

Workers' Compensation in Texas

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Information for Injured Employees from the Division of Workers' Compensation

Who is the Division of Workers' Compensation?

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) is a state agency that regulates the delivery of workers' compensation benefits to injured employees and to eligible family members of employees killed on the job. The TDI-DWC also helps resolve disputes about claims and provides workplace safety and health services. The TDI-DWC does not pay benefits. Benefits are paid by workers' compensation insurance companies, by employers certified by the TDI-DWC to self-insure, or by self-insured governmental entities.

What is Workers' Compensation?



Workers' compensation is a state-regulated insurance program that pays your medical bills and replaces a portion of your lost wages if:

- you are injured at work or have a work-related illness; and
- your employer has workers' compensation insurance under the Texas Workers' Compensation Act.

Workers' compensation will pay for the medical treatment of your work-related injury or illness if:

- your employer has workers' compensation insurance coverage under the Texas Workers' Compensation Act; and
- your injury occurs at work or you have an illness related to your job

Workers' compensation will also replace a portion of your lost wages if:

- your work-related injury or illness causes you to lose all or some of your wages for more than seven (7) days from one or more jobs.

This publication is a summary and is presented for informational purposes only. It is not a substitute for the statute and TDI-DWC rules. For questions about TDI-DWC rules, please call Customer Assistance at 1-800-252-7031. CS05-002H(7-09)

Contact Information for the Central and Local TDI-DWC Offices

Central Office

7551 Metro Center Drive, Suite 100
Austin, TX, 78744-1609
(512) 804-4000

Abilene

1290 S. Willis, Suite 102
Abilene, TX 79605-4064
(325) 695-4992

Amarillo

7112 IH-40, West, Bldg. D
Amarillo, TX 79106-2503
(806) 351-1222

Austin

4616 West Howard Lane, Suite 130
Austin, Texas 78728-6300
(512) 933-1899

Beaumont

Concord Square Office Park
6430 Concord Rd.
Beaumont, TX 77708-4315
(409) 899-5589

Bryan/College Station

4001 East 29th Street, Suite 185
Bryan, TX 77802-4211
(979) 268-6766

Corpus Christi

5155 Flynn Parkway, Suite 218
Corpus Christi, TX 78411
(361) 883-2551

For further assistance, call

1-800-252-7031

or visit

www.tdi.state.tx.us

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Dallas

1515 W. Mockingbird Lane, Suite 100
Dallas, TX 75235
(214) 350-9299

Mail Correspondence to:

P. O. Box 45790
Dallas, TX 75245-0790

Denton

Dallas Dr. Tech Center
625 Dallas Dr., Suite 475
Denton, TX 76205-7289
(940) 380-1400

El Paso

El Paso State Office Building
401 Franklin Avenue, Suite 330
El Paso, Texas 79901-1210
(915) 834-7000

Fort Worth

6900 Anderson Blvd., Suite 200
Fort Worth, TX 76120-3011
(817) 446-4488

Houston-East

Elias Ramirez Building
5425 Polk Street, Suite 130
Houston, TX 77023
(713) 924-2200

Houston-West

507 North Sam Houston Parkway East
Suite 600
Houston, TX 77060-4012
(281) 260-3035

Laredo

5420 Springfield Avenue
Laredo, TX 78041-3605
(956) 718-2040

Lubbock

22 Briercroft Office Park, Suite A
Lubbock, TX 79412-3089
(806) 744-4569

Lufkin

310 Harmony Drive, Suite 100
Lufkin, TX 75901
(936) 639-6425

Midland/Odessa

Executive Office Park
4500 West Illinois Avenue, Suite 315
Midland, TX 79703-5486
(432) 699-1281

Missouri City

2440 Texas Parkway, Suite 240
Missouri City, TX 77489-4085
(281) 403-7050

San Angelo

State of Texas Services Center
622 S. Oakes, Suite M
San Angelo, TX 76903-7013
(325) 657-0404

San Antonio

9514 Console Drive, Suite 200
San Antonio, TX 78229-2043
(210) 593-0070

Tyler

3800 Paluxy Drive, Suite 570
Tyler, TX 75703-1665
(903) 534-6250

Victoria

American General Building
3001 North Cameron Street
Victoria, TX 77901-3931
(361) 576-9612

Waco

Raleigh Building
801 Austin Ave., Suite 840
Waco, TX 76701-1937
(254) 755-7011

Weslaco

1108 Pike Blvd.
Weslaco, TX 78596-4651
(956) 447-4416

Wichita Falls

Chelsea Plaza
909 8th Street, Suite 112
Wichita Falls, TX 76301
(940) 767-2691

Workers' Compensation Benefits

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Information for Injured Employees from the Division of Workers' Compensation

What are Workers' Compensation benefits?

[Tex. Labor Code §§408.081 - 408.187]

There are four types of workers' compensation benefits:

Income benefits replace a portion of any wages you lose because of a work-related injury or illness.

Medical benefits pay for necessary medical care to treat your work-related injury or illness.

Burial benefits pay for some of the deceased employee's funeral expenses to the person who paid the funeral expenses.

Death benefits pay a portion of lost family income for family members of employees who die because of a work-related injury or illness. Death benefits are also payable to employees' parents when there are no surviving eligible dependent family members.



Payment of income or death benefits can be made to the beneficiary by:

- (1) check, or
- (2) electronic funds transfer (EFT).

To be eligible for electronic funds transfer, you must be expected to receive benefits for at least eight (8) weeks. To receive payment by electronic funds transfer, you or your beneficiary must make the request in writing to the insurance carrier and provide:

- the name of the financial institution;
- the type of account (checking or savings);
- the routing/transit number; and
- the account number you want benefits electronically transferred to.

Definitions

The following terms are defined:

Average Weekly Wage (AWW) is the average amount of weekly wages you earned during the 13 weeks immediately before your work-related injury or illness occurred. Income and death benefit payments are based on your average weekly wage.

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Claim Employer is an employer with whom the injured employee filed a claim for workers' compensation benefits and for whom the injured employee was working at the time of the on-the-job injury.

Disability occurs when a work-related injury or illness causes you to lose the ability to earn your weekly wages. Disability refers to your ability to earn an income, not to a physical handicap.

Impairment Rating is the percentage of permanent physical damage to your body that resulted from a work-related injury or illness.

Maximum Medical Improvement (MMI) is the earlier of:

- the point in time when your work-related injury or illness has improved as much as it is going to improve; *or*
- 104 weeks from the date you became eligible to receive temporary income benefits.

Maximum Weekly Income Benefit may not exceed 100 percent of the state average weekly wage rounded to the nearest whole dollar. The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) will compute the maximum weekly income benefit for October 1 through September 30 of each year no later than October 1st of each year.

Minimum Weekly Income Benefit is 15 percent of the state average weekly wage rounded to the nearest whole dollar. The TDI-DWC will compute the minimum weekly income benefit for October 1 through September 30 of each year no later than October 1st of each year.

Multiple Employment means an employee who has more than one employer.

Non-Claim Employer is an employer, other than the claim employer, by whom the employee was employed at the time of the on-the-job injury.

Non-pecuniary Wages are wages in a form other than money (i.e., health insurance premiums; vehicle; clothing; or rent/housing).

For further assistance, call

1-800-252-7031

or visit

www.tdi.state.tx.us

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Pecuniary Wages are wages in the form of money (i.e., salary; commissions; and bonuses).

Medical Benefits

[Tex. Labor Code §408.021, Tex. Admin. Code §126.9]

Medical benefits pay for necessary medical care to treat your work-related injury or illness. Your employer's workers' compensation insurance company pays medical benefits directly to the health care provider who provides your medical care.

Medical benefits are paid only for the treatment of your work-related injury or illness. The insurance carrier does not pay for the treatment of other injuries or illnesses, even if the treatment was provided at the same time you received treatment for your work-related injury. Your health care provider may not bill you for treatment related to a work-related injury or illness, but may bill you for treatment of other injuries or illnesses.

When Medical Benefits Begin

You may receive necessary medical treatment immediately after the work-related injury or illness. If your employer has elected to contract with a certified workers' compensation health care network (network), you are required to obtain medical treatment through the network if you live within the network's service area. You must select a doctor from a list of network providers, which you can obtain from your employer or insurance carrier.

If you are not covered by a network, you have the right to an initial choice of doctor, with the exception of doctors previously removed or denied admission to the TDI-DWC former Approved Doctors List. A list of doctors restricted from providing workers' compensation health care can be found on the TDI website at <http://www.tdi.state.tx.us/wc/hcprovider/doctordata.html>. If you need assistance locating a doctor, you may contact the Office of Injured Employee Counsel (OIEC) at 1-866-EZE-OIEC (1-866-393-6432) or TDI-DWC at 1-800-252-7031.

After you have chosen a doctor, if you or your doctor move or the doctor becomes unavailable to provide medical treatment, you will be allowed to choose another doctor. If you are covered by a network, any request to change treating doctors must be processed through your employer's network. If you are not covered by a network, any request to change doctors must be approved by the local TDI-DWC office handling your claim. You will need to complete

the *Employee's Request to Change Treating Doctors* (DWC Form-53) and file it with the local TDI-DWC office. If your request to change treating doctors is approved, TDI-DWC will notify all parties that your medical treatment is going to be managed by a different doctor.

All medical treatment for a work-related injury or illness must be recommended by your treating doctor except in an emergency. If your work-related injury or illness poses a risk to your life and your doctor is unavailable to treat you, you may seek the help of another doctor. Your treating doctor may refer you for medical treatment to another doctor, without permission or approval from the TDI-DWC or the insurance carrier.

Although a doctor may not charge you for treatment of a work-related injury or illness, the doctor may send you a copy of your bill marked as "information only" upon your request.

The doctor cannot try to contact you for payment using any of the following methods:

- send you a bill when you did not request an information copy;
- have a collection agency send you a letter or contact you;
- file a lawsuit in court against you; or
- collect, charge or require you to pay a co-payment when filing a claim with private health insurance.

A doctor may only request payment from you when the work-related injury or illness has been reviewed through dispute resolution hearings before the TDI-DWC or the Courts and has been finally determined to be an injury or illness that is not work-related.

Return to Work

It is beneficial to all parties involved that you return to work as quickly as possible. Injured employees that continue to work as part of their recovery/treatment plan, in medically appropriate productive work, heal faster, and may retain their job skills.

Injured employees who remain off work longer than is medically necessary are more likely to:

- develop complications that will lengthen their recovery;
- become depressed;
- lose physical conditioning; and/or
- focus on their pain and injury.

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Many employers offer return-to-work opportunities. Return to work is set up by an employer to help injured employees go back to work more quickly and safely while they heal. This can be done by either making changes to their regular job or placing them in a temporary or alternate work assignment that fits the restrictions as determined by your treating doctor. You should contact your employer to check on the availability of return-to-work opportunities.

Income Benefits

[Tex. Labor Code §§408.081- 408.162, Tex. Admin. Code §131.4]

Income benefits replace a portion of wages you lose because of a work-related injury or illness. There are four types of income benefits:

- temporary income benefits (TIBs);
- impairment income benefits (IIBs);
- supplemental income benefits (SIBs); and
- lifetime income benefits (LIBs).

Income benefits may not exceed the maximum weekly amount set by state law. Temporary income benefits, impairment income benefits, and lifetime income benefits are also subject to a minimum amount set by state law. Maximum and minimum benefit amounts are based on the state average weekly wage.

You must report any income (other than income benefits you may be receiving) to the TDI-DWC and the insurance carrier so an adjustment can be made to your income benefit payments. You may be fined and/or charged with fraud if you receive temporary income benefits or supplemental income benefits while also receiving wages from an employer without informing the TDI-DWC and the insurance carrier.

Income benefits are no longer payable following the death of an injured employee receiving income benefits. The injured employee's beneficiaries may be eligible to apply and receive death benefits if the injured employee's death was due to the work-related injury or illness.

Calculation of Average Weekly Wage (AWW)

Your income benefits are determined based on the calculation of your average weekly wage (AWW). A full-time employee is one who regularly works at least 30 hours per week. To calculate your average weekly wage, (**Note:** calculation is different for school district employees), add

your earnings for the 13 weeks prior to the injury including any overtime or other special pay and any non-pecuniary wages the employer does not continue after your injury and divide by 13. If you did not work for your employer for 13 weeks before the work-related injury or illness occurred, your average weekly wage may be calculated using the earnings of an employee with the same or similar job.

AWW Calculation – Full time employee

13 weeks wage at \$824.23 =	\$10,714.99
Health Insurance Premium (discontinued \$82 per week x 13) =	<u>\$ 1,066.00</u>
Average weekly wage =	\$11,780.99 ÷ 13 = \$906.23

Death and Burial Benefits

[Tex. Labor Code §§408.181- 408.187, Tex. Admin. Code §§132.1-132.17]

Death benefits pay a portion of lost family income for dependent family members of employees who die because of a work-related injury or illness. Death benefits are also payable to employees' parents when there are no surviving eligible dependent family members.

Burial benefits pay for some of the deceased employee's funeral expenses to the person who paid the funeral expenses.

When Death Benefits Begin and End

A beneficiary becomes eligible for death benefits the day after the employee's death. Death benefits end depending on the beneficiary's qualifications.

Death benefits are paid if there is a:

- surviving spouse;
- dependent child;
- dependent grandchild; or
- other eligible dependent family member; or
- parents, when there are no surviving eligible dependent family members

of an employee killed on the job. Except for the spouse and minor children, other family members must have been at least 20 percent dependent on the deceased employee's income to receive death benefits as a dependent survivor.

Travel Reimbursement

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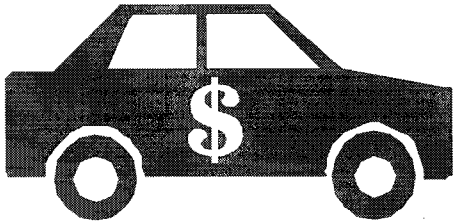
Request for Travel Reimbursement

[Tex. Admin. Code §134.110]

If you have to travel more than 30 miles one way from your residence or workplace in order to receive necessary medical care for your work-related injury or illness, or to attend a designated doctor examination or required medical examination, you may request reimbursement for your travel expense from your employer's workers' compensation insurance carrier. To request reimbursement, you must submit a *Request for Travel Reimbursement* (DWC Form-48) within one (1) year of the date you incur the travel expenses.

The insurance carrier will pay you, or notify you of the reasons for any reduction or denial of reimbursement in writing. If you disagree with the insurance carrier's

reduction or denial, you may contact the Texas Department of Insurance, Division of Workers' Compensation



(TDI-DWC) at 1-800-252-7031 to request a benefit review conference to resolve the dispute.

If your request for reimbursement is related to medical treatment for your work-related injury or illness, the insurance carrier may deny your request if you could have received the same medical treatment within 30 miles of your residence or workplace (place of departure).

Reimbursement is based on the travel rate for state employees on the date the travel occurred, using the shortest reasonable route, either from your home or workplace, depending on the place of departure. When your travel expenses reasonably include food and/or lodging, the insurance carrier shall reimburse for the actual expenses not to exceed the current rate for state employees.

To obtain the current state rate reimbursement amounts, go to: <http://www.window.state.tx.us> and click on "Mileage Guide" on the left side of the home page.

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What is a Designated Doctor?

[Tex. Labor Code §§ 401.011(15), 408.0041 and 408.151; 28 Tex. Admin. Code §126.7 and §180.21]

A designated doctor is a doctor selected by the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) to make a recommendation about your medical condition or to resolve a dispute about your work-related injury or occupational illness. You, your representative, the insurance carrier or the TDI-DWC can request an examination by a designated doctor.

What is a Required Medical Examination (RME)?

[Tex. Labor Code §§ 408.004, 408.0041 and 408.151; 28 Tex. Admin. Code §§126.5, 126.6 and 130.1]

A Required Medical Examination (RME) is a medical examination by a doctor selected by the insurance carrier to resolve questions about your claim. An RME before a designated doctor examination can address and resolve any issue about the appropriateness of health care you received for your work-related injury or occupational illness. After a designated doctor examination, an RME can address and resolve any issues about:

- the impairment caused by the compensable (work-related) injury or illness;
- the attainment of maximum medical improvement (MMI);
- the extent of the injured employee's compensable injury or illness;
- whether the injured employee's disability is a direct result of the work-related injury or illness;
- the ability of the employee to return to work (RTW); or
- other similar issues related to the dispute.

For more information on Travel Reimbursement see the following fact sheets:

- Designated Doctor
- Required Medical Examination

For further assistance, call

1-800-252-7031

or visit

www.tdi.state.tx.us



OFFICE OF INJURED EMPLOYEE COUNSEL

NORMAN DARWIN, PUBLIC COUNSEL

Notice of Injured Employee Rights and Responsibilities in the Texas Workers' Compensation System

As an injured employee in Texas, you have the right to free assistance from the Office of Injured Employee Counsel. This assistance is offered at local offices across the State. These local offices also provide other workers' compensation system services from the Texas Department of Insurance (TDI). TDI is the state agency that administers the system through the Division of Workers' Compensation.

You can contact the Office of Injured Employee Counsel by calling the toll-free telephone number 1-866-EZE-OIEC (1-866-393-6432). Also, more information is available on the Internet at: www.oiec.state.tx.us <<http://www.oiec.state.tx.us>>.

You can contact the Division of Workers' Compensation by calling the toll-free telephone number 1-800-252-7031. More information about the Division of Workers' Compensation is available on the Internet at: <<http://www.tdi.state.tx.us/wc/indexwc.html>>.

Your Rights in the Texas Workers' Compensation System:

1. You may have the right to receive benefits.

You may receive benefits regardless of who was at fault for your injury with certain exceptions, such as:

- You were intoxicated at the time of the injury;
- You injured yourself on purpose or while trying to injure someone else;
- You were injured by another person for personal reasons;
- You were injured by an act of God;
- Your injury occurred during horseplay; or
- Your injury occurred while voluntarily participating in an off-duty recreational, social, or athletic activity.

2. You have the right to receive medical care to treat your workplace injury or illness. There is no time limit to receive this medical care as long as it is medically necessary and related to the workplace injury.

3. Choosing a treating doctor:

- If you are in a Workers' Compensation Health Care Network (network), you must choose your doctor from the network's treating doctor list.
- If you are not in a network, you may choose any doctor who is willing to treat your workers' compensation injury.
- If you are employed by a political subdivision (e.g. city, county, school district), you must follow its rules for choosing a treating doctor.

It is important to follow all the rules in the workers' compensation system. If you do not follow these rules, you may be held responsible for payment of medical bills.

4. You have the right to hire an attorney at any time to help you with your claim.

5. You have the right to receive information and assistance from the Office of Injured Employee Counsel at no cost.

Staff is available to answer your questions and explain your rights and responsibilities by calling the toll-free telephone number 1-866-EZE-OIEC (1-866-393-6432) or visiting any Division of Workers' Compensation/Office of Injured Employee Counsel local field office.

6. You have the right to receive ombudsman assistance if you do not have an attorney and a dispute resolution proceeding about your claim has been scheduled.

An ombudsman is an employee of the Office of Injured Employee Counsel. Ombudsmen are trained in the field of

workers' compensation and provide free assistance to injured employees who are not represented by attorneys. At least one Ombudsman is located in each local field office to assist you at a benefit review conference (BRC), contested case hearing (CCH), and an appeal. However, Ombudsmen cannot sign documents for you, make decisions for you, or give legal advice.

7. You have the right for your claim information to be kept confidential.

In most cases, the contents of your claim file cannot be obtained by others. Some parties have a right to know what is in your claim file, such as your employer or your employer's insurance carrier. Also, an employer that is considering hiring you may get limited information about your claim from the Division of Workers' Compensation.

Your Responsibilities in the Texas Workers' Compensation System

1. You have the responsibility to tell your employer if you have been injured at work or in the scope of your employment.

You must tell your employer within 30 days of the date you were injured or first knew your injury or illness might be work-related.

2. You have the responsibility to know if you are in a Workers' Compensation Health Care Network (network).

If you do not know whether you are in a network, ask the employer you worked for at the time of your injury. If you are in a network, you have the responsibility to follow the network rules. Your employer must give you a copy of the TDI network rules. Read the rules carefully. If there is something you do not understand, ask your employer or call the Office of Injured Employee Counsel. If you would like to file a complaint about a network, call TDI's Customer Help Line at 1-800-252-3439 or file a complaint online at <http://www.tdi.state.tx.us/consumer/complfrm.html#wc>

3. If you worked for a political subdivision (e.g. city, county, school district) at the time of your injury, you have the responsibility to find out how to receive medical treatment. Your employer should be able to provide you with the information you will need in order to determine which health care provider can treat you for your workplace injury.

4. You have the responsibility to tell your doctor how you were injured and whether the injury is work-related.

5. You have the responsibility to send a completed claim form (DWC-41) to the Division of Workers' Compensation. You have one year to send the form after you were injured or first knew that your illness might be work related.

Send the completed DWC-41 form even if you already are receiving benefits. You may lose your right to benefits if you do not send the completed claim form to the Division of Workers' Compensation. Call 1-800-252-7031 or 1-866-393-6432 for a copy of the DWC-41 form.

6. You have the responsibility to provide your current address, telephone number, and employer information to the Division of Workers' Compensation and the insurance carrier.

7. You have the responsibility to tell the Division of Workers' Compensation and the insurance carrier any time there is a change in your employment status or wages. Examples include:

- You stop working because of your injury;
- You start working; or
- You are offered a job.