

# EMPLOYMENT LAW SUMMARY

## Maryland Workers' Compensation - Claims Process



*Because You're Different*

Workers' compensation is a system of no-fault insurance that provides wage replacement and medical benefits to employees (or their survivors) for work-related injuries, diseases and deaths.

The Maryland Workers' Compensation Act (WCA) outlines the process for handling workers' compensation claims in the state. The [Maryland Workers' Compensation Commission](#) (Commission) 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 TO THE EMPLOYER

Employees must notify their employers of any accidental personal injury (other than hernias) either orally or in writing within **10 days** after an accident. For compensable hernias, an employee's report is due within **45 days** after the hernia occurs. For occupational diseases, employees must give their employers written notice within **one year** after first knowing or having reason to believe that they have an occupational disability.

In cases of death, a deceased employee's surviving dependents must notify the employer within **30 days** if the death occurred because of an injury or within **one year** if the death was the result of an occupational disease.

In all actions to enforce workers' compensation claims, the Commission presumes the employer had sufficient notice of any accidental injury or occupational disease. The Commission will excuse an employee's (or dependent's) failure to provide a report to the employer if the employee has sufficient reason for the failure or if the employer cannot prove it was prejudiced by the failure.

An employer is deemed to have notice of an occupational disease if the employer knew the employee was exposed to a hazard and knew the employee had the disease. In addition, employers may not use an employee's failure to provide written notice as a defense to an occupational disease claim unless they:

- Do not pay any benefits associated with the claim;
- Do not lead the employee or dependent to believe he or she does not need to provide a written report; and
- Raise it as a defense prior to any Commission award or decision on the claim.

### EMPLOYER'S REPORT OF INJURY TO THE COMMISSION

If an accidental injury causes an employee's death or disability for more than three days, the employer must report it to the Commission within 10 days after first having knowledge of the injury or death. For occupational diseases, an employer's report to the Commission is due promptly after the employer has knowledge of the disease. The Commission may assess fines against an employer that fails to timely file a report of injury. Failure to timely file a report may also extend the amount of time allowed for an employee to initiate a claim with the Commission.

Employers must use the [Employer's First Report of Injury](#) form to submit their reports to the Commission. The form must include statements regarding:

- Whether the condition arose out of and in the course of employment;

- The time, cause, and nature of the disability and the injury or occupational disease; and
- The probable duration of the disability.

## EMPLOYEE'S CLAIM FILING WITH THE COMMISSION

To initiate a claim for workers' compensation benefits, an injured employee must file a claim, using [Employee Claim Form C-1](#). Employers may not pay any workers' compensation benefits (except medical expenses) nor tell an employee that a claim is denied unless the employee has already filed the form. Employees risk losing any right to receive workers' compensation benefits if they fail to properly file the claim form.

## ACCIDENTAL INJURY CLAIM FORMS

For accidental injuries, an employee's claim must be filed with the Commission within **60 days** after the injury. The Commission may excuse an employee's failure to file a claim within 60 days if:

- The employee has sufficient reasons for the failure; or
- The employer was not prejudiced by the failure.

However, employees lose all rights to compensation if they do not file a claim within **two years** after an injury. If the employer had knowledge of the injury, this two-year period does not begin until the employer files its report of the injury with the Commission. If an employee dies from an accidental injury, his or her surviving dependents must file a claim within **18 months** of the death.

If an employee or dependent misses any of the above deadlines due to employer fraud or due to conduct that leads the employee or dependent to believe he or she does not need to file a claim, the employee or dependent may still file a claim within one year of having reason to stop relying on the employer or of discovering the fraud.

## OCCUPATIONAL DISEASE CLAIM FORMS

For occupational diseases (other than pulmonary dust disease), an employee must file a claim within **two years** after becoming:

- Unable to work because of the disease; or
- Aware that the employment caused his or her inability to work.

In cases of death due to occupational disease, the employee's dependents must file a claim within **two years** of the employee's death or of the dependent's knowledge that the employee's disablement was caused by the employment.

For claims due to pulmonary dust disease, the employee or dependents have **three years** to file a claim. Employers can use an employee's late claim filing as a defense only if the employer:

- Has not paid any benefits associated with the claim;
- Raises the employee's failure to file a timely claim as a defense prior to any Commission award or decision; and
- Does not lead the employee or dependents to believe the claim filing requirement is waived

The following chart summarizes the deadlines mentioned above.

Reason - Accident		
Condition	Filing Deadline	Start of Filing Period
Injury (other than from ionizing radiation)	1) Within 60 days 2) Within two years if excused by Commission	1) Date of accidental injury 2) •Date of accidental injury; or •Date employer files the report of injury
Death (other than from ionizing radiation)	Within 18 months	Date of death
Injury from ionizing radiation	Within two years	•Date of disablement; or •Date the employee first knew the disablement was due to ionizing radiation
Failure to file claim application due to fraud or conditions amounting to estoppel	Within one year	•Date of fraud discovery; or •Date when facts amounting to estoppel cease to operate

## Reason - Occupational Exposure

Condition	Filing Deadline	Start of Filing Period
Disease (other than pulmonary dust disease)	Within two years	•Date of disablement or death; or •Date when employee or dependents first knew the disablement or death was caused by the employment
Death (from causes other than pulmonary dust disease)	Within two years	•Date of disablement or death; or •Date when employee or dependents first knew the disablement or death was caused by the employment
Pulmonary dust disease	Within three years	•Date of disablement or death; or •Date when employee or dependents first knew the disablement or death was caused by the employment
Death from pulmonary dust disease	Within three years	•Date of disablement or death; or •Date when employee or dependents first knew the disablement or death was caused by the employment

### SETTLEMENT

Any time after an employee files a claim, the parties may enter an agreement for final compromise and settlement of any current or future workers' compensation claim. The Commission must approve any settlement agreement before it may take effect

### ADMINISTRATIVE PROCEDURES

#### COMMISSION INVESTIGATION

Employers can expect to receive a Notice of Claim from the Commission after a claim is filed. Any other parties to the claim will also be notified. Employers (or their insurance carriers, if applicable) will also receive a Response to Employee's Claim. Employers must complete and return this form by the consideration date, which is the deadline specified by the Commission. On this form, employers may raise any objections that they may have to an employee's claim. These objections are also referred to as issues. Employers must also file a [Wage Statement](#) as soon as practicable.

If an employer fails to complete and file a response by the consideration date, the Commission will automatically issue an order finding the employee's claim compensable. Otherwise, the Commission will schedule a hearing to resolve any issues the employer raises on the response form.

After filing the response, employers may raise any additional objections by filing an [Issues Form](#) with the Commission. Employees may also use this form to request a Commission hearing any time after the employer files its response. Issues the parties may raise on this form include, but are not limited to:

- Whether the employee sustained an injury causally related to an accident that arose out of and in the course of employment;
- Whether the employee's disability is causally related to the accidental injury;
- Whether the employee sustained a compensable hernia;
- Whether the employee sustained an occupational disease;
- The amount of the employee's average weekly wage;
- Whether the employee is entitled to temporary disability benefits;
- The nature and extent of a permanent disability to specified body parts; and
- Authorization for medical treatment.

### COMMISSION HEARINGS AND DECISIONS

Hearings before the Commission are generally more informal than court trials, but they provide a similar opportunity for the parties to present witnesses, offer evidence and submit legal arguments for the Commission to consider. Within **30 days** after it holds a hearing, the Commission will issue a written order either denying a claim or awarding benefits to the employee.

If the Commission awards benefits, the employer must begin paying the award within the time period stated in the Commission's order, even if either party files an appeal. Employers that fail to pay benefits according to the Commission's order may be required to pay interest and penalties in addition to the award.

## MOTION FOR REHEARING

The parties to a claim may request a rehearing within **15 days** after the Commission mails a written order, but only if:

- Newly discovered evidence is available; or
- The Commission made an error of law in its decision.

The Commission may not grant a rehearing unless one or both of these circumstances exist. Filing for a rehearing request does not absolve any party from its obligation to adhere to the Commission's original order. In addition, any party may file for judicial appeal (as described below) while the Commission considers whether to grant a rehearing. If the Commission grants a rehearing, it must promptly hold the rehearing and issue an appropriate order, even if judicial appeal is pending.

## CIRCUIT COURT REVIEW

Any party dissatisfied with a Commission order can appeal for review by a circuit court. A party initiates this appeal by filing a petition for judicial review within 30 days after the Commission mailed its original order, or, if a party filed a motion for rehearing, within **30 days** after the Commission denied the motion or issued a new order following a rehearing. After filing a petition for circuit court review, the appealing party must obtain a transcript of the Commission proceedings and file it with the circuit court.

The circuit court gives the parties an opportunity to be heard on the appeal, but it generally presumes the Commission's decision was correct, and the appealing party has the burden of proving otherwise.

While the circuit court is considering an appeal, an employee may still submit requests to the Commission, and the Commission may issue supplemental orders for the employer to pay benefits. The circuit court considering the appeal may then review the Commission's supplemental orders along with the original order.

## FURTHER APPEALS

Any party aggrieved by a circuit court decision may petition the state's Court of Special Appeals for review. This petition must be filed within **30 days** of a circuit court's decision. The Court of Special Appeals reviews only the evidence in the Commission record and then issues a decision called a "mandate."

The Maryland Court of Appeals provides the next and highest level of review in the state. Appeals to this court must be filed within **15 days** of a mandate.

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