

EMPLOYMENT LAW SUMMARY

Louisiana Workers' Compensation - Claims Process



Because You're Different

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

The **Louisiana Workers' Compensation Law** (WCL) establishes the procedures for handling claims in the state. The **Louisiana Office of Workers' Compensation Administration** ([OWCA](#)), part of the Louisiana Workforce Commission (Commission), administers the workers' compensation system and resolves disputed claims.

INJURY REPORTING

Employees must report work-related injuries that result in death or an absence from work for **more than one week**. In turn, employers must notify their insurance carrier or claims administrator within **10 days** of learning of a work-related injury, using [Form IA-1](#).

The WCL requires insurance carriers and claims administrators to notify the OWCA. A self-insured employer that does not have a claims administrator must submit the form directly to the OWCA, using the [electronic data interchange](#).

COMPENSABILITY DETERMINATIONS

Under the WCL, employers have 14 days to either begin paying or deny a benefit claim. The 14-day period begins once the employer learns of an employee injury.

Within the same 14-day period, employers are also required to complete [Form 1002](#) ("Notice of Modification, Suspension, Termination, or Conversion of Compensation or Medical Benefits"). Copies of this form must be sent to both the employee and the OWCA. Form 1002 must also be sent to both the employee and the OWCA anytime an employer:

- Modifies, suspends or terminates benefit payments; or
- Disputes an employee's right to receive any type of workers' compensation benefits.

DISPUTED CLAIMS

Employees can dispute any information provided to them in the Form 1002. To dispute information, the employee must send the employer (or insurance carrier) a "letter of amicable demand." The letter must identify the information that is in dispute, provide the reasons for the disagreement and propose the correct amount of benefits that should be provided.

Once it receives a letter of amicable demand from an employee, an employer has **seven business days** to pay any required benefits to the employee. If the employer does not begin paying benefits within the seven-day period, the employee may initiate a formal proceeding. To initiate formal proceedings, an employee must file [Form 1008](#) ("Disputed Claim for Compensation") or [Form 1009](#) ("Disputed Claim for Medical Treatment") with the OWCA. The employee must also provide a copy to the employer.

However, an employee's claim may be barred if it is not filed within **one year** after either the injury or the date of the employer's last payment of benefits. In cases where an employer has paid benefits and the employee is making a claim for medical or supplemental earnings benefits, the employee may file the claim within **three years** after the employer's last payment of benefits.

After an employee files a claim, the employer has **15 days** to file an answer with the OWCA, again using Form 1002. The answer may include a request for a preliminary determination hearing if the employer initially accepted the employee's claim and complied with all notice requirements. Otherwise, the OWCA will schedule a "trial on the merits" to resolve the disputed issues.

MEDIATION

Regardless of whether a claim has been filed, employers and employees may attempt to resolve any workers' compensation disputes through an OWCA [mediation conference](#).

To request a mediation conference, the parties must submit a joint request, in writing, to the OWCA mediator for their district. If mediation takes place, the parties must notify the OWCA of the outcome within five days. Mediated settlement agreements must be outlined on [Form 1011](#) and submitted to the OWCA for approval.

PRELIMINARY DETERMINATION HEARINGS

Preliminary determination hearings allow certain employers to avoid potential liability for penalties and attorneys' fees in workers' compensation cases. These hearings are available only in cases involving a dispute that arises after an employer initially accepts an employee's claim, and only if the employer has complied with all notice requirements relating to the dispute.

At a preliminary determination hearing, an OWCA judge conducts a shorter and less formal version of a trial. The OWCA judge will issue a written recommendation, called a preliminary determination, within 30 days of the hearing. The recommendation will indicate the judge's opinion of how the issues would be settled if the case were to go to trial on the merits.

If an OWCA judge's preliminary determination recommends that the employer pay benefits, the employer must comply within **10 days**, even if it disagrees with the determination. An employer that does not comply may lose its rights to defend its position in further proceedings and may later be ordered to pay penalties and attorneys' fees in the case.

An employer that complies but disagrees with a preliminary determination may appeal it by sending a request for a trial on the merits of the case, on Form 1002, to both the employee and the OWCA judge. Employees may also request a trial on the merits of a case after a preliminary determination. Trial requests must be filed within **10 days** after an OWCA judge issues a preliminary determination.

TRIAL ON THE MERITS

If an employer requests a trial in its answer to an employee's initial claim, or if either party requests a trial following a preliminary hearing determination, an OWCA judge will begin the formal trial process by holding a telephone conference with all the parties. The purpose of the conference is to set the trial date, which will usually be within six months from the telephone conference, and various deadlines for gathering evidence and completing other tasks before the trial.

At the trial, the OWCA judge will give both parties the opportunity to question witnesses and present other evidence and arguments. Although workers' compensation trials are similar to civil case trials held before Louisiana district courts for other types of disputes, OWCA judges are not required to follow most of the formal rules of evidence and procedure that apply in other trials. Therefore, workers' compensation trials are often less formal than civil trials.

After a workers' compensation hearing is complete, the OWCA judge will issue a written decision resolving the matters in dispute.

APPEALS

A party that does not agree with an OWCA judge's decision may appeal it to the Louisiana Circuit Court of Appeal for the district in which the original trial on the merits was held. Appeals must be filed within **30 days** after the date on the OWCA decision. An employer that appeals an OWCA decision must also obtain an OWCA-approved bond security before the court will accept its appeal.

The Louisiana Supreme Court provides the next and highest level of review for workers' compensation cases in the state.

MORE INFORMATION

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

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