

### ***What Are My Responsibilities?***

As an injured worker, you have the obligation to assist in your recovery. To help make this happen, you should:

- Keep in touch with your employer;
- Keep appointments made with your doctor, the insurer, and job counselor;
- Follow your doctors' instructions and treatment plan;
- Cooperate with persons who are helping you get back to work; and
- Contact your employer immediately when your doctor releases you for work.

This pamphlet has been prepared by the Counselor Program of the Workers' Compensation Court to provide information to employees with questions about their rights and responsibilities under the Oklahoma workers' compensation laws. If you have further questions, or need additional information, you may contact the Court at the address and phone numbers listed below.

**Workers' Compensation Court  
Counselor Program  
1915 North Stiles Avenue  
Oklahoma City, OK 73105-4904**

**Oklahoma City Area: (405) 522-8760  
Tulsa Area: (918) 581-2714  
Statewide: (800) 522-8210 (In-State toll free)  
Via the web at: [www.owcc.state.ok.us](http://www.owcc.state.ok.us)**

*The information provided in this pamphlet is general in nature and for informational purposes only. It is not intended to be a legal interpretation of the Workers' Compensation Act.*



## **Workers' Compensation in Oklahoma** **Employee's Rights & Responsibilities**

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Oklahoma City, OK 73105  
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(405) 522-8683 FAX**

### ***What Is Workers' Compensation?***

Most employers in Oklahoma are required to provide workers' compensation coverage for their employees. The purpose is to compensate employees who have suffered certain job-related injuries or occupational diseases. The employee's dependents may also be entitled to benefits if the worker dies as a result of a job-related injury.

### ***How Long Do I Have To Work To Be Covered By The Workers' Compensation Act?***

You are covered by workers' compensation as soon as you begin your employment. There is no waiting period.

### ***Are All Employees Covered By The Workers' Compensation Act?***

As a general rule, the law applies to every employee hired in the State of Oklahoma or who is injured on-the-job while working in the State of Oklahoma. Employers with five (5) or fewer employees, all of whom are related by blood or marriage to the employer, are exempt from workers' compensation laws.

Some workers employed in agriculture or horticulture, licensed real estate brokers, household workers, and employees of the federal government are not covered by Oklahoma workers' compensation laws.

Independent contractors are not employees of the principal employer who hires them. However, the employees of an independent contractor are covered by the independent contractor's insurance. If the independent contractor is uninsured, workers may recover benefits from the principal employer.

A person performing voluntary service who receives no wages for the services other than meals, drug or alcohol rehabilitation therapy, transportation, lodging or reimbursement for incidental expenses is not an employee under the Oklahoma Workers' Compensation Act.

### ***What If My Employer Does Not Have Workers' Compensation Coverage?***

Under certain circumstances, you may have a statutory right to recover damages for

### ***Can I Call The Workers' Compensation Court For Information?***

Yes. The Workers' Compensation Court has established a "Counselor Program". A Counselor provides information and improves communications among injured workers, employers, insurance carriers and health care providers. Contact information for the Counselor Program is located on the back page of this pamphlet.

### ***Who Can Contact The Workers' Compensation Counselor Program For Information?***

The injured worker, the heirs of a deceased worker, the employer, the insurance carrier and the health care provider.

### ***What Kind Of Information Can The Counselor Provide, and Can The Counselor Provide Legal Advice Or Services?***

#### The Workers' Compensation Counselor Program:

- Cannot provide legal advice or services;
- Provides general information and an explanation of rights and responsibilities;
- Helps an employee determine if the employer is insured and whether coverage is through a private carrier, CompSource, or through self-insurance;
- Explains how to report an injury and how to file a claim; and
- Explains your rights and responsibilities.

### ***Where Can I Obtain Additional Information About The Workers' Compensation Court?***

A handbook of the Court, which includes Court rules and the Oklahoma statutes dealing with workers' compensation may be purchased directly from the Court for a charge of \$27 (handbook + postage). In addition you may search the Oklahoma statutes dealing with workers' compensation by visiting the Court's website at [www.owcc.state.ok.us](http://www.owcc.state.ok.us), select "Laws / Rules / Charts", and then select "Title 85 and Court Rules".

### ***How Much Will An Attorney Charge?***

A maximum of 10% of any award for temporary disability, and 20% of any award for permanent disability or death is permitted as an attorney fee. All attorney fees are subject to court approval. In addition to the attorney fee, you will be responsible for expenses in preparing your case for settlement or trial.

### ***What If I Am Fired For Filing A Workers' Compensation Claim?***

You may have a cause of action if your employer fires you because you have in good faith, filed a claim, retained a lawyer to represent you, or have testified or plan to testify in a court proceeding. These actions are filed in a District Court.

### ***How Can I Report An Employer That Does Not Have Workers' Compensation Insurance, Or Who Requires Employees to Pay For Workers' Compensation Insurance Premiums?***

You may contact the Oklahoma Department of Labor at (405) 521-6100 or toll free at (800) 269-5353, and give them the employer's name and address.

### ***What If Workers' Compensation Fraud Is Suspected?***

Cases of suspected workers' compensation fraud should be referred to the Attorney Generals office, Workers' Compensation Fraud Unit for the purposes of investigation, civil action, criminal action or referral to the District Attorney.

### **The Attorney General Fraud Unit can be contacted at:**

**313 N.E. 21 Street  
Oklahoma City, OK 73105  
(405) 522-3403  
(877) 800-8764 (toll free)**

personal injury sustained in the course or scope of your employment. Heirs of a deceased worker may also have a statutory right to recover damages. These cases would be brought in a District Court, and would not be limited by the benefits allowed under workers' compensation law. A claim for job-related injuries can also be filed with the Workers' Compensation Court.

### ***When Should I Report An Accident That Occurred On The Job?***

Any job-related injury should be reported to your supervisor as soon as possible. Failure to timely report an injury or obtain medical treatment within 30 days may result in the loss of benefits. In cases of occupational disease or injuries caused by "repeated" trauma, an employee must give notice to the employer within two (2) years from the date of last exposure or trauma. Exceptions to this notice occur when an employee has been separated from employment for more than 90 days before giving oral or written notice. Pertaining to certain conditions, such as asbestosis, notice must be given within two (2) years from the date the condition results in a symptom which can be medically diagnosed.

### ***What Do I Do About Medical Treatment?***

After you are injured, your employer shall promptly provide for such medical, surgical or other treatment which may be necessary. Your employer has the right to select the treating physician. If your employer fails or neglects to provide medical treatment within three (3) days after the actual notification by you to your employer of your injury, you may during the period of such neglect or failure, select a physician to provide treatment at the expense of the employer. However, once the employer has selected a treating physician and offered the employee treatment, that physician shall become the treating physician. In case of an emergency, you or someone on your behalf may obtain immediate medical treatment for you.

When an employee is covered by a Certified Workplace Medical Plan, the employer shall select a treating physician for the injured employee from the physicians listed within the network of the Certified Workplace Medical Plan.

### ***Can I Change Doctors?***

An employee, that is *not* covered by a Certified Workplace Medical Plan may make

an application to the Court once for a change of physician. The application by the employee shall list three (3) proposed physicians qualified to treat the body part affected. The employer may agree to the employee's selection or submit its own list of three (3) physicians. If the employee and employer cannot agree upon a physician, the Court shall select the treating physician from the list of independent medical examiners maintained by the Court. A change of physician shall be allowed for the treatment of each individual body part injured if the treating physician determines that the employee's injured body parts cannot be treated by the same physician.

### ***Is A Trial Always Necessary?***

No. A trial is necessary only when there is a dispute between you and the employer or its insurance carrier that cannot be resolved. Claims can be settled without a trial before a judge of the Court. However, generally Court approval of all final settlements is required.

### ***If I am in a Certified Medical Workplace Plan, Can I Change Doctors?***

Yes. The employee may apply for a change of physician by utilizing the dispute resolution process set out in the Certified Workplace Medical Plan. Once the employee has exhausted the administrative remedies allowed for a change of physician, the employee may petition the Court for a change of physician within the plan. If there is not a physician available within the plan that is qualified to treat the employee's injuries, a physician outside of the plan may be selected that agrees to comply with all the rules, terms and conditions of the Certified Workplace Medical Plan.

### ***Other Than A Trial, What Are my Options for Settling a Dispute?***

The Court, upon its own motion or at the request of any party, may request a settlement conference be held before a judge of the Court for the purposes of settling a claim before it goes to trial. In addition to the settlement conference, a party to a dispute can request mediation to settle a dispute regardless of whether a claim has been filed with the Court. The Court on its own or in response to a request, may order mediation. Any workers' compensation claim can be mediated except Multiple Injury Trust Fund claims and disputes on medical care arising within a Certified Workplace Medical Plan. All final settlements of a case resolved by mediation must be approved by the Court. If mediation is desired, or if you have questions about mediation or need forms to request mediation, you may contact the Counselor Program. Contact information for the Counselor Program is located on the back page of this pamphlet.

### ***What If I Need Emergency Medical Treatment? Must I Use The Certified Workplace Medical Plan?***

No. The Certified Workplace Medical Plan must authorize the payment of the costs of the necessary emergency treatment by medical providers who are not part of the plan.

### ***Where Are Trials Held?***

Trials are held in either Oklahoma City or Tulsa, or as otherwise provided by law.

### ***Do I Have To Pay For Any Of The Medical Costs?***

No. Your employer or its insurance company must pay for all authorized and medically necessary care in accordance with a fee schedule of maximum reimbursement allowances prescribed by the Court. A maximum schedule of medical fees may also be set by Certified Workplace Medical Plans.

### ***Am I Required To Have An Attorney?***

No. Workers have the right to represent themselves in a trial before the Workers' Compensation Court. If a trial is necessary because of a dispute, your employer's insurance carrier must be represented by a lawyer. You have the right to be represented by a lawyer, but it is not required.

### ***How Long Before Weekly Temporary Total Disability (TTD) Benefits Begin?***

TTD benefits are not payable for the first three (3) calendar days you are off of work due to an injury. If you are off work due to your injuries for more than three (3) calendar days after your injury, you may be entitled to weekly TTD benefits.

### ***What If I Want To Hire A Lawyer, But I Do Not Know One?***

If you are an Oklahoma resident, you may call your county lawyer referral service. Some County Bar Associations will refer you to an attorney. Under no circumstance may any Court employee recommend an attorney to you.

date the condition results in a symptom which can be medically diagnosed. However, post-termination claims must be filed within six (6) months of a worker's termination from employment.

***How Do I Obtain Benefits?***

You should contact your employer or the employer's insurance company as soon as possible after an accidental injury to see if benefits will be provided voluntarily. An employer or insurance carrier may require a letter from your physician stating the type of treatment being provided and whether you are able to work. You should ask your employer to file a "Form 2" (Employer's First Notice Injury) with the Court and to provide their insurance company with a copy.

***What Happens After I File A Claim?***

If you wish the Court to resolve an issue between you and your employer or their insurance carrier, you may ask the Court to set your case before a judge. You or your legal representative must file a "Form 9" (Motion To Set For Trial) to request a trial. A "Form 9" is available from the Court.

***May A District Attorney Or The Workers' Compensation Court Examine My Records Pertaining To My Job-Related Injury?***

Yes. Upon filing a notice of injury or a claim for benefits with the Court, all employers and employees shall give written permission for the Administrator of the Workers' Compensation Court, the Attorney General, and the District Attorney to examine all records relating to the notice of injury or claim. Although the claim form is not a medical authorization, medical records may also be obtained as permitted by Oklahoma law.

***What Is A Trial?***

A trial before the Workers' Compensation Court is much like any other non-jury trial in an Oklahoma court. Your case will be heard by a judge who will decide what, if any, benefits are due under Oklahoma law. The judge's decision will be based upon the law and the facts involved in your case, including medical evidence introduced and testimony presented to the judge at the trial.

***How Is The Amount Of My TTD Weekly Income Benefits Determined?***

When you are injured on the job and you are unable to work for more than three (3) calendar days, you are eligible for weekly benefits amounting to 70% of your average weekly wage. The weekly benefits that you may receive are based upon your date of injury and the *State's Average Weekly Wage*. The maximum allowable weekly TTD benefits are as follows:

<b><u>Date of Injury</u></b>	<b><u>Max. TTD Rate</u></b>
+Nov. 01, 2010 to Oct. 31, 2011.....	\$716.00
+Nov. 01, 2009 to Oct. 31, 2010.....	\$717.00
Nov. 01, 2008 to Oct. 31, 2009.....	\$683.00
Nov. 01, 2005 to Oct. 31, 2008.....	\$577.00
Nov. 01, 2002 to Oct. 31, 2005.....	\$528.00
Nov. 01, 1999 to Oct. 31, 2002.....	\$473.00
*Nov. 01, 1996 to Oct. 31, 1999.....	\$426.00

Weekly TTD benefits are figured at 70% of the worker's average weekly wage. In no event shall TTD benefits exceed the state's average weekly wage.

+Permanent partial disability rates have been set at a maximum of \$323 for injuries occurring between Aug. 27, 2010 and Aug. 26, 2015.  
 \*To obtain rates for earlier injury dates than those listed, please contact the Counselor's Program.

***How Long Am I Eligible For TTD Weekly Income Benefits?***

The duration of TTD benefits depends on the date and nature of the injury and when your healing period ends. You may receive income benefits for as long as you are unable to work subject to certain limitations which are dependent on the type of injury. Injuries are classified as soft tissue or non-soft-tissue. An example of a "Soft Tissue injury" includes but is not limited to sprains, strains, contusions, tendonitis, and muscle tears. Cumulative trauma is also considered a soft tissue injury.

Temporary total disability compensation for soft tissue injuries is limited to 8 weeks. You may be able to extend these benefits up to 16 weeks if surgery is performed. Non-soft tissue injuries are granted in increments up to 52 week as long as you are

temporarily totally disabled. You may be able to extend these benefits for a total of 300 weeks, in the aggregate, by agreement of your employer and the insurance carrier, or by court order.

***Must I Notify My Employer If I Accept Other Employment While Receiving Temporary Total Disability?***

Yes. Any person receiving temporary disability benefits from an employer or the employer's insurance company must promptly report in writing to the employer or insurance carrier any change in material fact, the amount of income being received, or any change in employment status while receiving temporary total disability benefits.

***What If My Injury Keeps Me From Getting A Job I Can Perform?***

Under the rehabilitation section of the Act, you may be entitled to educational assistance and training to learn another skill. You may also be eligible for job-placement assistance in obtaining other employment.

***What Benefits Am I Eligible To Receive If I Have A Permanent Disability?***

If you are permanently disabled, you may receive weekly benefits based on the nature and extent of your disability. Many injuries are compensated on the basis of a "benefit schedule" found in the Act. A sample of this schedule is located on the Court's website at [www.owcc.state.ok.us](http://www.owcc.state.ok.us), under "Laws / Rules / Charts", and then the applicable period of PPD Rate Chart. If you have suffered a permanent disability that is not specifically listed in the benefit schedule, your compensation will be based on the percentage of disability to your body as a whole. The Court has adopted the "*Guides for the Evaluation of Permanent Impairment*" as published by the American Medical Association to determine the percentage of disability for injuries to the body as a whole. Examples of "whole body injuries" include injuries to the back, neck, head, shoulders and hips. "Scheduled" injuries include but are not limited to, injuries to the hands, feet, arms and legs.

***If I Die As The Result Of An On-The-Job Accident, What Benefits Can My Dependents Receive?***

A surviving spouse is entitled to a lump sum benefit payment, as is each dependent

child. In addition, the spouse and other dependents may receive weekly benefits based upon the wages earned at the time of death, and may receive funeral costs. Benefits stop when a spouse remarries, at which time a lump sum equal to two years' compensation is paid. A child's benefits stop at age 18, but can continue until age 23 if the child is a full-time student enrolled in an accredited educational institution or is home-schooled. A child who is mentally or physically unable to be self-supporting may also be entitled to benefits after age 18.

***Can I Receive Social Security Disability And Workers' Compensation Benefits At The Same Time?***

Yes. Social Security benefits may take credit for the amount of workers' compensation benefits you are receiving, which may result in a reduced Social Security benefit.

***Am I Entitled To Receive Temporary Total Disability (TTD) And Unemployment Benefits At The Same Time?***

An employee may not receive TTD benefits covering the same period of time as unemployment compensation benefits.

***How Do I File A Workers' Compensation Claim With The Court?***

If you wish to file a claim as a result of an job-related injury, a "Form 3" should be filed with the Workers' Compensation Court. A "Form 3B" should be filed if you have an occupational disease (such as "asbestosis" or "silicosis"). A "Form 3A" should be filed for a death claim if an employee dies as the result of a job-related injury. You may request the necessary forms to file a claim from your employer or the Workers' Compensation Court.

***Is There A Time Limit On Filing A Claim With The Court?***

Yes. Anyone wishing to file a claim for workers' compensation benefits with the Court must do so within two (2) years from the date of the injury or death, or within two (2) years from the date of payment of any compensation or wages in lieu of compensation, or within two (2) years of authorized medical care. Pertaining to "repeated trauma" injuries, the two-year period runs from the date of the last trauma or hazardous exposure, or in certain instances such as asbestosis, two (2) years from the