree to this if you want to claim workers' compensation benefits.

You can let the Board know about your injury before you get your Form 6. This might make the process faster. Write to the Board and give them your employer's company name and your name, address, social insurance number, and date of birth. Write down the details about the job you were doing at the time you were hurt. Say how you were hurt. Give the names of anyone who saw you get hurt. List all the parts of your body that were hurt. Ask the Board to send you a Form 6.

What should I say in the Form 6?

Give as many details as possible. For example, if you fell, say how you fell and explain how you were hurt:

“I was walking in the factory in the assembly department. I slipped on some oil that was on the floor. My right leg went forward and I lost my balance. I fell backward. I hit my shoulder on the machine, then I landed on the floor. I hurt my right shoulder on the machine. When I landed on the floor, I also hurt my neck, my back, and my right hip.”

The Form 6 asks about your usual pay and whether you were working for more than one employer. It is very important to tell the Board about all your earnings, such as overtime, shift premiums, and wages from other jobs. You can put this extra information in section K on the last page of the Form 6.

How can I get help with the Form 6?

The Board has a “Reference Guide for Workers” on their web site that can help you to fill out the Form 6. Go to <www.wsib.on.ca> and click on “Forms”, then click on “Workers”. Or you can call the Board for help at the following toll-free numbers:

English or French	1-800-387-0750
Other languages	1-800-465-5606
TTY	1-800-387-0050

Filling out a Form 6 can be difficult. See [pages 18 to 20](#) for information about where to get more help.

Is there a time limit for making a claim to the Board?

Yes. The law says you must file a claim within 6 months from the day of the accident. But if you did not know right away that you were injured or sick, you must file a claim within 6 months from the day you find out that your injury or disease was work-related.

Make your claim to the Board as soon as possible. If you do not have a Form 6 and you are close to the 6-month time limit, write a letter to the Board with the details of your injury. Also ask for a Form 6 to be sent to you.

If the 6 months have already passed, make your claim right away by writing to the Board. Explain why you did not file earlier. The Board has the power to allow a claim to be filed late.

If the Board does not allow your claim because it is late, get legal help right away (see [pages 18 to 20](#)).

What must my employer do?

Employer's Report of Injury/Disease (Form 7)

When your employer finds out about your injury, they must file a Form 7 with the Board within 3 business days. The information your employer puts on this form is important because it affects the amount of money you might get in benefits. It can also give you an idea of whether or not your employer will be fighting your claim.

The law says your employer must give you a copy of the Form 7 when they file it with the Board. If your employer will not give you a copy, you can get it from the Board, or from your union if you have one.

Check the Form 7 to make sure your employer has described the accident and your injuries correctly, and that all of your wages are reported. Also check that the form reports your proper income tax "net claim code" if it is different from what your employer uses on your pay slips.

It is important that you tell the Board about wages you receive from any other jobs you have somewhere else. It is not up to your employer to report this. Write a letter to the Board if there is anything missing from the Form 7 or if there are mistakes on the form. Also write to the Board if your co-workers get any retroactive pay raises after your accident.

What else must my employer do?

The law also says your employer must:

- pay your full wages for the day you were injured,
- pay for you to get to your doctor, a hospital, or your home on the day you are injured, and
- keep up their payments into any benefits plan for your health care, life insurance, or pensions for one year.

If your plan is one that both you and your employer pay into, your employer can stop their payments if you stop yours. So, if you want your benefits plan to continue while you are off work, keep paying your part of the payments.

The law says that your employer must do things to help you get back to work after your accident, and that you must also do things to try to get back to work. If you have problems with getting back to work, you should get legal help (see [pages 18 to 20](#)).

What happens when the Board gets a report of my injuries?

Once the Board gets a Form 6, Form 7, or Form 8, they will open a claim file for you. You should receive a letter from the Board giving you a claim number. Use this number whenever you contact

the Board. If you do not get this letter, you should contact the Board right away to find out why.

You must still file a Form 6 within 6 months even if the Board has already opened a file for you or given you a claim number.

Every time you talk to someone at the Board, they will make a note of the conversation and put it into your Board file. It is a good idea to keep your own notes as well. And every time you write to the Board or they write to you, a copy of the letter will go into your file. Medical reports and other papers about your claim will also be in your file. If you need to appeal a Board decision, you should get a copy of your Board file.

What benefits can I get from the Board?

Depending on your situation, you may be able to get workers' compensation benefits for things such as:

- some of your lost wages,
- health care costs,
- transportation costs to go to your doctor or to therapy,
- a permanent disability,
- lost retirement income,

- a labour market re-entry assessment and plan (these are supposed to help you get work if you cannot return to a job with your employer),
- an independent living allowance (for a severe permanent disability), and
- an allowance for clothing damaged by braces and wheelchairs.

Even if you continued to work at your regular job with no lost wages, it is important to make a claim because you might be entitled to benefits to cover your medical expenses, or because your injury could get worse.

Health care costs include doctor's bills, other bills for medical treatments, the cost of prescription drugs, the cost of artificial aids like hearing aids or braces, the cost of replacing clothing damaged by a brace or wheelchair, and in some cases the travel costs for going to and from medical treatments.

You may have to pay these expenses first and then ask the Board for your money back. Be sure to get receipts for everything. Keep a record of the dates of your medical appointments, and if you use your car to go to your medical appointments, keep a record of how many kilometres you drive there and back.

Send your receipts and records to the Board, and be sure to keep copies in case anything you send is lost.

Where can I get money to live on until the Board makes a decision about my claim?

The Board can take 12 weeks or more to decide a claim. The following are places you can go for help while you are waiting for your claim to be decided.

Disability Insurance

You may have disability insurance through your work. You must tell the insurance company that you were hurt at work, and that you are claiming workers' compensation benefits.

Most insurance companies will not let you get money from them and from the Board for the same injury. The insurance company will probably make you sign an assignment of benefits. This means that when you get your workers' compensation benefits, the Board will probably take money out of your first benefits cheques to pay back the insurance company. Sometimes it is hard to tell if the Board has done this. If the Board has not paid back the insurance company, you will probably have to do it yourself.

You might also have other kinds of insurance, such as on your mortgage, credit cards, car loan, or other personal loans. Check with your bank or mortgage

company. If you have this insurance, then your monthly loan payments might be made for you or delayed until you can pay them again.

Employment Insurance (EI)

If you are eligible, you can get up to 15 weeks of EI sick benefits. In some situations you might be able to get regular EI benefits. Apply as soon as possible. It takes at least 4 to 6 weeks to receive your first cheque and the first 2 weeks after you apply are not covered by EI.

To apply, fill out an application at a Service Canada Centre or online at <www.servicecanada.ca>. To find the Service Canada Centre where you live, call **1-800-622-6232**, or visit the web site listed above.

When you apply for EI, you should tell them you have applied for workers' compensation. You cannot get money from both sources for the same time you are off work. This means that once you get your workers' compensation benefits, you will have to pay back the money you got from EI for the same time period. You will probably have to sign an "assignment of benefits" form to let the Board pay back EI out of your workers' compensation benefits. If the Board does not do this, you will have to pay back EI yourself.

Social Assistance

If you have little or no money while you wait for your benefits, you can apply for social assistance. The social assistance programs in Ontario are called Ontario Works (OW) and the Ontario Disability Support Program (ODSP). To find out more about OW and ODSP, contact a community legal clinic. CLEO has publications on other legal topics including OW and ODSP benefits. [See the back of this pamphlet](#) for ordering information.

You can apply for ODSP at your local Ministry of Community and Social Services office. If you need money right away, apply at an OW office so you can get OW benefits while you wait for your ODSP application to be decided. To find the local Ministry of Community and Social Services office, or the OW office nearest you, look in the government section of the phone book, or visit www.mcass.gov.on.ca.

When you apply for social assistance you should tell them you have applied for workers' compensation. You will have to sign an assignment of benefits form. This lets the Board pay back some or all of the social assistance benefits you received out of your workers' compensation benefits. If the Board does not do this, then you will have to pay back the social assistance benefits yourself.

You cannot get social assistance if your family income or assets are too high.

CPP Disability Benefits

The Canada Pension Plan (CPP) has disability benefits. If you are not going to be able to work for a long period of time because you are disabled, you should apply. CPP will look at all your medical conditions, not just your work injuries. If you are eligible, the amount of benefits you get is based on the contributions you have made to CPP over the years. Your family income does not affect the decision to give you CPP benefits. You do not have to pay these benefits back when you get your workers' compensation benefits. But you must immediately tell the Board about any CPP disability benefits you receive for your work-related injury or disease.

You can have a CPP disability application kit sent to you by calling Service Canada free of charge at **1-800-277-9914**. If you use a TTY device, call **1-800-255-4786**. You can also download an online application kit from the "People with Disabilities" section at www.servicecanada.ca.

What if I do not agree with the Board's decision?

If you do not agree with the decision, you can appeal. The Board must send you their decision in writing. The decision letter from the Board will tell you:

- the deadline to appeal, and
- the address to send your appeal to.

To appeal, you must send a letter saying you do not agree with the decision. Keep a copy of your appeal letter.

The deadline will be either 30 days or 6 months from the date of the decision letter. Check the decision letter to be sure. If you miss the deadline you might lose your right to appeal.

Where can I get help?

Community legal clinic

Clinic lawyers and community legal workers give free legal help to people with low incomes. Some clinics take workers' compensation cases. The community legal clinic nearest you should be listed under "Legal Aid" or "Lawyers" in your phone book. You can also visit <www.legalaid.on.ca>, or call:

Toronto area:	416-979-1446
Toll-free:	1-800-668-8258
Toronto area TTY:	416-598-8867
Toll-free TTY:	1-866-641-8867

Office of the Worker Adviser (OWA)

The OWA gives free legal help with workers' compensation cases for non-unionized workers. If there is an office in your area, it will be listed under "Labour" in the government section of the phone book. If there is no listing for your area, call toll-free **1-800-435-8980** or **416-325-8570** in Toronto, or visit <www.owa.gov.on.ca>.

Member of Provincial Parliament (MPP)

Staff at your MPP's office may be able to help you. To find out who your MPP is, call toll-free at **1-800-668-2727**, or visit the Ontario Legislature web site at <www.ontla.on.ca>.

Union

If you are in a union, call your staff representative. If he or she cannot help you, ask for the staff person who knows about workers' compensation law.

Injured workers' group

Your local injured workers' group may be able to help you. To find out if there is a group near you, you can call the Ontario Network of Injured Workers' Groups (ONIWG) at **905-662-7128**, ask your community legal clinic, or visit <www.injuredworkersonline.org>.

Legal Aid certificate

This certificate pays all or part of your lawyer's fees. Contact your nearest legal aid office to find out how to apply. The phone number is listed under "Legal Aid" in your phone book. You can also visit <www.legalaid.on.ca> or call:

Toronto area:	416-979-1446
Toll-free:	1-800-668-8258
Toronto area TTY:	416-598-8867
Toll-free TTY:	1-866-641-8867

Lawyer Referral Service

If there is no community legal clinic that can help you and you want help finding a lawyer who practices workers' compensation law, you can call the Lawyer Referral Service at **1-900-565-4577**. The call costs \$6.00. Visit <www.lsuc.on.ca/public> for more information.

This publication contains general information only. It is not a substitute for getting legal advice for your particular situation.

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