



# Workers' Compensation – Claims Process

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

The Indiana Worker's Compensation and Occupational Disease Acts (WC Acts) determine the process for handling workers' compensation claims. The [Workers' Compensation Board of Indiana](#) (Board) investigates and handles workers' compensation claims in the state. The processing of a claim typically begins with notice of an injury and may end up in administrative or judicial appeal.

## EMPLOYEE'S REPORT OF INJURY

Employees must notify a supervisor or manager of any work-related injury either immediately or as soon as practicable after a workplace accident. If the employer does not have actual notice of the injury, the injured employee must provide written notice to the employer within **30 days** or risk losing benefits.

For occupational diseases, employees must provide written notice to the employer **as soon as practicable** after the employee becomes unable to work due to the illness. The first day the employee becomes unable to work due to an occupational disease is called the date of disablement. Occupational diseases are generally not compensable unless the date of disablement is within **two years** of the employee's last exposure to the workplace hazard. However, longer time periods may apply for certain types of exposure. For example, employees who become ill from inhaling asbestos dust have 35 years from the last exposure to assert a claim.

## EMPLOYER'S REPORT OF INJURY

Employers must report employee disabilities caused by work-related injuries or diseases to their insurance carriers within **seven days**. In turn, insurance carriers have seven days to file a report with the Board. Self-insured employers must report work-related disabilities caused by injury or disease directly to the Board.

To file a report with the Board, self-insured employers and insurance carriers must use Form [SF 34401](#), also known as the "First Report of Employee Injury, Illness."

## CLAIM DENIAL

Employers (or their insurance carriers, if applicable) have **30 days** from the time an employee provides notice of a work-related injury or disease to decide whether to accept or deny the employee's claim for workers' compensation benefits.

If the employer denies a claim, it must file a "Notice of Denial of Benefits" (Form [SF 53914](#)) with the Board within **30 days** of receiving notice.

An employer may obtain an additional 30 days to make a compensability decision if it can establish that the delay is due to an inability to obtain medical information that is necessary to determine employer liability. To request this extension of time, an employer must complete and file a "Notice of Inability to Determine Liability/Request for Additional Time" (Form [SF 48557](#)) with the Board.

This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. It broadly summarizes state statutes and regulations generally applicable to private employers, but does not include references to other legal resources unless specifically noted. Readers should contact legal counsel for legal advice.

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## MEDIATION

If an employer and an employee disagree about any aspect of a workers' compensation claim, either party may file a "Request for Assistance" (Form [SF 45442](#)) with the Board. When the Board receives this request, it may attempt to mediate the dispute between the parties. Mediation is always optional; the Board will only mediate a claim if both parties consent to it.

## EMPLOYEE'S CLAIM-FILING REQUIREMENTS

An employee's right to compensation for accidental injuries is forever barred unless the employee files an "Application for Adjustment of Claim" form ([SF 29109](#)) with the Board **within two years** of the accident. If the injury results from exposure to radiation, the two-year time period begins when the employee had knowledge of the injury or should have had knowledge by reasonable diligence.

For occupational diseases, an employee must file a claim with the Board **within two years** after the date of disablement. Claims for death arising from occupational diseases are due within two years of death.

If an employer denies an employee's claim after paying any workers' compensation benefits to or on behalf of the employee, the employee's claim application is due **within one year** of either the last authorized medical treatment for the claimed condition or the date the employer last issued a workers' compensation payment, whichever is later.

These time limits, however, do not apply to a person who is mentally incompetent, nor to a minor who has no guardian or trustee.

## SINGLE BOARD MEMBER ADMINISTRATIVE HEARING

An Application for Adjustment of Claim is a request for a single Board member to hold a hearing to resolve the disputed claim. As noted above, employees must file this request within certain time periods in order to preserve any right they may have to obtain workers' compensation benefits. Employers, however, may also file an Application for Adjustment of Claim at any time while a claim is in dispute.

Upon receiving this form from either party, the Board will set a hearing as early as practicable. At the hearing, an employee who claims he or she sustained a work-related condition has the burden of proving the condition occurred in the course and scope of employment.

After holding a hearing on a disputed issue, the single Board member that presided over the hearing will issue a decision either awarding or denying benefits.

## FULL BOARD ADMINISTRATIVE REVIEW

If either party is dissatisfied with a single Board member's decision, the party may file an "Application for Review by Full Board" (Form [SF 1042](#)) within **30 days** of the date of the decision. If no request for review is filed within those 30 days, the single Board member's decision becomes final and conclusive.

If the Board does receive a timely Application for Review by Full Board from either party, all members of the Board will examine the evidence that the parties introduced at the original hearing before the single Board member. However, either or both parties may petition for an opportunity to introduce new evidence to the full Board. In addition, the parties may file briefs to argue points of law to the full Board. After reviewing the evidence and legal arguments, the full Board will issue a decision either affirming, reversing or modifying the original decision.

## CIVIL COURT APPEALS

Decisions made by the full Board are conclusive and binding as to all questions of fact, but either party may appeal to the Indiana Court of Appeals for legal errors **within 30 days** of the full Board's decision. The Board may also certify questions of law to the Court of Appeals on its own.

If an employer appeals a full Board decision that awarded benefits to an employee and the Court of Appeals affirms the award, the award will be increased by **at least 5 percent** and may be further increased by **up to 10 percent**.

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Finally, any party that is dissatisfied with a decision issued by the Court of Appeals may appeal it to the Supreme Court of Indiana for the highest level of review in the state.

## **MORE INFORMATION**

Contact Touchstone Consulting Group or visit the Board [website](#) for more information on workers' compensation laws in Indiana.