

EMPLOYMENT LAW SUMMARY

Colorado: Workers' Compensation – Claims Process



Because You're Different

Workers' compensation is a system of no-fault insurance that provides medical benefits and compensation for wage loss and permanent physical impairment to employees who sustain work-related injuries and illnesses.

The Workers' Compensation Act of Colorado (WCAC) governs the claims process for individuals who sustain work-related injuries. The [Division of Workers' Compensation](#) (DWC), part of the [Colorado Department of Labor and Employment](#), investigates and handles worker's compensation claims throughout the state.

The processing of a workers' compensation claim typically begins with a notice of injury and may end up in administrative or judicial appeal.

NOTICE OF INJURY

The WCAC requires employees to report any work-related condition to their employers as soon as possible. Specifically, the WCAC requires employees to report injuries within **four days** of when they happen. If an employee is unable to report an injury due to disability, the employee's supervisor or representative may submit the notification on the employee's behalf. Employees who fail to report an injury within the four-day period may lose up to one day's compensation for each day the injury remains unreported.

Notice of occupational disease must be given to the employer within **30 days** after the first distinct manifestation of the disease.

ADMISSION AND DENIAL OF CLAIMS

After receiving notice of an employee's injury, employers must investigate whether the employee is eligible for benefits under the WCAC, and, at the earliest practicable time, admit or deny the employee's claim for compensation.

If a claim is admitted, the first payment of WCL benefits must be made on the date the claim is admitted. If an employer denies a claim, the employee has 45 days to request an expedited hearing before the DWC on the issue of compensability. The DWC will issue a hearing date within 40 days of when the employee's request is filed.

The WCAC also requires employers to notify the DWC and affected employees of their decision to admit or deny a workers' compensation claim. The notice must be in writing and must be provided within **20 days** of when the employer receives a report or has knowledge of an injury. Employers must notify the DWC electronically of any denial. If a notice is an admission of compensability, the notice must:

- State the employer admits liability for workers' compensation;
- Specify the amount of compensation to be paid;
- Identify the individual who will receive compensation; and
- Describe the period for which compensation will be paid.

If an employer fails to file a notice of admission or denial and the employee is ultimately successful in his or her claim for compensation, the employer may be ordered to pay one day of additional compensation for each day of the failure. This penalty may not exceed 365 days of additional compensation. A statute of limitations protects employers from this penalty if the failure to provide notice is reported to the DWC more than seven years after the alleged violation.

DISPUTED CLAIMS

Employees are encouraged to try to resolve any claim disputes directly with their employers and their insurance carriers. However, the WCAC requires employees to object if they feel a claim should not have been denied or if they feel that they are entitled to more compensation than their employers provide under a claim admission. These objections must be in writing.

An employer's claim admission or denial becomes final if the employee does not file a written objection and request a hearing within **30 days**.

SETTLEMENT CONFERENCES

Any party to a disputed claim can request a settlement conference with the DWC or the office of administrative courts. Settlement conferences are entirely voluntary and are conducted only with the consent of both parties. In addition, all matters discussed in a settlement conference must be kept confidential.

The parties to a disputed claim may agree on a conference officer to conduct a conference, or they may ask the DWC or the office of administrative courts to appoint one.

Any time the parties to a disputed claim reach a settlement, they must file reduce the terms of the agreement to writing and file it with the DWC. For settlements involving \$75,000 or more, the employer must review the written agreement with the employee in person and also obtain written approval of the settlement from an administrative law judge or the DWC. Either way, the final version of the settlement must be filed with the DWC, which will retain a copy of the final agreement as part of the employee's permanent record.

Any lump sum that is payable as a full or partial settlement must be paid to the employee within **15 calendar days** of when the settlement is executed.

MEDIATION

Parties to a workers' compensation claim dispute may also submit their dispute for mediation, which will be authorized only if both parties consent and the request is filed before a hearing takes place. Mediation proceedings take place **within 30 days** after a proper request is submitted. Like settlement conferences, mediation proceedings are confidential.

ARBITRATION

Arbitration is another voluntary and confidential option for resolving disputed workers' compensation claims. Arbitration proceedings are conducted by administrative law judges, who may issue final and binding awards. Once an arbitration decision is reached, the parties cannot use another review process to change the award.

HEARINGS

A hearing before an administrative law judge is the last-resort method for resolving disputed workers' compensation claims. Any party that submits a written request for a hearing must certify that it attempted to resolve all issues with the other party listed in the application for a hearing.

Hearings are usually held **within 120 days** after a party submits a request. The DWC will notify the parties of the time, date and place of the hearing. The notice will also inform the parties that they must be ready to present their evidence regarding the issues to be heard and that they have the right to be represented by an attorney or other person of their choice at the hearing. The written notice may be sent by regular or electronic mail or by facsimile.

Before a hearing takes place, any party (including the DWC) may request a pre-hearing conference. Pre-hearing conferences serve to resolve or simplify the issues that will be addressed during the hearing. Pre-hearing conferences usually address:

- The "ripeness" of legal (rather than factual) issues;
- Issues for formal adjudication;
- Discovery matters; and
- Evidentiary disputes.

The parties will be required to notify each other of the issues they intend to present to the pre-hearing administrative law judge. During the pre-hearing, the parties may submit:

- A brief summary of the issues in dispute;
- The names of all witnesses each party intends to call;
- The estimated time each party will require to present testimony and evidence;
- The status of settlement discussions; and
- Any discovery or pre-trial motion.

ORDERS

The WCAC requires administrative law judges to issue judgments and orders **no more than 15 days** after the conclusion of a hearing. The written order, which may be a full or summary order, must allow or deny the claim. The DWC will send a copy of a summary orders via regular mail, electronic mail or facsimile to all parties. Any party dissatisfied with the order may file a written request for a full order **within ten working days** of when the summary order is sent.

A full order contains specific findings of fact and conclusions of law. If compensation is granted, a full order will:

- Specify the amount of compensation due to the injured employee;
- Describe the disability for which compensation is granted;
- Identify who is responsible to pay workers' compensation benefits to the injured employee; and
- Indicate the method and time of benefit payments.

An order becomes final unless a request for appeal is filed with the DWC **within 20 days**. In general, a single administrative law judge's order will be reviewed by a panel of other administrative law judges.

APPEALS

Any party dissatisfied with an administrative order issued by a panel of administrative law judges can appeal for a judicial review by the court of appeals. The court of appeals can affirm, modify, remand, set aside or vacate an order. However, the court of appeals will set aside an order only if:

- The findings of fact are not sufficient to permit appellate review;
- There are conflicts in the evidence that are not resolved in the record;
- The evidence does not support the findings of fact;
- The findings of fact do not support the order; or
- The denial or award of benefits is not supported by applicable law.

Any party dissatisfied with the decision of the court of appeals may appeal to the Colorado Supreme Court. A review by the Colorado Supreme Court is limited to questions of law. The Supreme Court must issue a final decision within **60 days** after granting review of a workers' compensation claim.

MORE INFORMATION

Contact Heffernan Insurance Brokers or visit the DWC [website](#) for more information on workers' compensation laws in Colorado.

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