

How to Administer a Workers' Compensation Claim

Below are typical steps to administering a workers' compensation claim, following an employee's work-related injury or illness. Employers should also review and comply with state laws, as state laws normally set the parameters for employer-required coverage, posting, reporting and determining what constitutes a workers' compensation claim.

Step 1: Educate the Team

Organizations should educate employees and supervisors on workers' compensation coverage and injury/illness reporting requirements. Employers normally create policies and procedures that are included in employee handbooks and procedure manuals, posted on the company's intranet or included in the state's poster/notice requirements. Employers should develop and facilitate training (www.shrm.org/resourcesandtools/tools-and-samples/presentations/pages/workerscompensationtraining.aspx) supervisors on when, where and how to report work-related injuries and illnesses.

Step 2: Report Incidents to Appropriate Parties

In accordance with the organization's policies and procedures, employees should be trained to report the incident to the company's designated representative (this is usually someone in human resources, a manager, or a health and safety committee member). The representative should determine whether first aid is required and can be performed on the scene or if additional emergency care is required at a health care facility. Depending on the severity of the injury, the representative may need to notify the employee's emergency contact of the incident. The employer should take immediate action to ensure that the worksite where the incident occurred is safe and secure to prevent additional incidents.

Step 3: Complete Injury/Illness Reports

If possible, the representative should meet with the employee to complete injury/illness reports. Some employers create their own incident/near miss report (www.shrm.org/ResourcesAndTools/tools-and-samples/hr-forms/Pages/accident-near-miss-report.aspx), whereas others use "first report of injury" or workers' compensation claim forms provided by their workers' compensation carrier or the state's workers' compensation agency. Some employers have the injured/ill employee complete the full report, but others may require the employee's assistance in completing the report. The report usually requires the following information: date of injury, the place where it occurred, a description of the injury or illness, the date the employer became aware of the injury or illness, the date that the employee received the form, the date the employee returned the form to the employer, and any other required information. If the employee was given the report to complete, the representative should give the employee a deadline to complete it. If the employee needs to return the form via mail, the representative should direct him or her to mail it certified with a return receipt so there is a record of the date the employee returned it to the employer.

During the meeting, the representative should share with the employee the claims procedures, the benefits available to the employee and whom to contact for any concerns. Items frequently covered in this discussion include:

- **Injury/illness report.** A report of the occupational injury/illness should be made with the employer in a timely manner. Employers typically request that employees report occupational injuries/illnesses immediately but no later than 24 to 48 hours after the incident. This allows an employer to timely investigate the matter and take safety measures to avoid further incidents. However, employees may still file a report after the company's specified time frame. Time frames for reporting work-related injuries and

illnesses vary by state law. Usually an employee may file a claim within one or two years of the incident. If the employee does not file a report within the state's time frame, he or she may lose the right to receive workers' compensation benefits.

- **Physician selection.** Under some state laws, an employer may initially select the physician who is designated for seeing employees with work-related injuries and illnesses. The representative should inform employees of their options for seeking medical attention.
- **Medical expenses.** Health care facilities typically ask employees if injuries or illnesses are work-related. To ensure medical bills are sent to the appropriate place for payment, the representative should give employees the employer's contact information, if self-insured, or the workers' compensation carrier before any medical visit. Although health care facilities normally provide medical documentation directly to the workers' compensation carrier, the representative should advise employees to retain any documentation received from related medical visits.
- **Travel reimbursement.** Travel to and from medical treatment may be reimbursable in accordance with the plan or with the state's specific workers' compensation regulations.
- **Compensation benefits.** The representative may want to discuss how wage replacement benefits work. Depending on the state compensation benefit, the employee may be entitled to 66 percent of wages up to 100 percent of the state average weekly wage after a specified waiting period. The representative may also want to inform employees of salary continuation or the use of paid leave benefits such as sick, vacation or paid time off during waiting periods and periods of wage replacement. Use of paid leave benefits while receiving workers' compensation benefits may vary by state law. In addition, an employer may want to address compensability of time spent at medical appointments. See *When should an employee who was injured on the job be paid for time to attend related doctor's appointments?* (www.shrm.org/ResourcesAndTools/tools-and-samples/hr-qa/Pages/whentopayemployeeinjuredonthejobtoattendrelateddrsaptment.aspx)
- **Family and Medical Leave (FMLA).** If applicable, an FMLA-covered employer should provide an FMLA-eligible employee with required notices. See the SHRM toolkit *Managing Family and Medical Leave* (www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/managingfamilyandmedicalleave.aspx) for more information.

Step 4: File Injury/Illness Reports

Next the organization files the incident report with the company's workers' compensation carrier. Employers should check with their workers' compensation carrier for the available methods to submit the report. Some carriers prefer electronic submissions, whereas others prefer that employers use a telephone system. Some employers may also be required by state law to submit the report to the state's workers' compensation agency. Employers should check with their workers' compensation carrier because it may file the incident report for employers.

Step 5: Stay in Contact with the Worker's Compensation Carrier

Organizations must maintain contact with the workers' compensation carrier on the employee's claim. The employer may need to forward medical documentation to the workers' compensation carrier. Moreover, the workers' compensation carrier may have documents for the employer to complete. These documents may request information such as the number of lost workdays, the employee's return-to-work status and any salary continuation to determine wage replacement benefits.

Step 6: Stay in Contact with the Employee

The representative next informs the employee that the claim has been submitted and when to expect contact from the workers' compensation carrier regarding wage replacement and medical treatment. The representative should then establish a schedule of regular follow-up on the employee's progress by telephone, mail or e-mail to let the employee know that his or her well-being and return to work are important to the organization.

Step 7: Establish a Timeline for Return to Work

Establishing a timeline for the employee's return to work is imperative, as is making the determination about potential restrictions that may require accommodation and whether the employer will be able to accommodate the employee's needs. An employer may also need to consider if workers' compensation benefits will run concurrently with leave under the Family and Medical Leave Act (FMLA), the Americans with Disabilities Act (ADA), state leave laws or a company-provided leave of absence. The employer should have a policy in place that includes how leave interacts with workers' compensation.

Step 8: Return the Employee to Work

Returning an employee back to work should be one of the main focuses for the employer, even if it is in a light duty capacity. The employer's policy should be a thoughtful, well-written document that can be administered with care, taking the employee's needs into consideration. Some workers' compensation carriers have resources to assist employers with their return-to-work programs.

An employee's return to work may have doctor-directed medical restrictions that may allow the employee to return on restricted or light duty, which is typically less physically and mentally demanding than the employee's normal job. If the employee is eligible for FMLA leave, he or she can accept the light duty assignment, which will not count toward FMLA leave because the employee has returned to work and is no longer taking leave. Alternatively, the employee can continue to be out on the available FMLA leave. The employer may not penalize or retaliate against the employee for opting to remain on FMLA leave. However, the employer is allowed to restrict the employee from receiving wage replacement benefits through workers' compensation and short-term disability when the employee opts to take the leave instead of working, based on the doctor-directed medical restrictions.

Making temporary accommodations to assist the employee in returning to work after an incident will be advantageous to the employee, making him or her feel connected to the organization and contributing to it. As for the employer, making the accommodations can help reduce costs by decreasing the need for temporary help and overtime. It may also reduce workers' compensation rates. Returning the employee temporarily to a different position is allowable as long as the employee's restrictions and ability to perform the tasks/duties are taken into consideration. In the absence of a company policy regarding return to work/light duty, the ADA may still require an employer to consider reasonable accommodations to allow an employee to return to work. The ADA does not require an employer to create a position or to eliminate the essential job functions. However, the Equal Employment Opportunity Commission (EEOC) recognizes that employers may have to reassign or transfer an employee with a disability as a reasonable accommodation to an alternate position that meets the light duty restrictions if such a position is vacant or available, and the employee qualifies for it.

Step 9: Continue Leave or Terminate When an Employee Is Unable to Return to Work

An employee's doctor may provide a fitness-for-duty document that states that the employee is not ready to return to work and may not be able to return for some time or not at all. In this case, the employer will have to look at whether the employee is eligible for additional leave under the FMLA, the ADA, state leave or leave under the company's policies and practices. Some state workers' compensation laws have anti-retaliation provisions that may preclude an employer from terminating an employee for being absent due to a work-related injury; other states have legal precedent limiting an employer's ability to terminate a worker receiving workers' compensation benefits. Beyond these laws, there may be no obligation to continue to employ the individual; however, as with any termination, employers should seek legal guidance specific to their circumstances.

See:

- What reinstatement rights do employees have when they are out on workers' compensation and are either not eligible for FMLA leave or have exhausted their FMLA leave? (www.shrm.org/resourcesandtools/tools-and-samples/hr-qa/pages/workerscomleavereinstatementrights.aspx)
- Can an employer terminate an employee when FMLA leave has been exhausted if the employee is on workers' compensation or has a disability covered under the ADA and is unable to return to work? (www.shrm.org/resourcesandtools/tools-and-samples/hr-qa/pages/terminationandfmla.aspx?_ga=2.26324221.1107675973.1559047169-324404843.1555951529)

- Coordinating Leaves of Absence (www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/coordinatingleavesofabsence.aspx)

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