

Overview of the Workers' Compensation Claim Process

This information is provided as a courtesy; it does not represent legal advice. If you are unsure about how to apply this information, you should use your own judgment or that of your attorney.

- A. The Claim
- B. Resolving Disputes
- C. Claim Closure

This is a summary description of the Workers' Compensation claim process. If you choose to represent yourself, you should review and understand how the Workers' Compensation Act and Workers' Compensation Rules of Procedure may affect your claim, and be prepared to timely take all the actions required. If you choose to represent yourself in a hearing, you should review *So You Are Thinking of Representing Yourself in Your Workers' Compensation Case*, as well as the OAC Rules and the Colorado Rules of Evidence. The staff of the OAC and the ALJ hearing the case must remain neutral, and cannot give you legal advice during the hearing process or at the hearing. You have the right to be represented by an attorney or other person of your choosing. If you wish to be represented by an attorney, the Colorado Bar Association has a list of attorneys who practice Workers' Compensation law.

A. THE CLAIM:

Worker's Compensation provides benefits for accidental injuries and occupational diseases. An accidental injury is one that is traceable to a particular time, place and cause. In contrast, an occupational disease results from the conditions under which the work was performed and can be seen to have followed as a natural incident of the work and as a result of the exposure occasioned by the nature of the employment. Section 8-40-201(14), C.R.S.

An injured worker is referred to as the "claimant". The "employer" is the individual, firm, or corporation that the injured worker was employed by. The "insurer" is the worker's compensation insurer for the employer. "Respondent" refers to both the employer and insurer. A worker injured in an accident must give written notice to his or her employer within four days. A worker suffering an occupational disease must give written notice to his or her employer within thirty days after the first distinct manifestation of the occupational disease. Failure to give written notice in a timely manner may subject the claimant to a penalty. Section 8-43-102, C.R.S. Upon notice of the injury (written or not), the employer must refer the claimant to an authorized medical care provider. Section 8-43-404, C.R.S. The employer must keep a record of all injuries and occupational diseases, and must report them to its insurer. The insurer must then file a First Report of Injury. An employer which is self insured, or is not insured, must complete all the filings that would usually be done by the insurer. If notice is not filed by

the employer or insurer, the claimant must file a claim for with the Division of Workers' Compensation. A "WC" claim number is assigned with the filing of either the First Report of Injury or Worker's Claim . The number is in the form 1-234-567. The insurer must notify the claimant in writing within twenty days whether liability is admitted or contested. Section 8-43-203, C.R.S. If liability is contested, the insurer will file a Notice of Contest. If liability is admitted, the insurer will file a General Admission of Liability (GAL). If liability is admitted, or if insurer is determined to be liable (see Resolving Disputes below), the insurer must pay claimant the benefits that are due. Benefits payable to a claimant include medical benefits, temporary total disability benefits, Temporary partial disability benefits, disfigurement , permanent partial disability benefits, and permanent total disability benefits. In the case of a death, the surviving dependents may receive burial expenses and death benefits. Benefits may be reduced or ended if the claimant was responsible for termination of his or her employment, violated a safety rule or was intoxicated at the time of the accident , or does not appear for a medical appointment. This is not a complete listing of the benefits that may be available, or the reasons that any benefits may be reduced or ended. A claimant or a non-insured employer should read the Colorado Workers' Compensation Act for a more complete understanding of their rights and liabilities.

B. RESOLVING DISPUTES:

If a dispute arises, either the claimant or the insurer may seek resolution of the dispute. A party may seek a formal resolution of the dispute by the OAC. Or a party may seek an informal resolution of the dispute from either the Prehearing Unit of the Division of Workers' Compensation or the OAC. If you wish to seek an informal resolution of your dispute, contact the Prehearing Unit or the OAC to schedule a pre-hearing conference, settlement conference, or mediation. The OAC provides fair and impartial hearings to resolve worker's compensation disputes between claimants and respondents. Hearings are conducted by Administrative Law Judges (ALJ) . They are employees of the State of Colorado and are licensed to practice law in Colorado. The formal hearing process begins with an Application for Hearing. A claimant or a respondent may file an Application for Expedited Hearing under certain situations. An Expedited Hearing can be granted if the request is filed within 45 days of a Notice of Contest, if pre-authorization of medical treatment has been requested and denied, or if Respondents have filed a Petition to Suspend Compensation and claimant has objected. An Expedited Hearing can also be obtained if there is a dispute concerning the one-time change of physician. If you do not meet the requirements for an Expedited Hearing, do not file an Application for Expedited Hearing, as it will only result in further delay in hearing your claim. If the Application for Hearing is accepted, the hearing will be set by the Court Clerk. The hearing will be set at between 30 and 40 days from the date of the setting. The Clerk will decide the date, time, and location of the hearing, and will send written Notice of Hearing. Most hearings are obtained by filing an Application for

Hearing and Notice to Set. The Application will be rejected unless all parts that must be completed are completed. Please follow the instructions carefully. You must always remember to provide the opposing attorney or unrepresented party a copy of any document filed with the OAC, including Applications, Response to Application, Motions, and Responses to Motions. You must complete the Certificate of Service or Certificate of Mailing to show that you have provided a copy to the other side. Once an Application for Hearing is filed, the opposing parties have 10 days to file a Response to Application for Hearing if the hearing is expedited, or on the date of the setting in response to an Application for Hearing and Notice to Set. For further information on the hearing process, see the So You Want to Represent Yourself in a Workers Compensation Hearing.

C. CLAIM CLOSURE:

A Workers' Compensation claim may be closed in one of two ways. If the respondents have filed a Final Admission of Liability, the claim will be closed unless the claimant objects to the Final Admission of Liability and requests a Division Independent Medical Examination (DIME). The Final Admission of Liability form instructs the claimant on this process and the time limit to take action. A claim may also be closed by an order of an ALJ which awards or denies permanent disability benefits, unless the order is appealed. The order of the ALJ will contain instructions on how to appeal the ALJ's decision to the Industrial Claim Appeals Office. Further information is also available on appeals and transcripts. A claim that has been closed may be reopened if claimant has a change of condition, or for error or mistake. A Petition to Reopen must be filed. The Petition to Reopen must be filed within 6 years of the date of injury or two years from the last date benefits were paid.