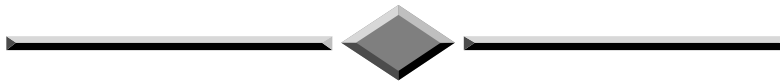
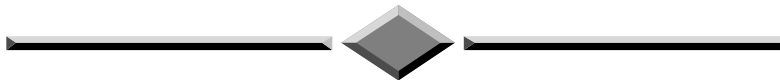


# **INDUSTRIAL COMMISSION OF ARIZONA**



## **WORKERS' COMPENSATION INFORMATION FOR THE INJURED WORKER**



Phoenix Office:

Industrial Commission of Arizona  
800 W. Washington Street  
Phoenix, Arizona 85007-2922  
Claims Phone: 602-542-4661  
Claims Fax: 602-542-3373

Tucson Office:

Industrial Commission of Arizona  
2675 E. Broadway  
Tucson, Arizona 85716-5342  
Claims Phone: 520-628-5188  
Fax: 520-628-5182

[www.ica.state.az.us](http://www.ica.state.az.us)

## **INTRODUCTION**

Workers' Compensation is a "no-fault" system in which you receive medical and compensation benefits no matter who caused the job-related accident. Lawsuits against the employer, except under very limited circumstances, are not permitted.

If the injury or illness is job related, you receive medical benefits and, if eligible, temporary compensation. In some cases, you may also receive permanent compensation and "job retraining".

The Industrial Commission of Arizona and the insurance carrier are not identical. The Industrial Commission is a state agency that is responsible for deciding disputes and monitoring the activities of the State Compensation Fund, private carriers and self-insured employers, referred to in this pamphlet, as insurance companies.

One final item – as you read this pamphlet, please pay special attention to your rights and responsibilities. Failure to meet those responsibilities can mean the loss of your rights and benefits under Arizona's Workers' Compensation Law.

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**THE INDUSTRIAL COMMISSION COMPLIES WITH THE AMERICANS WITH DISABILITIES ACT OF 1990. IF YOU NEED THE ENCLOSED DOCUMENT IN ALTERNATIVE FORMAT, CONTACT SPECIAL SERVICES AT (602) 542-5991.**

## **INJURY**

An injury is covered under Workers' Compensation if it is job related. It is the your responsibility to make sure the injury is reported to your supervisor/employer as soon as possible. The prompt reporting of the accident to your supervisor/employer will accelerate the processing of your claim and avoid unnecessary delays or denial of possible benefits.

## **FILING A CLAIM**

When you were treated for your injury at either your doctor's office or an emergency room and you told them you were injured on the job, you should have been given a "pink form" to complete and sign. The "pink form" is a combination form entitled "Worker's and Physician's Report of Injury." By signing that form, you were applying for Workers' Compensation benefits.

The hospital or doctor sends the original of the form to the Industrial Commission (ICA), a copy to your employer and a copy to the insurance company that wrote the policy for your employer. If you did not complete this pink form at the doctor's office or at the hospital, another form, entitled "Worker's Report of Injury," can be completed and filed with the Industrial Commission. This form will be sent to you by the ICA upon request.

Your claim is officially filed when one of these forms is received by the Industrial Commission. Without a claim signed by you or your legally authorized representative and received by the Industrial Commission, the insurance carrier is not legally required to take any action on your injury or to make any payments. You will know that the claim form has been received because the Industrial Commission will notify you by letter. If you are not notified of the receipt of your claim within a reasonable period of time, (two weeks), please contact the Industrial Commission and a claim form will be sent to you to complete and return.

Remember, that your claim must be filed within one year of the date of injury and that you are responsible for making sure that the claim is filed.

When your claim is received by the Industrial Commission, the insurance company is officially notified by the ICA that you have filed a claim. The insurance company must then either accept or deny your claim within 21 days from the date of the notification. If your claim is denied, you will receive a "Notice of Claim Status" from the insurance company. If you disagree with the insurance company's denial, this notice will have a 90 day protest period within which you must file your request for hearing with the Industrial Commission by means of a letter or on a form available from the ICA upon request. This request for a hearing must be signed by you or your legal representative.

If you file a request for hearing, you will receive a Notice from the Industrial Commission which will tell you when a hearing before an Administrative Law Judge will be set. If you do not file a request for hearing during the 90 day protest period, the decision of the insurance company becomes final.

Remember, it is your responsibility to understand all notices and documents which allow for hearing requests in the event of disagreements, and it is also your responsibility to make your current address known to the Industrial Commission and the insurance company.

## **TYPES OF CLAIMS**

There are two types of Workers' Compensation claims – (1) those called medical only claims, which means that only medical expenses are paid; and, (2) those called time loss claims, which means medical expenses and temporary compensation benefits for lost wages are paid. A detailed explanation of both types of claims follows:

### **Medical Only Claims**

Medical only claims are those types of claims for which the insurance company will pay all of the medical expenses associated with your injury, but will not pay compensation benefits for lost wages because you did not lose more than 7 days time from work. Examples of medical expenses that are paid are emergency room charges, doctor's fees, prescriptions, crutches, braces and splints. If you have personally paid for medical expenses related to your injury, send your receipts to the insurance company for reimbursement.

On medical only claims, the insurance company does not have to let you know that they are accepting the claim and you can assume all medical bills will be paid. Even though you do not lose time from work, you will continue to have your medical bills paid until the doctor states you have recovered and do not need further treatment. If you stop treatment because you believe you have recovered, the carrier may close your claim without the doctor's discharge.

Once your claim is accepted, you are not responsible for the payment of any medical expenses for treatment related to your injury. If you receive a bill and are being asked to pay it, call your insurance company to find out why they have not paid it.

While you are under active medical care, it is important for you to remember that the insurance company has the right to have you periodically examined, at a reasonably convenient time and place, by a doctor of its choosing. Failure to attend the examination could result in suspension of your benefits, and you could be required to pay for the cost of the missed examination. The insurance company may accept the opinion of its consulting doctor and base a change in your claim status, or the closure of your claim, on that doctor's opinion.

### **Time Lost Claims**

If a doctor states you are unable to work because of your injury and you are off work more than 7 days, you are entitled to compensation for your lost wages. The days off do not have to be consecutive (in a row) but are cumulative (total). Entitlement to compensation is based on calendar days (not work days) and includes Saturdays, Sundays and holidays.

The first 7 days off are not paid for lost wages unless your disability extends to 14 days. For example: If you are off 10 days, you get paid for days 8, 9 and 10 only. If you are off 14 full days, compensation is retroactive (goes back) to the date of injury and you are paid for 14 days. Compensation is not generally paid for the date of injury because you were working that day.

Compensation is paid at 66-2/3% of your average monthly wage. The average monthly wage is usually calculated on your earnings during the 30 days before your injury, although there are other methods for calculating the average monthly wage. The law establishes a maximum wage figure, which can be used to calculate the average monthly wage. As of January 01, 2011, the maximum

monthly wage is \$3,920.75. Even though you earned more than \$3,920.75 per month, the most a person can receive is 66-2/3% of \$3,920.75. The wage is set as of the date of injury. The law does not allow for cost of living increases.

If you are losing time from work, the law requires that the insurance company inform you that your claim is being accepted by sending to you a Notice of Claim Status form with your first temporary compensation check. The Notice will tell you the wage as calculated by the insurance company. A second form, Wage Calculation Sheet, should be attached to the Notice. This form will explain how the insurance company arrived at the figures. The same information is also sent to the Industrial Commission for review.

The ICA reviews the insurance company's calculations and issues the Notice of Average Monthly Wage, which officially sets the wage. If the wage is not calculated correctly, the ICA can disapprove the wage and establish the correct wage. Because the ICA's review covers only the reasonableness of the data and the accuracy of the calculations, it will send you a letter seeking your assistance in verifying the accuracy of the figures used in the calculations. If there is a question regarding the accuracy of the data used in calculating the average monthly wage, you are asked to contact the Wage Section of the Industrial Commission's Claim Division.

Remember, you only have 90 days from the issuance date of this Notice to protest the accuracy of the Average Monthly Wage. After that period, the Notice becomes final and can only be appealed under very restricted circumstances. Again, to avoid any delay or loss of benefits, make sure that the insurance company and the Industrial Commission have your current address.

### **TEMPORARY COMPENSATION**

Temporary compensation benefits must be paid every two weeks while the doctor has you on a no-work status. It is during this time that your doctor is actively treating you in the hopes of improving your medical condition so that you can eventually go back to work. There is no time limit on how long you can receive compensation; it is based on when a doctor believes you can be released to work.

While under active medical care, a doctor may release you to return to work, light duty or your regular job. If that happens, the status of your claim changes. Your insurance company will officially tell you of the change in your work status by issuing another Notice of Claim Status form informing you of the date you are released to return to work. You must make a sincere and conscientious effort to find work. You must report those efforts to the insurance company on a form provided by it. Once released to work, continuance of temporary compensation benefits is not automatic or guaranteed.

The insurance company will review each case to determine if temporary benefits will continue. If it is determined that you have a loss of wages because of your injury, the insurance company will pay 66-2/3% of the difference between the wages you are now able to earn and the average monthly wage. This compensation is paid once a month instead of every two weeks.

While you are under active medical care, it is important for you to remember that the insurance company has the right to have you periodically examined, at a reasonably convenient time and place, by a doctor of its choosing. Failure to attend the examination could result in suspension of your benefits, and you could be required to pay for the cost of the missed examination. The

insurance company may accept the opinion of its consulting doctor and base a change in your claim status, or the closure of your claim, on that doctor's opinion.

Again, if there is a change in the status of your claim, you will receive a "Notice of Claim Status" from the insurance company identifying that change.

When you have recovered from your injury, the doctor will report this to the insurance company, and your claim will be closed to temporary compensation benefits as of the date your doctor discharges you from treatment. The insurance company will issue a new Notice of Claim Status telling you your claim is closed and the date of closure.

Remember, it is your responsibility to understand all notices. If you disagree, you must file your request for hearing with the ICA within 90 days from the date of the "Notice of Claim Status" or the Notice becomes final.

## **PERMANENT COMPENSATION**

If, after active medical treatment, the doctor determines that your medical condition is stationary, which means that nothing further can be medically done to improve your condition and your medical condition will not deteriorate, and that you have a permanent injury (impairment), the doctor will notify your insurance company at the time you are discharged from treatment.

The percentage of impairment is usually rated by the doctor in accordance with standards as published by the American Medical Association in Guides to the Evaluation of Permanent Impairment. Compensation for permanent injuries is generally paid once per month.

## **TYPES OF PERMANENT INJURIES**

There are two types of permanent injuries: Scheduled and Unscheduled. The following is an explanation of both types:

### **Scheduled Injuries**

If the permanent injury is to a certain part of the body, such as eye, hand, arm, foot or leg, the part of the body and the period allowed for compensation is set out in a schedule in the Workers' Compensation Law. The insurance company will issue a form entitled Notice of Permanent Disability, which states the amount the insurance company will pay each month and the number of months it will be paying that amount. The method of calculating the monthly compensation is based upon law and court decisions interpreting that law.

Compensation is calculated in three different ways for scheduled injuries: For partial loss, you will receive 50% of the average monthly wage; for a loss that is the result of an amputation, you will receive 55% of the average monthly wage; and if the permanent injury prevents you from returning to your regular work, you will receive 75% of the average monthly wage.

## **Unscheduled Injuries**

If your permanent injury does not fall into the categories listed in the schedule (scheduled injuries), it is classified as an unscheduled general disability. Examples of these types of injuries include occupational diseases and injuries to the hip, shoulder, or back. With this type of injury, the Industrial Commission determines how much compensation, if any, you will receive. This decision is based on the effect the injury has on your ability to return to work and the wages you are able to earn compared to your average monthly wage on the date of your injury. Many factors are taken into consideration, such as age, education, previous occupations, physical limitations, and wages earned after the injury. You will receive a questionnaire from the Industrial Commission requesting this information.

The Industrial Commission will calculate your unscheduled permanent partial compensation at 55% of the difference between your average monthly wage and the amount they estimate you will be able to earn (reduced earning capacity) given your injury. The Claims Division of the Industrial Commission will send you a form entitled "Findings and Award for Unscheduled Permanent Partial Disability," explaining the amount of money you will be receiving each month. The money is paid by the insurance company and is retroactive (goes back) to the date of discharge by the doctor(s).

If you, the employer, or the insurance company disagrees with this award, a request for hearing must be filed within 90 days from the issuance date of this award.

Keep in mind that from the time you are discharged from treatment to the time the Industrial Commission issues its "Findings and Award for Unscheduled Permanent Partial Disability," the insurance company is not required to continue compensation. They may voluntarily continue to pay. If the amount, however, is larger than what is found in the award issued by the ICA, it will take a credit against future payments. Once the award is issued by the ICA, the insurance company is required to pay the amount on the award, even if it disagrees, until the amount of permanent compensation is finalized through the hearing process. Once the amount of permanent compensation has been finalized, that amount will be paid monthly by the insurance company.

Each year, on the anniversary date of the award, the insurance company will send you a form entitled "Annual Report of Income." You must report on that form how much you earned as wages during the past 12 months. The form must be sent to the insurance company, not the Industrial Commission. If you fail to return the form, your permanent compensation payments may be suspended until you file the form. Remember, your permanent compensation benefits can only be stopped by:

- (1) Your death
- (2) Failure to file an "Annual Report of Income"
- (3) Rearrangement of your benefits by the ICA following a petition by the employer or the insurance company, of which you will be notified.

## OTHER IMPORTANT ISSUES

Within the workers' compensation system, there are frequently used terms, issues and processes that arise which are important to understand.

### I. SELF-INSURED EMPLOYERS

#### (A) What is a self-insured employer?

The Industrial Commission grants the authority to certain large employers, who meet very specific criteria, to act as their own insurance company for workers' compensation purposes. There are approximately 90 employers in the state who have been given this authority.

#### (B) How do I know if my employer is self-insured?

Most self-insured employers make a definite effort to inform their employees of their self-insured status. The employer, at the time you tell your employer of your injury, is required to tell you the name of the insurance company. If, after talking with your employer, you are still not sure whether it is self-insured, contact the Claims Division of the Industrial Commission.

### II. ISSUES SURROUNDING DOCTORS

#### (A) Do I have the right to select my own doctor?

You have the right to select the doctor of your choice, unless your employer is self-insured.

#### (B) What happens if my employer (not self-insured) wants me to see its doctor?

It is okay to see your employer's doctor. Keep in mind, however, that if you voluntarily visit a doctor more than once, it is interpreted that you have officially chosen your doctor.

#### (C) If I am not satisfied with my doctor, can I change to another?

Once you have chosen your doctor, you may not change your doctor without the approval of your current doctor, the insurance company or the Industrial Commission. If you want to change and your current doctor will not authorize the change, call your insurance company for its approval. If the insurance company will not agree to change, you may apply in writing to the Industrial Commission for approval. The Commission will review your case, contact the insurance company and/or the doctor, and issue an order either granting or denying the change.



### III. REQUESTS TO LEAVE THE STATE

- (A) Are there restrictions to leaving the state while under the workers' compensation system?

Yes, you may not leave the state for more than 2 weeks while under active medical treatment without approval. If you are planning to be outside the state for more than 2 weeks, you must have written approval from the Industrial Commission before you leave the state. Requests to leave the state should be sent to the Claims Division of the Industrial Commission.

- (B) What problems can I expect if I leave the state, for more than 2 weeks, without prior approval?

If you fail to get approval, prior to leaving the state, the insurance company may suspend your benefits.

### IV. ISSUES SURROUNDING NON-INSURED EMPLOYERS

- (A) What happens to me if my employer does not have workers' compensation insurance coverage?

If your employer had no workers' compensation insurance on the date of your injury, you may either file a civil action (lawsuit) against your employer in Superior Court, or file a claim for workers' compensation benefits with the Industrial Commission. The Industrial Commission has a trust fund called the "Special Fund," which was set up to pay the medical and/or compensation benefits to workers injured during the course of employment with non-insured employers. The Industrial Commission's Special Fund Division will process your claim and conduct an investigation to determine if you were an employee or an independent contractor and whether the injury arose during the course and scope of your employment.

Once that investigation is concluded (processing time is generally less than 30 days from filing), a Notice of Determination is sent to you and the employer informing you of the acceptance or denial of your claim.

Because of the unique legal requirements involving no-insurance claims, we ask that you contact representatives of the Special Fund and they will provide a detailed explanation of the processing of no-insurance claims.

- (B) Are my benefits, under a no-insurance claim, different than an injured worker covered by an insurance policy?

No, your benefits are identical. The processing of claims is different, primarily because of constitutional and legal requirements.

- (C) What happens to my employer because it did not have workers' compensation coverage?

If your employer is found to have employees and did not have workers' compensation coverage, then the employer is in violation of state laws. Consequently, the ICA will be taking separate legal action against your employer.

## V. ATTORNEY REPRESENTATION

- (A) Do I have to have an attorney, or can I represent myself?

You can represent yourself. Keep in mind, however, that The Workers' Compensation Law is very complex and the insurance company or self-insured employer will be represented by attorneys specializing in Workers' Compensation Law at the hearing. If you choose to represent yourself, you will have to follow the rules or procedure for hearings before the ICA. A copy of the rules can be obtained from the ICA's Administrative Law Judge Division.

- (B) How can I afford an attorney?

Attorneys representing you are paid on a contingency basis. This means that they will receive an agreed upon percentage, usually 25%, of your monthly benefits if they are successful. If they are not successful, then they do not receive a fee.

- (C) Is there a certain type of attorney that I should hire?

Yes, it is recommended that you consult with an attorney who is a specialist in Workers' Compensation. You can contact the Arizona State Bar Association for a list of qualified attorneys.

## VI. HEARING PROCESS

- (A) What is the procedure when I request a hearing?

When you formally disagree with a document that contains a protest period (notices, awards, orders, etc.), you do so by requesting a hearing. Your request for hearing is referred to the Industrial Commission's Administrative Law Division.

When the claim is assigned to an Administrative Law Judge, you will receive a notice informing you of the time and place of the hearing. You must appear at the hearing unless you are excused by the Judge.

After the hearing is held, the Judge will issue an award informing all parties of the decision reached. The award becomes final and not appealable unless a request for

review is filed at the Industrial Commission by one of the parties within 30 days of the award date.

The Judge will issue a decision based upon the review and again, the parties have 30 days from the date of that decision to appeal to the Arizona Court of Appeals.

(B) Who are the judges conducting these hearings?

The Judges are employees of the Industrial Commission who are attorneys licensed in this state to practice law.

VII. OMBUDSMAN'S OFFICE

(A) What is an ombudsman?

An ombudsman, as used by the Industrial Commission, is a person who provides assistance in explaining the workers' compensation system, attempts to resolve problems between you and the insurance company/self-insured employer, answers questions and provides assistance in directing you to social services available in the community.

(B) Will the ombudsman be able to answer my legal questions?

No, the personnel within the Ombudsman's Office cannot provide legal advice.

(C) How can I contact the Ombudsman's Office?

The Ombudsman's Office is located in the Industrial Commission building at 800 W. Washington Street, Phoenix. You may contact the office by calling (602) 542-4538, or for those outside metropolitan Phoenix, the toll-free in-state number is 1 (800) 544-6488.

VIII. REHABILITATION OR JOB RETRAINING

(A) Who is eligible for job retraining?

If you are permanently injured (verified by a doctor) and cannot return to your regular work because of the injury, you may be eligible for job retaining.

(B) Is rehabilitation or retraining mandatory?

No, you do not have to participate in retraining programs and may decline without affecting your workers' compensation benefits. The insurance company may elect not to offer financial support for a vocational rehabilitation or retraining program. If the insurance company rejects your request for retraining, you can contact the Industrial Commission's Special Fund Division for possible assistance.

For additional questions, the following Industrial Commission office locations and telephone numbers are provided:

## **INDUSTRIAL COMMISSION**

Phoenix Office  
800 West Washington Street  
Phoenix, AZ 85007

Tucson Office  
2675 E. Broadway  
Tucson, AZ 85716

Phoenix Claims Division – 602 542-4661

Tucson Claims Division – 520 628-5188

Phoenix Special Fund Division – 602 542-3294

Phoenix Ombudsman Office – 602 542-4538

Phoenix Administration Law Judge Division – 602 542-5241

Tucson Administrative Law Judge Division – 520 628-5188

ICA Website – [www.ica.state.az.us](http://www.ica.state.az.us)