

# EMPLOYMENT LAW SUMMARY

## North Carolina: Workers' Compensation – Claims Process



*Because You're Different*

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

The North Carolina Workers' Compensation Act (WCA) governs the claims process for individuals who sustain work-related injuries and diseases in the state. The [North Carolina Industrial Commission](#) (NCIC) investigates and handles worker's compensation claims. Claim processing typically begins with a notice of injury and may end up in administrative or judicial appeal.

### NOTICE OF INJURY

Employees must notify their employers, in writing, of any work-related accidents and resulting injuries or illnesses within **30 days**. Failing to report an injury can delay the claims process and could result in a denial of the claim altogether. Some exceptions are possible for employees with a reasonable excuse if the NCIC is satisfied that the employer is not adversely affected by the lack of notice.

The notice must be signed by the employee (or a representative) and must indicate in ordinary language:

- The employee's name and address;
- The time, place, nature and cause of the accident; and
- A description of the injury.

Inaccuracies in a written notice are excusable, unless the employer can prove it was adversely affected by them. Any sanction imposed on an employee that submits an inaccurate notice will be proportional to the damage or loss that the mistakes caused to the employer.

To ensure proper delivery, the employee must submit the notice to the employer in person or send it using a registered letter or certified mail.

Employers must provide the name of their insurance carrier and their policy number to any employee who reports a work-related injury.

### DENIAL OF CLAIM

Employers must investigate the eligibility of each employee to receive benefits for reported injuries and, at the earliest practicable time, admit or deny their employees' claims for compensation.

The NCIC may impose sanctions on employers that do not notify the Commission, within **30 days** after having knowledge of an employee's reported work-related condition, of their intention to admit, deny or begin payments on the employee's claim. This period can be extended to 90 days for diseases resulting from exposure to chemicals, fumes or other materials. Employers may contest the compensability of a claim even after penalties are imposed.

When a claim is denied, an employer must provide its employee (or the employee's attorney, if applicable) a letter of denial stating, in detail, the reasons for denying the claim. Copies of the letter of denial must be sent to all known health care providers involved in the treatment of the employee's injury and to the NCIC.

## TERMINATION AND SUSPENSION OF BENEFITS

Employers must pay their injured employees any benefits they are entitled to receive until:

- The terms of an NCIC award are fully satisfied;
- The employee returns to suitable employment; or
- The NCIC approves a termination or suspension of benefits.

For this purpose, the definition of "suitable employment" depends on whether the employee has reached his or her point of maximum medical improvement (MMI).

Before MMI

**Suitable employment includes rehabilitative and other noncompetitive employment and must be:**

- Within the employee's work restrictions; and
- Authorized by the treating health care provider.

After MMI

**Employment is suitable if:**

- The employee is capable of performing his or her responsibilities; and
- The job is located within a 50-mile radius of the employee's residence.

When a termination or suspension of benefits is justified, an employer must complete [Form 24](#) and notify its employee of the reasons that justify terminating the payment of benefits. Form 24 must be mailed to the employee and copies must be sent to the NCIC.

Employers do **not** need to complete Form 24 if they wish to stop payment of a claim for any of the following reasons:

- Following an investigation they initiated based on reasonable doubts, they contest the compensability of a claim within 90 days of the first payment of benefits;
- An injured employee has returned to work; or
- An injured employee has begun a trial return to work.

If an employer does file a Form 24, the employee must reply and file any objections within **17 days**. Employers have an obligation to record the expiration date of the 17-day period on Form 24. Employee objections must be in writing and must also present the reasons for the objection. Employees must furnish copies of all objections and their supporting documentation to their employers. The NCIC will resolve applications to stop payment and any corresponding objections through informal or formal hearings.

## DISPUTED CLAIMS

Employees are encouraged to try to resolve any claim disputes directly with the employer and, if available, the employer's insurance carrier. If matters involving insurance coverage and right of contribution remain unresolved, the parties may request an NCIC hearing.

### REQUEST FOR HEARING

The NCIC and any party to a contested claim can request a hearing to resolve the dispute by filing [Form 33](#) with the NCIC. Copies of the request for hearing must be sent to all parties involved to allow them to respond.

Any party that receives a copy of a filed request for hearing must respond within **45 days** of receiving it. Responding parties must use [Form 33R](#) for this. Upon filing this form, responding parties must forward copies to all opposing parties. The NCIC can extend the filing period for good cause.

### MEDIATION

The NCIC uses an automatic mediation referral procedure for most disputed claims. Whenever a party requests a hearing, the NCIC will issue an Order for Mediated Settlement Conference to all parties, except in cases involving claims brought by prison inmates against the state. Claims that fail to settle through mediation proceed to NCIC hearings.

## NCIC HEARINGS

NCIC hearings are generally held by a commissioner or a deputy commissioner. The NCIC will set hearings for contested claims at a location mutually convenient to the witnesses and NCIC officials. Any location that encourages an early and just resolution of the disputed issues will also be considered. When scheduling a hearing, the NCIC will give priority to claims where the payment of workers' compensation benefits is at stake.

After setting a place and a time for the hearing, the NCIC will give reasonable notice of the hearing to the parties. Postponing a scheduled hearing is entirely at the discretion of the NCIC.

## APPEALS

Any party dissatisfied with an order issued by a commissioner can appeal for a review of the decision by the full NCIC or a court of appeals.

### APPEAL TO THE FULL COMMISSION

A party can request an appeal from the commissioner's decision within **15 days** from the date when the commissioner's decision is issued by filing [Form 44](#). A request for appeal must state the specific errors made by the commissioner. Requests that fail to specify the mistakes made by the commissioner will be dismissed.

An appeal from a commissioner's decision is made before a panel of three commissioners who represent the full NCIC. During an appeal, the full NCIC will generally only consider the evidence presented during a previous hearing. However, the full NCIC also has the discretion to approve exceptions to this rule and allow a party to introduce new evidence.

Parties wishing to appeal a decision made by the full NCIC must file a request with the appropriate court of appeals.

### REVIEW BY THE NORTH CAROLINA COURT OF APPEALS

A party can request a review from the North Carolina Court of Appeals within **15 days** of when the party receives notice of the full NCIC's decision.

## MORE INFORMATION

Please visit the NCIC [website](#) or contact Heffernan Insurance Brokers for more information on workers' compensation laws in North Carolina.

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. © 2017-2021 Zywave, Inc. All rights reserved.