

Kentucky's Workers Compensation Basics

What is a work related injury?

The purpose of workers' compensation insurance is to provide benefits to injured workers for workplace injuries and occupational diseases. Through the statutory definition of injury, the legislature describes those injuries that are recognized as qualifying for compensation under the workers' compensation law. Common legal phrases used are that the injury is "work-related" or that it "arises out of and in the course of employment".

KRS 342.0011 reads "Injury means any work-related traumatic event or series of events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings."

Current law also states that "injury does not include the effects of the natural aging process and does not include communicable diseases unless the risk of contracting the disease is increased by the nature of the employment".

Employees are clearly entitled to benefits if injured while performing normal duties during regular working hours. Often, questions arise if employees are injured in circumstances that are not typical of the normal working environment in terms of time, place or performance of duties. Workers' compensation is generally not allowed for injuries resulting from horseplay, intentional self-infliction, intoxication or injuries incurred while traveling to and from work.

As an injured employee, what are my rights under the Kentucky workers' compensation law?

As an employee in Kentucky, you have the right to:

- Workers' compensation insurance coverage. This coverage should be furnished by your employer at no cost to you.
- Know the identity of the workers' compensation insurance carrier and the claim representative.
- Receive a courteous and reasonably prompt response from the carrier upon communication regarding a claim.
- Receive temporary income benefits while recuperating from the injury.

- Receive all necessary medical treatment for the occupational injury or disease without making a co-payment.
- Select a physician to treat a work related injury or illness without interference from your employer.
- Change the treating physician one time with no questions asked.
- Receive a card, which identifies the designated physician, employer and carrier.
- Be reimbursed for expenses paid in the process of receiving medical treatment, including travel expenses and out of pocket payment of prescription medications.
- Receive retraining if unable to return to suitable work.
- File a claim for permanent disability benefits within two years of the injury or the termination of temporary income benefits, whichever is later.

Is an employee covered if the injury is a result of an intentional violation of safety laws or regulations?

Although benefits are granted even if an employee's mistake or carelessness caused the accident, disability payments may be reduced by 15% in cases where the worker's intentional violation of a safety law or regulation caused the injury. Likewise, if the employer's intentional violation of a safety law or regulation caused an injury, a safety penalty may be imposed against the employer. KRS 342.165 allows for the income benefits of an injured worker to be increased by 30% if the injury was caused by a violation of a safety law or regulation by the employer.

As an injured employee what are my responsibilities under the Kentucky workers' Compensation law?

As an injured employee you must: Notify Supervisors of Injuries and Diseases.

Employees must immediately (or "as soon as practicable") notify their supervisors of any injury. Notification should include information about the work occurrence and the body part affected. Most employers have a written policy for reporting injuries; compliance with that policy will facilitate the payment of benefits.

A claim may involve an occupational disease or gradual injury that is not readily viewed as being caused by work. In these circumstances as soon as an employee learns a condition may be work-related, notice

should be given to the employer. Often employees acquire this knowledge from a physician who advises of the work connection.

Obtaining Medical Services.

As soon as possible after the work-related injury occurs, the employee should obtain necessary medical services. The employee may choose the treating physician and can change that selection one time, no questions asked. If the employer has entered into an authorized managed care program, the employee must choose from among the participating medical providers. Employees must notify the employer and insurance carrier of the physician choice. The employer or insurance carrier should deliver to the employee a physician designation and identification card once it is known that the employee requires continuing medical care. Employees should ask treating physicians to promptly report their status to the employer and insurance carrier. Prompt reporting speeds payment of benefits and helps employers and physicians in assisting employees to return to work.

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