

Your Rights Under the Missouri Workers' Compensation Law

► What is the Workers' Compensation Law?

All states have workers' compensation laws. The Missouri Workers' Compensation Law is contained in Chapter 287 of the Revised Statutes of Missouri. The workers' compensation statute is the law that controls the rights and obligations of employees and employers when employees are injured at work.

► Who is Covered by Workers' Compensation

Any employer with five or more employees, and all employers in the construction industry, are required to provide protection for their employees under the Missouri Workers' Compensation Law. Most employers do this by purchasing a workers' compensation insurance policy from an insurance company authorized to do business in Missouri. Some employers satisfy their obligation by applying for and becoming qualified to self-insure their workers' compensation liability. If your employer has five or more employees, or if your employer is in the construction industry and has even one employee, it is required by Missouri law to either obtain insurance coverage or become authorized as a self-insured so you will be protected under the Missouri Workers' Compensation Law.

► I Was Injured at Work. What Should I Do?

If you have been injured at work, the first thing you should do is report your injury to your supervisor. Missouri law requires employees to provide prompt notice of any injury or accident to their employer.

► How Do I Get Medical Treatment for My Injury?

Under Missouri law, the employer (and not the insurance company) has the right to select the treating doctor in workers' compensation cases. If you need to see a doctor for treatment as the result of an injury on the job, you should tell

your employer you want to see a doctor. If your employer knows that you need treatment because of a compensable accident, your employer should tell you which doctor to see. If your employer does not refer you to any particular doctor, you should ask your employer which doctor your employer wants you to see. Since your employer has the right to select the treating doctor, your employer (and its insurance company) may not have to pay for your bills if you choose to go to your own doctor rather than to your employer's authorized treating doctor.

▶ **Will I Be Paid When I Am Off Work?**

If the treating doctor certifies that you are unable to work, you should be entitled to “temporary total disability benefits” under the Missouri Workers’ Compensation Law when you are off work. You will not be paid benefits for the first three regularly scheduled work days you are off, but you should be paid for each day missed thereafter, and also for the first three days if you are off more than two weeks. The amount of these benefits is two-thirds of your gross average weekly wage, subject to certain maximums which change each year. The law contains a formula for determining your average wage, which usually involves computing the average gross wages you earned over the 13 weeks prior to the accident.

▶ **Will I Be Paid Mileage For My Trips to the Doctor?**

Under Missouri law, you are entitled to be paid mileage for driving for medical treatment, but only if you are required to be treated “outside of the local or metropolitan area from the place of injury or the place of [your] residence,” subject to a 500-mile round trip limit.

▶ **Will I Get a Settlement?**

If you are able to return to work after your injury, you may be entitled to a settlement or payment for your “permanent partial disability” if you have permanent disability as a result of a covered accident or injury. The amount that you will receive for your permanent injury depends on the extent of your disability. Your disability may be evaluated by doctors or other experts. There are formulas in the workers’ compensation statute to determine the amount of permanent partial disability awards. The amount of the settlement will vary depending upon several factors, including the disability ratings from the doctors, your average weekly wage and the date of your accident. Doctors often disagree regarding the percentage of permanent partial disability in any given case. The amount of your permanent partial disability, if any, probably cannot be determined until you have completed your medical treatment.

▶ **Are Occupational Diseases Covered?**

Under Missouri law, occupational diseases (as well as accidents) are covered. Therefore, if you develop a disease or illness which is directly caused by your employment, you may file a claim for benefits under the law.

▶ **Will I Be Paid Anything for Scarring or Disfigurement?**

In Missouri you can be paid for scarring or other disfigurement, but only if the disfigurement is to your head, neck, arms or hands. The disfigurement payment is determined by the administrative law judge or legal advisor at the Division of Workers' Compensation and is in addition to all other benefits due. There are limits in the law regarding the amount you can receive for disfigurement.

▶ **What If I Am Unable to Return to Work Because of My Injury?**

If you are permanently and totally disabled from all types of employment, you may qualify for "permanent total disability benefits" under the Missouri Workers' Compensation Law. However, in order to qualify for these benefits, you must be unable to work in any line of work in the labor market because of your compensable injury or occupational disease. The weekly rate for these benefits is the same as the temporary total rate. If you are totally disabled, you may also qualify for Social Security disability benefits. You should contact the Social Security office to apply for those benefits. In some cases, but not all, Social Security disability benefits are reduced because of the receipt of workers' compensation benefits.

▶ **What is the Second Injury Fund?**

In Missouri, if you had a physical or mental disability before you were hurt at work, you might qualify for additional benefits from the Missouri Second Injury Fund. The purpose of the Second Injury Fund is to encourage employers to hire and retain employees who have disabilities. In some cases, the Second Injury Fund's liability can be substantial. For example, in permanent total disability cases the Second Injury Fund can be held responsible for an employee's lifetime weekly benefits when the permanent total disability results from a combination of the employee's preexisting conditions and those caused by the current injury. Also, in death cases, when the employer failed to obtain workers' compensation

insurance, the Second Injury Fund can be held responsible for death benefits to the employee's dependents. Claims against the Second Injury Fund must comply with special time limits in the law.

► **What Is “Vocational Rehabilitation”?**

Vocational rehabilitation services are designed to help injured people return to work. The Missouri Workers' Compensation Law does not require the employer or its insurance carrier to provide vocational rehabilitation assistance to injured workers. The Missouri law does provide for voluntary vocational rehabilitation, which may be furnished by an employer or insurance carrier at their option. Also, you may qualify for assistance from the Missouri State Division of Vocational Rehabilitation if, because of your injury, you are unable to return to your former work and you need help finding another line of work. The Division of Vocational Rehabilitation is separate from the Division of Workers' Compensation. Contact the Missouri Division of Vocational Rehabilitation if you need retraining or other help finding suitable work because of an injury or other problem.

► **When Should I File a Claim?**

The Missouri Workers' Compensation Law contains time limits for the filing of claims. Generally, a claim under the Missouri Workers' Compensation Law must be filed with the Division of Workers' Compensation within two years of the last to occur of the following: the date of the accident; the last payment of workers' compensation benefits; or the last medical treatment provided; **or**, within three years of the last of those dates if the employer failed to file the Report of Injury with the Division of Workers' Compensation within the time allowed by law. Remember that simply notifying your employer or its insurance carrier about your injury does not constitute filing a claim. A claim is “filed” by filing the claim form with the Division of Workers' Compensation, not with your employer or its insurance company. A claim against the Second Injury Fund must be filed within two years of the date of the accident or within one year after the claim is filed against the employer, whichever is later.

► **What If My Employer Failed to Obtain Insurance?**

If your employer was required to obtain workers' compensation insurance and failed to either obtain insurance or become authorized to self-insure its liability under the law, and if you have sustained an injury arising out of and in the course of your employment with that employer, you have the right to either sue your employer in civil court for damages (if you can prove your employer was negligent in

causing your injury) or file a workers' compensation claim against your employer with the Missouri Division of Workers' Compensation. Also, when employers fail to obtain insurance coverage or become authorized to self-insure when required, state law allows the Missouri Second Injury Fund to pay for an employee's medical bills if the insured employer fails to do so.

▶ Which State's Laws Apply to My Case?

The state in which your accident occurred will have jurisdiction in your case. Also, the state in which your contract or hire with your employer was entered into may also have jurisdiction. Finally, the state in which your employment was principally located could also have jurisdiction. In some cases, there is jurisdiction in more than one state. In those cases, you have a right to pursue your claim in any state having jurisdiction. Your rights and the benefits payable will vary from state to state.

▶ Do I Need a Lawyer for My Workers' Compensation Case?

Not everyone who suffers an injury or illness at work needs a lawyer. However, a lawyer can answer your questions and represent your interests in your workers' compensation case. If necessary, your lawyer can take your case to trial before an administrative law judge.

▶ What If I Have Further Questions?

If you have further questions, contact the Missouri Division of Workers' Compensation or contact a lawyer to discuss your rights under the workers' compensation law. If you need help finding a lawyer, call the appropriate lawyer referral service listed below.

In St. Louis, call: 314/621-6681
In Springfield, call: 417/831-2783

Elsewhere in the state, call The Missouri Bar
Lawyer Referral Service at 573/636-3635