

WASHINGTON STATE LABOR & INDUSTRIES – RIGHTS & RESPONSIBILITIES

- **Right to Choose Your Doctor:** Workers have the right to choose their attending physician. If you want to change your doctor send a written note to your claims manager.
- Keep copies of all correspondence, orders and notices. Start your own file.
- **Access Claim Information:** Online at the Department's claim and Account Center – www.Claiminfo.LNI.wa.gov. If you are self insured worker request a copy of your file, in writing, and ask the claim manager to send you all additional claim information as it becomes available. The Third Party Administrator is required to send the file within fifteen days from receiving the request. The Self-Insurer or TPA must provide the first copy free of charge. *We recommend sending the request certified.*
- State Fund accident report is available at the doctor's office. Make sure you get your copy of the accident report to keep with your records. Make sure to inform your Employer that you have been injured on the job.
- Self-Insured accident report (SIF-2) request from the Self-Insured employer. The employer must, by law, give you an accident report form if requested.
- If you work for a Self-Insured company, the company will either handle your claim themselves or they will hire a Third Party Administrator. The Self-Insurance section at the Department of Labor and Industries oversees Self-Insured programs and can also address claim issues. If there is a claim dispute, please contact the Self-Insurance section of the Department at 360-902-6901 or by mail, PO Box 44892, Olympia, WA 98504-4892. You can also fax the dispute or protest directly to the Self-Insurance section at 360-902-6900.
- **Time frames for filing claims:** The worker has one year to file a claim from the date of injury. For an occupational disease claim, the worker has two years from the date they were notified in writing, by a doctor, that the disease is work related.
- Provide good information on the report of accident form. If you have an occupational disease, explain that the exposure happened over a period of time and explain what job functions or repetitive work caused your symptoms.
- When you sign the accident report - you are signing a release of information for your previous medical history regarding that part of your body. Be cautious of expanded medical releases. The Department or Self-Insurer is entitled, by law, to medical information that was pre-existing. You do not have to provide your entire medical history.
- If the claims manager requests a work history from you call your Trust office (if applicable) or the local Employment Security office. They have a record of all of the hours worked - listed by the employer.

- **Time-loss benefits:** are not paid for the date of injury. Time-loss benefits are not paid for the first 3 days following the date of injury unless the worker is physically off the job on the 14th day. That does not mean that a worker must be off the job for 14 days.
- The insurer (State Fund or Self-Insured employer) must make the 1st payment of time-loss within 14 days of notification of disability.
- If the Self-Insured employer fails to pay time-loss within 14 days of notification, the injured worker can request a penalty from the Department for a delay of benefits. If the employer is penalized, the amount assessed is given to the worker.
- **Health Care Benefits:** The amount the employer paid monthly or the hourly for the workers health care is added the worker's wage rate for computing time-loss benefits, *beginning the first day of the next month after Employer stops contributing to the workers' health care benefits. This is referred to as the Cockle decision. Be sure to review your wage order carefully to make sure it contains your hourly rate of pay, your employer paid health care contribution, martial status, and number of dependents.*
- **Protests:** Any party affected (worker, employer or attending physician) may protest a decision or action they disagree with by sending a written protest to L&I within 60 days. The employer cannot deny a claim, only the Department can deny a claim.
- **Independent Medical Exams (IME):** The worker *must appear* for a scheduled exam. Failure to appear without good cause may result in no-show fees being deducted from future time-loss benefits. Workers should call the number on their appointment letter five days prior to the exam, if they can't attend.
- The law allows the worker to bring a friend or a Union Representative to the physical portion of the IME. Workers cannot bring an attorney or a recording device. Project HELP can provide you with an IME checklist to take with you to the exam.
- We recommend you obtain a copy of the IME report. *Send a written request* to the claims manager. We recommend sending your request certified – so you know the request has been received. The claims manager is under no obligation to send you a copy of the report based on a phone call. Remember to keep copies of everything you send.
- Workers are paid mileage to and from the exam and any parking expenses. Workers are also paid wages if the exam is scheduled during their normal work shift.
- **Vocational Rehabilitation:** The highest priority is to return the injured worker to their pre-injury job with the employer at time of injury. The lowest priority is to retrain the worker. Before retraining is considered, a vocational counselor will evaluate the worker's transferable skills which are skills needed in today's labor market. That does not mean finding the worker a job - it means finding them employable for what could be a minimum wage job. If you need to protest an employability assessment - you must *protest within 15 days.*
- **Light Duty:** if the employer is requesting light duty, the job description should be put in writing, with a copy to the worker. The light duty position should be approved by the worker's physician before the worker returns to work. Light duty should not interfere with recovery.

- **Loss of Earning Power (LEP):** If the employer has returned an injured worker to light duty with a wage reduction of greater than 5%, and the claim is open, then LEP is payable. LEP may also be paid if the worker has returned to work performing fewer hours than their normal work pattern. Normally, LEP is paid monthly.
- **Job Modification Funds:** May be available up to \$5,000 per modification. The funding does not affect the employer's industrial insurance rates.
- **Retraining:** Costs include books, tuition, fees, supplies, and equipment. Effective January 1, 2008, training costs will be increased to \$ 12,240, with two years of training.
- **Reopening a Claim:** If there is a new incident of trauma or accident at work - file a new claim. To reopen an old claim - the law says the condition must be worse than it was at the time of claim closure. The doctor must provide objective medical findings to prove the condition is worse. The reopening application is at the doctor's office.
- When you file a reopening application, the office visit and all diagnostic for the reopening will be paid for by the Department or the Self-Insured Employer, whether or not the claim is reopened. All reopening applications are sent to the Department. The Department 90 days following the receipt of the application to act on the reopening application. The deadline can be extended an additional 60 days for good cause.
- If time-loss benefits are payable on the reopened claim, benefits will be paid at the rate of pay based on the original date of injury. If it has been over 7 years since the claim first closed and time-loss benefits are contended, the worker must appeal to the Director of the Department of Labor and Industries for benefits. Up until seven years from the first closure all benefits are available if the claim is reopened; medical, time-loss, permanent partial disability, and vocational rehabilitation. After seven years, only medical benefits are guaranteed if the claim is reopened.
- **Claim Closures:** If a worker does not agree with their claim being closed, they would need to protest the closure by sending a written protest letter to Department within 60 days of receiving the notice of decision. You will need your doctor's support for the claim to remain open. ***We recommend sending your protest certified mail.***

THE SEVEN DEADLY SINS OF WORKER'S COMPENSATION

Every State has its own Worker's Compensation Program, and some of us who work in, on, or over the water are covered by the Longshore and Harbor Worker's Act. Each program is different, but the pitfalls listed below should be avoided no matter where you work.

1. **Do Not Fail to Report:** Report the accident to your supervisor (if the boss doesn't write it down, *you* put it in writing), report it to L&I (with an **accident report form** from the Doctor, or if Self Insured, from your employer), and call the Council at 877-745-9555, A representative will return your call and go over the next steps. Even minor injuries need to be documented. Sure, it's nothing now- but tomorrow morning when it's killing you... you'll regret not reporting it.

2. **Do Not Walk it Off:** We play tough guy and say: “Ah, it’s nothin’, I’ve had worse.” But you are not a doctor. Your boss is not a doctor. This is not a Softball game: this is your career, your health, your quality of life. Get it looked at- get it fixed.
3. **Do Not Disobey/Lie to Your Doctor:** Leave plumbing to the Plumbers, wiring to the Electricians- respect your **Doctor’s jurisdiction** as well- and don’t try to get back into the game before you are cleared by your Attending Physician. Five years from now you won’t care about how soon you got back to work; what will matter down the road is how well you have healed.
4. **Do Not File with Carpenter’s Trust:** Our Health Care plan is not a policy to cover the employer; it’s for your family. To compel you to file with the Trust (or not report at all) is Claim Suppression- call Gary. To actually do so is Insurance Fraud.
5. **Do Not Ignore/recycle Paperwork:** Though it may seem as though you are being buried in paperwork- *read and file everything they send you relating to your claim*. Recycling is good, but that poor tree gave its life for your claim; let’s memorialize it by keeping your paperwork and filing it in the order it was received.
6. **Do Not Miss Deadlines:** The folks at these agencies are bureaucrats; they operate by strict rules and laws. We can play that game too, by paying attention and staying within their rules and laws.
7. **Do Not Fake It:** The Fraud Investigation and Compliance Divisions for these programs catch far more errant claims from workers than from companies. Don’t put yourself in a situation where you will be forced to pay back money you have already spent to live on.

Pain is Nature’s way of telling you that you are hurt- but once your Doctor has done all she/he can do, the Department closes your claim, regardless of your pain. It doesn’t seem fair, but there is no way for an agency to measure our pain other than our word- *and they don’t trust us*. Apparently, workers have faked claims before- this casts suspicion upon all of us. As work slows down, as L&I revenues dry-up, scrutiny of claims increases. Contractors are especially wary of false claims in this economic climate.

NEED ASSISTANCE
CALL PROJECT HELP: 800-255-9752