

EMPLOYMENT LAW SUMMARY

Texas: Workers' Compensation - Claims Process



Because You're Different

Workers' compensation is a system of no-fault insurance that provides monetary and medical benefits to employees, or their survivors, for work-related injuries. In Texas, workers' compensation is governed by the Texas Workers' Compensation Act (TWCA). The Texas Division of Workers' Compensation (DWC), part of the Texas Department of Insurance (TDI), investigates and handles workers' compensation claims in the state. Securing coverage and participating in Texas' workers' compensation system is optional, but employers that do participate must abide by the TWCA.

EMPLOYEE'S NOTICE OF INJURY

Employees must report any work-related accident and resulting injuries to their employers within 30 days. Employees that contract an occupational disease must notify their employers of the disease within 30 days of the date when they knew or should have known of the disease and its relation to their employment. Employees who fail to notify their employers of a work-related condition within the 30-day period may be disqualified from receiving benefits, unless:

- The employer has actual knowledge of the injury;
- The employee has good cause to justify a late notice; or
- The employer does not contest the claim.

EMPLOYER'S INJURY REPORT

Employers must report any work-related conditions to their insurance carriers within eight days after receiving notice from an employee. The insurance carrier (or a self-insured employer) has seven days to submit a copy of this report to both the DWC and the injured employee. In general, these reports must be submitted electronically. However, the DWC may authorize other means of submission for good cause.

EMPLOYEE'S CLAIM FOR BENEFITS

An injured employee has one year from the time of an injury to file a claim for benefits with the DWC. The one-year filing limitation begins on the date the employer submits the injury report to its insurance carrier and the DWC. If the employee fails to file a claim within the one-year period, the employer is relieved of all workers' compensation liability under the TWCA for the injury. The TWCA allows exceptions to the one-year rule when there is good cause for a late filing or when the employer does not contest the claim.

DISPUTED CLAIMS

Under normal circumstances, an employer (through its insurance carrier, unless it is self-insured) must begin paying benefits to an eligible employee within 15 days from the time it receives notification of an injury. Employers have 60 days from the time they receive a notice of injury to dispute a benefit claim. The TWCA allows employers to dispute a claim even after they begin making benefit payments. The DWC will allow exceptions to the 60-day rule if issues arise that could not have been discovered earlier. If an employer or insurance carrier wants to dispute the amount of benefits payable to an employee, it must notify both the DWC and the injured employee in writing of its refusal to pay the benefits. A valid dispute notice must include a statement that:

- Explains to the employee that he or she has the right to request a benefit review conference; and

- Informs the employee of the means for obtaining additional information regarding the matter from the DWC.

The notice must also specify the reasons for the employer's refusal to pay the benefits claimed. Once the notice is issued, the employer may defend its refusal only by referring to the reasons stated in the notice. An employer that bases its refusal to pay benefits on unreasonable grounds may be subject to fines of up to \$25,000 per day. In most cases, the DWC requires parties to participate in a benefit review conference to try to resolve the disputes.

ARBITRATION AND CONTESTED HEARINGS

After participating in a review conference, the parties to a benefit dispute may choose to participate in arbitration or to proceed to a contested hearing. An arbitration award can be vacated only if the decision is:

- The result of corruption, fraud or misrepresentation;
- Arbitrary and capricious; or
- Outside of the jurisdiction of the DWC.

If the parties proceed to a contested hearing, they may only dispute the issues presented at the review conference, unless the parties consent to an additional issue or the hearing officer determines that there was good cause for not raising the issue during the review conference. A hearing officer may decide on issues of law and matters of fact, and its decision is final and binding unless a party files a timely appeal.

APPEALS

Any interested party may appeal a hearing officer's decision. Appeals are conducted by a three-member panel of administrative law judges. These judges may not conduct a benefit review conference or a contested case hearing; they only review decisions made by hearing officers. To initiate an appeal, a party must file a written request within 15 business days of when the DWC received the hearing officer's decision on a disputed case. The party appealing the decision must serve a copy of the request to the other party on the same day that the request is filed with the DWC. The request for appeal must rebut or support clearly and concisely every issue on which review is sought.

The responding party must file a response to the appeal panel within 15 business days of receiving notice of the appeal and must also serve a copy of the response to the party appealing the decision on the same day the response is filed. A decision of the administrative appeal panel is final if no party requests judicial review within 45 days.

TERMINATION OR REDUCTION OF BENEFITS

Employers must file a notice of termination or reduction of benefits within 10 days after the benefits are terminated or reduced. The notice must indicate the employer's reasons for the termination or reduction. An employer that terminates or reduces an employee's benefits without reasonable grounds commits an administrative violation, punishable by a fine of up to \$25,000 per day, per occurrence. Each day of non-compliance is a separate violation.

MORE INFORMATION

Visit the DWC website or contact Heffernan Insurance Brokers for more information on workers' compensation laws in Texas.

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