

EMPLOYMENT LAW SUMMARY

Georgia: Workers' Compensation - Claims Process



Workers' compensation is a system of no-fault insurance that provides monetary and medical benefits to employees or their survivors for work-related injuries, diseases or deaths. Workers' compensation is governed by state law.

The Georgia Workers' Compensation Act (WCA) establishes the process for handling workers' compensation claims in the state. The [Georgia State Board of Workers' Compensation](#) (Board) investigates and handles workers' compensation claims. The processing of a claim typically begins with a notice of injury and may end up in administrative or judicial appeal.

EMPLOYEE'S REPORT OF INJURY

Employees must give in-person notice to their immediate supervisors as soon as possible after an accident or after the first date of disability from work due to an occupational disease. If an employee does not give in-person notice, he or she must provide the employer with **written notice** within **30 days** of the accident or the first day of disability.

Failure to provide timely notice may result in the employee losing the right to receive any workers' compensation benefits. In addition, employers do not have to pay any benefits (including medical expenses) that accrue prior to receiving an employee's notice of injury.

The Board may excuse an employee's failure to provide the employer with notice of injury within 30 days, but only if the employee can show that:

- The employee was prevented from providing the notice due to:
 - Mental or physical incapacity; or
 - Fraud or deceit;
- The employee's immediate supervisor had knowledge of the accident; or
- The employee had a reasonable excuse and the employer was not prejudiced by the lack of notice.

DISPUTED CLAIMS

The WCA requires employers to begin paying benefits or to deny an employee's workers' compensation claim within **21 days** after having knowledge of the injury.

If an employer denies a claim before paying any benefits, the employee can dispute the denial by filing a claim with the Board within **one year** from the date of injury. For occupational diseases, the "date of injury" is the first date on which the employee was actually disabled from work due to the condition. However, the time within which an employee may file a claim for an occupational disease starts on the date the employee knew, or, in the exercise of reasonable diligence, should have known, of the disablement and its relationship to the employment. This period may never extend more than **seven years** after the employee's last injurious exposure to the hazard of the disease.

If a claim denial occurs after the employer has paid benefits, the employee must file a claim within **one year** of the date of the last treatment furnished by the employer or within **two years** after the date of the employer's last payment of weekly benefits.

In cases involving an employee's death due to work-related injury or disease, the deceased employee's dependents must file a claim **within one year** of the death. Employees or dependents who do not file a claim within this time period forever waive their right to contest a denied claim.

MEDIATION AND SETTLEMENT

The WCA encourages parties to settle disputes without the necessity of a hearing. An alternative dispute resolution (ADR) section of the Board exists to help parties reach settlements. The ADR section consists of six full-time mediators and three administrative law judges (ALJs) who conduct mediations.

Any party to a disputed claim may request mediation by filing form [WC-100](#) or [WC-14](#) with the Board. The Board may also order mediation without a party's request if it deems it appropriate for a particular case. When mediation is scheduled, all parties must attend with authority to resolve all pending issues.

If the parties reach a settlement agreement through the mediation process (or otherwise), the agreement must be reduced to writing and submitted to the Board for approval.

BOARD TRIAL DIVISION HEARINGS

If the parties do not reach a settlement that is approved by the Board, the Board's Trial Division will hold a hearing in or within 50 miles of the county where the injury or death occurred. A single ALJ conducts the Trial Division hearing. ALJ hearings are similar to court trials, though generally less formal.

Within 30 days after the conclusion of a hearing, the presiding ALJ will issue a written opinion. If neither party files an appeal, compensation awards made by an ALJ become final 20 days after the date of the decision.

BOARD APPELLATE DIVISION REVIEW

Any party that is dissatisfied with a decision made by a Trial Division ALJ may request a review by the Board's Appellate Division. To initiate the review, the party must file an application with the appellate division within **20 days** of the ALJ's award or order. The Appellate Division will then give the parties an opportunity to submit briefs and may allow them to deliver oral arguments.

If the ALJ's findings of fact are supported by a preponderance of competent and credible evidence contained within the records, the Appellate Division must accept them. Otherwise, the Appellate Division may either:

- Remand the case back to the Trial Division ALJ for reconsideration and a new award;
- Remand the case back to the Trial Division ALJ for the purpose of obtaining additional evidence for the Appellate Division to consider in rendering any decision or award; or
- Issue its own decision based on the existing evidence.

JUDICIAL APPEALS

Instead of appealing to the Board's Appellate Division, parties may appeal an ALJ's decision to a state superior court. Parties may also appeal Appellate Division decisions to a state superior court. Either appeal is initiated by filing a written notice of appeal with the Board within **20 days** of the decision being appealed.

Within 30 days after it receives a party's notice of appeal to a superior court, the Board will transmit certified copies of all documents and papers in its file, together with a transcript of the testimony taken at the hearing and the findings of fact and decision, to the clerk of the superior court to which the case is appealable. This is usually the superior court in the county where the injury occurred.

Either party may then submit a request for a hearing to the superior court, which may or may not conduct a hearing before issuing a decision based on the evidence in the Board's record. If the superior court does not hold a hearing within 60 days after the date of the case's docketing, the Board's decision is considered affirmed.

A superior court may not set aside a Board decision unless it finds that:

- The Board acted without or in excess of its powers;
- The decision was procured by fraud;
- The facts found by the Board do not support the decision;
- There is no sufficient competent evidence in the record to warrant the Board's decision; or

- The decision is contrary to law.

If the court does set aside a Board decision, it may either:

- Send the case back to the Board for further hearing or proceedings in conformity with the court's judgment and opinion;
or
- Enter a judgment based upon its own findings.

Finally, any party that is aggrieved by a superior court judgment may request to have it reviewed by the state's **Court of Appeals**.

MORE INFORMATION

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

This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. Readers should contact legal counsel for legal advice. © 2024 Zywave, Inc. All rights reserved.