

EMPLOYMENT LAW SUMMARY

Maryland Workers' Compensation - Employee Eligibility



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) prescribes the eligibility requirements employees must meet in order to receive workers' compensation benefits. The Maryland Workers' Compensation Commission (Commission) resolves any disputes about whether a particular employee is eligible for benefits in the state.

COVERED EMPLOYEES

The WCA requires employers to provide workers' compensation coverage for their employees. The WCA defines "employer" as any person or organization that uses the services of at least one other person under an express or implied contract of apprenticeship or hire

WCA coverage applies to any person who performs services for compensation in the course of an employer's business, occupation, profession or trade, as long as the person does not:

- Maintain a separate business relating to the service;
- Represent to the public that they provide the service;
- Actually provide the service to the public; and
- Employ any other individual covered by the WCA.

WCA coverage also specifically applies to the following:

- Underage employees who are illegally employed;
- Individuals who regularly sell or distribute newspapers in the street, homes or businesses;
- Helpers assisting other covered employees;
- Jockeys performing service in connection with live thoroughbred racing or training a thoroughbred racehorse if their principal earnings are based on money earned as jockeys during live racing rather than as exercise riders;
- Individuals who extract minerals in or about a mine;
- Students with disabilities who are placed in unpaid work assignments as part of individual education programs; and
- Individuals placed in unpaid work-based learning experience positions through a county board, private non-collegiate institution or the Maryland Department of Education's [Division of Rehabilitation Services](#).

CONTINUATION OF COVERAGE

Workers' compensation coverage continues while an employee:

- Works for the employer within the state;
- Works for the employer outside of the state on a casual, incidental or occasional basis, as long as the employer regularly employs the employee within the state;

- Works for the employer outside of the United States, but only if the contract of employment was made in Maryland and included an agreement that all of the work would be done outside of the United States; or
- Receives instruction or training that relates to his or her employment.

EXCEPTIONS

In general, the following individuals are **not** covered employees under the WCA:

- Independent contractors;
- Casual employees;
- Farm workers;
- Domestic workers in private homes who earn less than \$1,000 per calendar quarter;
- Individuals employed to perform short-term maintenance, remodeling, repairs or similar work in private homes or for businesses that have no covered employees;
- Partners of a partnership; and
- Sole proprietors.

OPTIONAL COVERAGE

Individuals who are not covered by the WCA may become covered if:

- They elect coverage;
- The employer allows coverage; and
- The Commission approves coverage.

In addition, certain individuals, including corporate officers and members of limited liability companies, may elect to be exempt from WCA coverage.

COMPENSABILITY REQUIREMENTS

Covered employees (or their surviving dependents) may receive compensation for:

- Accidental personal injuries that occur in the course and scope of employment;
- Death from accidental injuries that occur in the course and scope of employment, as long as the death occurs within **seven years** of the accident;
- Hernias caused by accidental injuries or strains that arise out of the course and scope of employment, as long as the employee provides definite proof that:
 - The hernia did not exist before the accident; or
 - The accident aggravated a pre-existing hernia to the point of requiring immediate surgery;
 - (Effective Oct. 1, 2023, a hernia caused as a result of repetitive trauma may also be compensable, but only if it meets the requirements for an occupational disease, as described below);
- Occupational diseases that either:
 - Naturally result from an accidental injury arising out of the course and scope of employment; or
 - Result from employment in which the hazards of the disease both exist and cause the employee to become incapacitated from work;
- Death caused by occupational diseases (regardless of when death occurs); and
- Occupational hearing loss due to industrial noise exposure for at least 90 days.

DISQUALIFICATION FROM BENEFITS

EMPLOYEE BEHAVIOR

A covered employee may be disqualified from receiving all WCA benefits if his or her injury or disease is:

- Intentionally self-inflicted;
- A result of an attempt to injure or kill another person;
- Solely caused by his or her use of any drug that is either:
 - Not prescribed by a physician; or
 - Prescribed by a physician but not used according to the physician's instructions;

- Solely caused by the employee's intoxication while on duty; or
- Caused by his or her willful misconduct.

An employee forfeits wage-replacement benefits, but may still be eligible for medical benefits, if the injury or disease is:

- Primarily caused by the employee's use of a controlled dangerous substance, as defined by the state's criminal laws, that is not in accordance with a physician's prescription; or
- Primarily caused by the employee's intoxication while on duty.

REPORTING AN INJURY OR DISEASE TO AN EMPLOYER

Employees that fail to report an injury or disease to their employers may forfeit their right to receive workers' compensation benefits. The WCA requires that an employee (or his or her surviving dependents) notify the employer within:

- **Ten days** for an accidental injury, measured from the date of the accident;
- **Thirty days** for a death caused by an accident, measured from the date of death;
- **Forty-five days** for a compensable hernia, measured from the causative accident or strain;
- **One year** for an occupational disease, measured from the date the employee knew or had reason to believe he or she had the occupational disease; and
- **One year** for death caused by occupational disease, measured from the date of death.

An employee's report of an occupational disease must be in writing. Failing to provide a proper report may be excusable if the employee has a justifiable reason or the employer is not prejudiced by the failure.

SUBMITTING TO MEDICAL EXAMINATIONS

Employees who are eligible for compensation benefits must submit to medical examinations upon the Commission's request. If they refuse, their rights to compensation will be suspended until they comply.

FILING A CLAIM

Employees and dependents are not eligible to receive workers' compensation benefits until they file a [Claim Form](#) with the Commission. Along with the form, claimants must submit a physician's report, if available, and a signed authorization for release of other medical information relating to a claim. In cases of death, claimants must also include proof of the covered employee's death and proof of the claimants' dependency. The time limits for filing claims vary depending on the type of covered condition and who must file.

For accidental injuries (except those caused by ionizing radiation), employees must file a claim within **60 days**. Failure is excusable if an employee has a justifiable reason. However, benefits are completely barred if an employee does not file a claim within **two years**. If the employer knows about an injury, the two-year period does not start until the employer files its report of injury with the Commission.

For occupational diseases, employees must file a claim within **two years** (three years for pulmonary dust disease) after:

- Becoming unable to work because of the disease; or
- Learning that their employment caused their inability to work.

For deaths caused by accidental injuries, dependents must file a claim within **18 months** of the death (two years for deaths due to ionizing radiation).

For deaths due to occupational disease, dependents must file a claim within **two years** of:

- The employee's death; or
- The dependents' knowledge that the employee's disablement was caused by the employment.

For any claim involving pulmonary dust disease, dependents have **three years** to file a claim.

MORE INFORMATION

Contact Heffernan Insurance Brokers or visit the Commission website for more information on workers' compensation laws in Maryland.

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