

A GEORGIA STARTING GUIDE to Workers' Compensation



Workers' Compensation is a state-funded program that protects both employees and employers when a worker is hurt on the job. It protects employees by making sure that they receive benefits quickly and commensurate with the degree of their injury. It protects businesses by preventing expensive and time-consuming litigation against the business.

If you've been injured at work, or have a chronic disability that's been made worse by the physical demands of your position, Workers' Compensation—formerly known as Workman's Compensation—is often your best recourse for receiving disability benefits. To qualify, you must be employed by a company that has (or is required to have) workers' compensation insurance. If you are an independent contractor, consultant, or freelancer, you are not eligible to receive workers' compensation.



Injuries at Work

Unlike Social Security Disability Insurance, which has strict parameters for classifications of injuries and illnesses in order to receive compensation benefits, Workers' Compensation will cover almost all injuries if they occur at your place of employment, and as a result of your work. Injuries such as back strain, a slip and fall that results in an injury, or a car accident while driving for work, are all examples of injuries that can be covered under workers' comp.

Cumulative Trauma Disorders

A cumulative trauma disorder (CTD) and repetitive stress injuries like carpal tunnel syndrome are also covered under workers' compensation. CTDs also include ongoing damage to tendons, including ganglionic cysts, tenosynovitis, and De Quervain's Disease, which is a disorder affecting the tendons around the thumb and may travel up the forearm if left untreated.

Mental Health Disorders

Although difficult to prove, mental health disorders like depression, anxiety, or trauma-related disorders like post-traumatic stress disorder (PTSD) can also be covered by workers' compensation if it is due to a covered physical injury and substantial documentation is provided. An attorney skilled and experienced in workers' compensation can best advise you about the merits of your case.

Pre-existing Conditions

You can make a workers' comp claim regarding a pre-existing condition that has been aggravated by your work. However, only the aggravation is covered, not the pre-existing condition itself. For example, if you have degenerative back disease and your working conditions make your back pain more severe, you can receive benefits, but not for the underlying condition.

Steps to Filing Workers' Compensation

1. Get medical treatment from a workers' compensation-approved physician.

This is the most important part of your claim—timely medical treatment. Your employer should have a list of approved physicians specifically for workers' compensation. It's important that you visit the approved doctor to save both time and money. There's no reason to pay out-of-pocket to see your own physician—you'll be required to see the approved doctor anyway.

2. Notify your employer as soon as possible.

Notify your employer about your injury immediately, both verbally and in writing. In most states, you are required to do so within 30 days. Often, workers may not realize that they are seriously injured and may put off notifying their place of

employment. As soon as you realize you're injured and will be filing workers' comp, tell your work.

3. Request an official claim.

When you notify your employer or your human resources department, you may be given an official claim at that time. If you're not, you can request one from your employer or from your state's workers' compensation board. The form is simple: it just requires the nature of your injury, the time, date, and location of where you were injured, the names of others involved, how the accident happened, and what medical treatment you've received so far.

4. Your employer must also file a claim.

Once you've turned in the claim to your employer or to your human resources

department, it's out of your hands. From here, your employer must also file the claim with their insurer and with the state. They're not allowed to retaliate against you for filing a claim, so don't worry. It's in their best interest to file the claim promptly.

5. What's next?

Once your employer files the claim, you should continue to seek and receive medical care. You will be reimbursed for the costs. It's wise to stay organized and to document additional treatment, problems or changes in your condition. Designate a notebook or journal where you can keep track of your health, treatments, and any significant changes. In addition, keep receipts for all of the costs associated with your care during this time.

Fast Facts about Workers' Compensation

- Every state except Texas requires employers to carry workers' compensation insurance.
- Most workers' comp claims are true—only 1%-2% are proven fraudulent.
- Workers' comp can be paid even if the accident was partially the fault of the employee.
- Workers' comp doesn't cover pain and suffering—that's only collected through a personal injury claim.
- State by state protections vary regarding workers' rights during a workers' comp claim. In Georgia, the workers' compensation act doesn't protect an employee from termination while a case is pending. It's important to consult with your attorney during this time to ensure your rights are protected.
- It's best to retain an attorney before your case goes before an administrative law judge to ensure you've compiled the correct and most pertinent evidence supporting your workers' compensation claim.

Why Might Your Claim be Denied?

If your claim is denied, it's often for technical reasons. You must file your claim on time, and you must seek medical treatment from an approved physician. If you don't, your claim may be denied.

Your employer may dispute your claim by saying that your injury did not take place at work, or that it was the result of your own willful misconduct. If your claim is that your condition is a result of stress from your job, that may be deemed non-compensable.

If you're denied, it doesn't mean you have no recourse. You can always file a hearing request.

Filing a Workers' Compensation Hearing Request

With the help of a Georgia workers compensation law firm, you can file for a hearing request following your denial. Hiring an attorney can help in many ways. You must determine why your claim was denied and obtain supporting evidence. A hearing is much more complicated than your original claim, and most likely will require an appearance before an administrative law judge.

If the administrative law judge denies your claim following your hearing, you can appeal to the Appellate Division of the Georgia State Board. However, the Appellate Division is bound by the administrative law judge's decision when there is a preponderance of evidence to support that decision. After this step, the final level of appeal can go to the Superior Court in the county where the injury happened. Navigating these steps without the right attorney can be extremely difficult. Having the right workers' comp attorney on your side is imperative to the success of your case.



If your Social Security Disability claim has been denied, or you're thinking about filing and don't know where to start, Affleck and Gordon can help. We've been helping people in Georgia just like you for over 40 years. Sign up for a free case evaluation here, or call us **(404) 373-1649**.

