

EMPLOYMENT LAW SUMMARY

Oklahoma Workers' Compensation - Claims Process



Because You're Different

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

The Oklahoma Administrative Workers' Compensation Act (AWCA) establishes the process administering workers' compensation claims in the state, effective Feb. 1, 2014. Under the AWCA, the Oklahoma Workers' Compensation Commission ([Commission](#)) is responsible for handling claims and resolving disputes. If an employee sustained a work-related injury in Oklahoma before Feb. 1, 2014, an entity known as the [Court of Existing Claims](#) is responsible for handling the claim. This document only addresses the Commission's claim processes.

AWCA "OPT-OUT" PROVISION REPEALED

As originally enacted, the AWCA allowed employers to voluntarily elect to be exempt from (or "opt-out" of) the law's requirements and instead establish their own alternative benefit plans. On Sept. 13, 2016, however, the Oklahoma Supreme Court [struck down](#) the opt-out provision on state constitutional grounds. The AWCA itself has also been amended to remove this option.

EMPLOYEE'S REPORT OF INJURY TO EMPLOYER

Employees have a duty to report any work-related injuries to their employers.

An injured employee may lose the right to receive workers' compensation benefits under the AWCA, either in whole or in part, if the employee does not:

- Provide oral or written notice of an accidental injury to his or her employer *within 30 days* after an accident occurs; or
- Provide written notice of an occupational disease or cumulative trauma injury to his or her employer **within six months** after the first distinct manifestation of the injury (and within 30 days of any separation from employment with the employer).

EMPLOYER'S FIRST REPORT OF INJURY TO THE COMMISSION

If an employee is injured in the workplace and misses more than three days of work as a result, the employer must send an Employer's **First Notice of Injury** to the Commission, using [CC-Form-2](#). This report is due **within 10 days** after the employer receives notice or first has knowledge of the injury. Insured employers must send a copy of this notice to their insurance providers within the 10-day period as well.

EMPLOYER'S COMPENSABILITY DECISION

After an employee reports an injury for which the employer was required to file a report with the Commission, the employer has **15 days** to decide whether to accept or deny that the injury is compensable under the AWCA. The 15-day period begins on the later of either:

- The employee's first day of disability from work (the disability must result from the injury); or
- The day the employer first became aware of the incident that caused the injury.

Within those first 15 days, the employer must provide notice of its decision to the Commission by filing an Employer's Intent to Accept or Controvert Claim ([CC-Form-2A](#)). Under certain circumstances, an employer may request a one-time extension of the 15-day period using [CC-Form-2A Extension](#).

An employer that does not meet the 15-day filing deadline must begin paying workers' compensation benefits to the injured employee. However, the employer may still contest the claim by filing a CC-Form-2A any time after it begins paying benefits.

When an employer contests a claim, it must also send a copy of CC-Form-2A to the employee. This may prompt the employee to file a claim for compensation with the Commission and to request a hearing.

EMPLOYEE CLAIMS

An employee may be barred from receiving benefits under the AWCA if he or she does not file a claim for compensation with the Commission within certain time periods. The table below outlines these deadlines.

Time Limits for Claims	
Claim	Deadline
Accidental injury	One year from the date of the accident or effective May 28, 2019, six months from the last workers compensation benefit payment for the injury.
Silicosis or asbestosis	One year from the first date of disablement caused by the silicosis or asbestosis
Disease caused by exposure to X-rays, radioactive substances or ionizing radiation	Two years from the date the disease was made known to the employee after an examination and diagnosis by a medical doctor
Any other occupational disease	Two years from the date of the employee's last injurious exposure to the hazards of the occupational disease in the employment

The Commission will notify the employer and any other interested party within 10 days of when a claim is filed. The Commission will also assign an administrative law judge (ALJ) to handle the claim.

Effective May 28, 2019, however, the ACWA puts district courts, rather than the Commission, in charge of retaliation and discrimination claims under the AWCA. This means that an employee may sue an employer in court for damages for these particular claims. In addition, an employer may now be liable for up to \$100,000 in punitive damages for discrimination or retaliation. This (and other damages) may be awarded against an employer if it discriminates or retaliates against an employee who has in good faith:

- Filed a claim under the AWCA;
- Hired a lawyer for representation regarding a claim under the AWCA;
- Instituted or caused to be instituted any proceeding under the AWCA; or
- Testified or is about to testify in any proceeding under the AWCA.

ADMINISTRATIVE HEARINGS

Administrative hearings take place when:

- An employee requests a hearing (an employee must file an application for a hearing within six months of the date on which he or she filed a claim; otherwise, the Commission may dismiss the claim);
- An employer requests a hearing (employers may request a hearing on an open claim at any time); or
- The ALJ assigned to a claim decides to hold a hearing, regardless of whether either party has requested a hearing.

The parties to a claim will receive at least 10 days' notice of a scheduled hearing.

Hearings are held before an ALJ. At the hearing, both parties will be given an opportunity to present evidence and argue their cases in a manner that is similar to, yet less formal than, court trials. The parties may have a lawyer represent them at the hearing. Within 30 days of a hearing, the ALJ will issue a written decision either denying or awarding benefits.

APPEALS TO THE COMMISSION

Any party may appeal an ALJ's decision to the Commission. Appeals must be filed **within 10 days** of when an ALJ decision is issued. There is a \$175 cost associated with an appeal request. The party filing for appeal must pay this fee to the Commission. The Commission may reverse or modify an ALJ's decision only if it determines that decision was:

- Against the clear weight of the evidence; or
- Contrary to law.

APPEALS TO THE OKLAHOMA SUPREME COURT

Decisions issued by the Commission after appeal can be challenged by appealing to the Oklahoma Supreme Court. To accomplish this, the appealing party must file a petition with the court and pay a fee of \$100 **within 20 days** of the Commission's decision.

The Oklahoma Supreme Court has very limited power to change a Commission decision. Under the AWCA, the court must uphold a Commission decision unless it finds that the decision:

- Violates constitutional provisions;
- Exceeds the Commission's authority or jurisdiction;
- Was made under unlawful procedures;
- Was affected by other errors of law;
- Is clearly erroneous in view of reliable, material, probative and substantial competent evidence;
- Is arbitrary or capricious;
- Was procured by fraud; or
- Is missing findings of fact on issues essential to the decision.

MORE INFORMATION

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

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