



EMPLOYERS

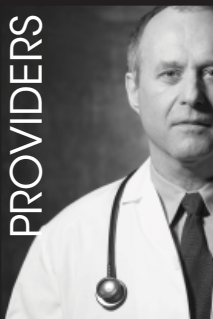


Workers' Compensation and You:



SAFETY

WORKERS



PROVIDERS



A Guide For Injured Workers



North Dakota
**Workforce Safety
& Insurance**

Putting Safety to Work

www.WorkforceSafety.com

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Note: When visiting our office to discuss a claim-related issue, please stop by between the hours of 8:15 - 11:45 a.m. and 1:15 - 4:45 p.m., Central Time. Our customer service representatives are available to take your call from 7:30 a.m. - 5:00 p.m., and our regular office hours are 8:00 a.m. - 5:00 p.m., Central Time, Monday through Friday, excluding holidays.

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Using This Guide

We hope this guide is helpful to you. Please carefully read and retain this guide for future reference. Every effort has been made to ensure the accuracy of the information in this guide; however, changes in statutes and policies occur periodically and may render this information inaccurate. This quick-reference guide is not an exhaustive interpretation of the North Dakota Workers' Compensation Law. If there are conflicts between the information in this guide and the laws governing Workforce Safety & Insurance (WSI), the laws of WSI will prevail. If you have questions, please contact a WSI customer service representative at (701) 328-3800 or 1-800-777-5033. If you are hearing impaired, please call 1-800-366-6888.

This publication is updated and reprinted periodically. To make sure you have the current edition, please visit our web site at www.WorkforceSafety.com (Library section) or call our office.

NOTE: The information in this guide applies to injuries that occurred on or after **January 1, 2006**, when laws enacted by the 59th Legislative Assembly went into effect.

Dear Worker:

Most people never have contact with Workforce Safety & Insurance (WSI) until they are injured at work. When an injury occurs, there are always important questions about workers' compensation coverage. We created this quick-reference guide to assist you with the workers' compensation process.

WSI provides no-fault insurance coverage for nearly 300,000 employees across our state. Despite safety efforts and training, nearly 20,000 of those employees are injured on the job each year. We are dedicated to helping injured workers and their families by paying medical, disability (wage replacement), impairment, vocational rehabilitation (if medically and vocationally necessary), and death benefits as the nature of the injury requires and as provided through State law.

Please remember that you are not alone as you deal with a workplace injury. During your recovery, you will work closely with members of our staff and experienced medical professionals, all of whom are committed to helping you return to work safely and quickly.

We look forward to assisting you in your recovery.

The Staff of Workforce Safety & Insurance

Injured Worker Checklist

Below is a checklist of important steps to take **after sustaining a work-related injury**:

1. ____ Report your injury to your employer immediately.
2. ____ Seek first aid or medical attention, if necessary.
3. ____ If you seek medical attention, file a claim using one of the three following methods: 1) **Online** - visit our web site at <https://www.workforcesafety.com/online-services/onlineservices.asp>; 2) **By hand** - obtain a First Report of Injury (FROI) form from your employer or WSI, being sure to answer all questions fully and honestly. Sign and date the form and return it to WSI as soon as possible; or 3) **Telephonically** - call 1-800-777-5033, 8 a.m. - 5 p.m. on business days. Whichever claim filing method you use, complete the claim form with your employer, if possible, or follow-up to make sure they complete a FROI form..
4. ____ Ask your doctor if you can return to work, even if you have some restrictions on your work duties. Follow all restrictions, both on and off the job.
5. ____ Keep in touch with your WSI claims adjuster and your employer and provide them with periodic updates on your condition. At the completion of subsequent medical appointment, your doctor will complete a "Doctor's Report of Injury" form (C3) - (also called a capability assessment). After each medical appointment, provide your employer with a copy of the C3 form.
6. ____ Keep original, itemized, dated receipts for mileage, meals, and other items you buy that are necessary for your medical care. Complete a "Request for Personal Reimbursement" form (C40a), attach your receipts, and submit them to WSI.
7. ____ Notify WSI immediately: 1) when you perform any type of work activity, whether you receive pay for it or not; 2) if you change your address or telephone number; or 3) if you apply for either Social Security disability or retirement benefits or are found to be eligible for these benefits.

When You are Injured on the Job

Workforce Safety & Insurance (WSI) wants to help prevent all workplace injuries and keep you safely on the job. That is why WSI safety specialists work with employers and employees to eliminate workplace hazards. Despite safety efforts, WSI receives approximately 20,000 reports of work-related injuries each year.

If you are injured on the job, please take the following steps to help yourself and your co-workers:

1. Report your injury to your employer immediately.

We encourage you to report your injury to your employer immediately, even if you do not feel it is necessary to see a doctor. This is important so you can alert your employer to a potential hazard so they can take the necessary corrective action to prevent the injury from happening again. By law, you must give written or oral notice to your employer within seven days of an accident or after the general nature of your injury becomes apparent. If you fail to notify your employer, WSI may consider that failure when deciding whether your claim will be accepted.

2. Seek first aid or medical attention, if necessary.

Seek first aid or medical attention promptly after a workplace injury. **When seeking medical attention: If your employer does not have a Designated Medical Provider (DMP),** you may go to a doctor of your choice. **If your employer does have a DMP, you are required to see your employer's DMP** for medical care **UNLESS** you informed your employer, in writing, of a different medical provider selection **before** any injury occurred. If you see your employer's DMP, you may request to change providers after being treated for 60 days by the DMP. Please note that if you do choose your own doctor (and have informed your employer appropriately), you still have the option of seeing your employer's DMP. If you do not see either your employer's DMP or the different medical provider you chose before an injury occurred, but rather choose your own medical provider at the time of your injury, it may result in nonpayment of medical benefits and/or claim denial and you will be liable for the medical costs. *NOTE: Emergency treatment is exempt from the DMP requirement.* Inform the doctor that your injury is a work-related injury. Also, inform the doctor of your work duties and ask if you can

return to work within any work restrictions the doctor may impose. Follow restrictions, both on and off the job.

Please note that WSI encourages employers to go with an injured worker when they seek medical care for a work-related injury. While your employer does not necessarily have the right to be present in the examining room during your exam, your employer will benefit by going with you because they will better understand any work restrictions imposed by the doctor - which will enable them to provide a safe return to work for you.

Be sure to provide your employer with a copy of the capability assessment (C3 form) after each medical treatment. The capability assessment should include the nature and extent of the injury, estimated course of recovery, and a return-to-work plan with identified restrictions, if any.

You are allowed one treating doctor at a time - this doctor is considered your “primary” doctor. ***Only your primary doctor on record with us is able to order you to be off work.*** (NOTE: Fees may not be approved for more than one health care provider or doctor in a case where treatment is provided over the same period of time except for the services of a consulting doctor, assistant surgeon, or anesthetist; or in an emergency.)

3. File a claim with WSI immediately after a work-related injury occurs (within 24 hours of occurrence) using one of the following three methods:

1) **Online** - visit our web site at *www.WorkforceSafety.com* for instructions; 2) **By hand** - obtain a First Report of Injury (FROI) form from your employer or WSI (also available as a fillable form on our web site). Sign and date the form and return it to WSI as soon as possible; or 3) **Telephonically** - call 1-800-777-5033 24 hours a day / weekends / holidays (the form we use to telephonically record the claim will be sent to you for signature - please return it to us as soon as possible).

Whichever claim filing method you use, complete the claim form with your employer, if possible. Answer all questions fully and honestly on the claim form. Be sure to have your employer complete the First Report of Injury form.

If you have received wage replacement benefits for an injury and are now off work again for that same injury, you must

reapply for benefits in writing. Contact WSI and request a Worker's Notice of Reapplication form (C4).

4. WSI will inform you of your claim number, in writing, upon registering your claim.

Please note that your claim number is only confirmation that your claim has been received and registered. All pertinent information relating to your injury will need to be received and reviewed according to North Dakota statutes for a decision of either acceptance or denial to be made. A notification letter will be mailed once a decision has been made. Please provide your claim number when contacting WSI or any medical provider or pharmacy for any services related to your injury.

5. Keep in touch with your employer and provide them with periodic updates on your condition.

6. Notify WSI immediately: 1) when you perform any type of work activity whether you receive pay for it or not; 2) if you change your address or telephone number; or 3) if you apply for either Social Security disability or retirement benefits or are found to be eligible for these benefits.

Claim Review and Processing

A claims analyst will start reviewing your claim within 24 hours after receiving a completed claim form from you or your employer. The decision whether to accept or deny a claim is based on North Dakota law. A notice informing you of claim acceptance or denial will be mailed to you and your employer.

If a Benefit is Denied

We can only pay for treatment of injuries or conditions caused by work. If, at any time, we do not pay a requested benefit, you will receive written notification along with instructions to follow if you disagree with the decision. For information about your rights in the event of a claim denial, please contact your assigned claims analyst or you may contact the Office of Independent Review (OIR) (*see page 17*).

Different Types of Claims

All claims are one of the following two types:

Wage-loss claim - If you will be off work for five or more calendar days in a row or if you have a loss of earnings, the claim is a wage-loss claim. The claims analyst will contact you, your employer, and your medical provider to establish a working relationship and gather additional information to help with the processing of the claim.

Medical only claim - If you will not be off work for five or more calendar days in a row, the claim is a medical only claim. The processing of medical bills will begin immediately once the claim has been accepted.

Types of Benefits Available

Medical benefits

On an accepted claim, WSI pays for reasonable and necessary work-related medical care and prescriptions in accordance with fee schedule limitations and administrative rule guidelines. Please always inform the medical provider and pharmacy of your claim number. A medical provider may not legally bill you for the difference between what the fee schedule allows and what is charged. If you receive bills for treatment of your work injury, do not pay them - contact the medical provider's insurance department and inform them of your claim number and ask that all bills be forwarded to WSI.

For those injured workers who are declared catastrophically injured on the job and require home modifications, benefits are available up to \$50,000 to make it possible for the injured worker to live in his or her own home.

If you are not sure whether WSI will pay for care or supplies, please call a customer service representative beforehand.

Medical treatment

Treatment with more than one doctor is not allowed except in emergency situations or when you require the services of a consulting doctor, surgeon, or anesthetist. In this case, you must have one doctor designated as your primary treating doctor. NOTE: "Doctor" means a licensed medical doctor, surgeon, chiropractor, osteopath, podiatrist, psychologist, dentist, or optometrist.

Changing doctors

WSI will monitor your medical treatment to make sure you are receiving quality and appropriate medical care for your injury. When warranted, WSI may require you to change doctors or transfer care. If WSI refers you to another doctor, you will be provided with a list of three doctors from which to choose.

If your doctor refers you to another doctor for consultation or treatment, you do not need written authorization from WSI. However, if you wish to change to another doctor, the following guidelines apply:

If your employer has a designated medical provider (DMP) to care for employees, and you saw that provider for treatment (if you did not choose your own doctor and notify your employer, in writing, of your selection before any injury occurs), you must receive care from that medical provider for 60 days before you can make a provider change. After 60 days, you must request written authorization from WSI. Please contact us for a Change of Doctor form (C6).

If your employer does not have a designated medical provider (DMP), you must first request written authorization from WSI. Please contact us for a Change of Doctor form (C6).

Wage replacement benefits

If your doctor orders you not to work for five or more calendar days in a row because of your work-related injury or illness, you will be paid a disability (wage-replacement) benefit. Benefit checks are mailed to the injured worker. There are three types of disability benefits:

1. Temporary Total Disability (TTD)

If your disability is total, but only temporary, and your doctor has taken you off work for five or more calendar days in a row, you will be paid a weekly compensation rate of $66 \frac{2}{3}$ of your gross weekly wages at the time of your disability. Total benefits cannot exceed the statutory maximum benefit. There is also a statutory minimum benefit. Your TTD cannot go below the statutory minimum, unless your preinjury net wage was lower than the statutory minimum, in which case you would receive benefits equal to your preinjury net wage. You receive \$15 per week for each dependent child you support as long as the compensation amount does not exceed your net wages. Dependent children are children under the age of 18 residing in the injured worker's household or to whom the injured worker

has a court ordered obligation to support, children 18 and over who are incapable of supporting themselves because of a disability and dependent upon the injured worker for support, or children between the ages of 18 and 22 who are full-time students and dependent upon the injured worker for support. TTD may not exceed a cumulative total of 104 weeks on any claim.

2. Temporary Partial Disability (TPD)

If your wages are reduced because of a physical limitation related to your injury, you will be paid 2/3 of the difference between your preinjury gross weekly wages and your after-injury gross weekly wages. TPD benefits end when your wages return to at least 90% of your gross weekly preinjury wages. TPD can only be paid for up to 5 years for those suffering a loss of earnings capacity after July 1, 1991.

3. Permanent Total Disability (PTD)

This benefit is for workers who are totally disabled and unable to return to work of any kind. When deciding whether PTD has been sustained, WSI must determine whether a worker is disabled from any work as the result of:

- a. Total and permanent loss of sight of both eyes;
- b. Loss of both legs or loss of both feet at or above the ankle;
- c. Loss of both arms or loss of both hands at or above the wrist;
- d. Loss of any two of the members or faculties in subdivision a, b, or c;
- e. Permanent and complete paralysis of both legs or both arms or of one leg and one arm;
- f. Third-degree burns that cover at least forty percent of the body and require grafting;
- g. A medically documented traumatic brain injury affective cognitive and mental functioning which renders an employee unable to provide self-care and requires supervision or assistance with a majority of the activities of daily living; or
- h. A compensable injury that results in a permanent partial impairment rating of the whole body of at least twenty-five percent pursuant to section 65-05-12.2 of the North Dakota Century Code.

Verifying continuing benefits

If you are receiving disability benefits, WSI will periodically send you an Injured Worker Status Report. Please **complete, sign, and return this report to WSI immediately upon**

receipt as further wage replacement benefits will not be paid to you until we receive this report. If you fail to accurately report any and all wages or work activity, you may face criminal and civil actions for fraud (*see Fraud, page 16*).

Overpayment of benefits

If you receive an overpayment of benefits, you are legally obligated to notify WSI immediately. Fraud penalties may apply for non-reporting of overpayments (*see Fraud, page 16*).

Unemployment benefits

You cannot receive unemployment benefits and temporary total disability (TTD) wage replacement benefits at the same time. If you are receiving both, notify WSI immediately and also notify Job Service North Dakota and ask them to stop your unemployment benefits. You must refund any overpayment that results from receiving both benefits.

Social Security Disability / Retirement Benefits

You must notify WSI if you apply for either Social Security disability or retirement benefits or are found eligible for these benefits. If you receive Social Security disability, your workers' compensation benefits will be reduced by 50% of what you receive from Social Security. If you receive Social Security retirement, please contact WSI to review your benefit amount.

Taxes and garnishment

Your compensation benefits are not taxable. If a creditor has a judgment against you, your benefits cannot be garnished. Your benefits can be garnished for overpayments of benefits by WSI, overpayments of unemployment benefits by Job Service North Dakota, or court-ordered child support deductions.

Permanent partial impairment (PPI) benefits

This benefit is for workers who suffer permanent physical loss of a body part or function because of a compensable work-related injury. You can receive both a PPI award and a disability (wage replacement) benefit, assuming you meet the criteria used to determine PPI eligibility. You will be eligible for a PPI assessment once you reach maximum medical improvement. PPI benefits are awarded only if your full-body impairment meets or exceeds the statutory minimum impairment. If you dispute the PPI evaluation or the award amount, you may seek the assistance of the Office of Independent Review (*see page 17*).

Return-to-work services

The goal of return-to-work services is to return the injured worker to substantial gainful employment with a minimum of retraining as soon as possible after an injury occurs. The emphasis is placed on substantial employment with the preinjury employer in the injured worker's preinjury capacity by utilizing transitional (modified or alternate) work.

Depending upon the needs of the injured worker, there are several types of return-to-work services to assist an injured worker in returning to work:

On-Site Return-to-Work Case Manager

WSI teamed up with six of the larger medical facilities across North Dakota to have registered nurses in place to assist injured workers who seek medical attention at their facilities and designated satellite clinics. These registered nurses assist with coordinating care and restrictions for medical necessity and appropriateness; provide recommendations (they do not make decisions regarding claim compensability); act as a liaison between the injured worker, employer, medical provider, and claims analyst at WSI; and coordinate transitional work.

Medical Case Manager

WSI has registered nurses on staff who are medical case managers. These case managers are assigned to claims that involve potentially catastrophic or medically complex injuries. These individuals work, as necessary, with the claims analyst, injured worker, and medical providers to assess, plan, coordinate, and implement the options and services needed to support the injured worker in the recovery process and help them return to work.

Vocational Rehabilitation

If early intervention is not successful in returning the injured worker to work with the preinjury employer, vocational rehabilitation will be assigned. Vocational rehabilitation is a service not provided by staff at WSI, but rather by an independent contracted company. Vocational rehabilitation utilizes a worker's functional capabilities, education, employment history, work experience, and transferable skills to develop a return-to-work plan.

The Preferred Worker Program

The Preferred Worker Program offers a unique concept as part of our return-to-work services. While this program is

designed to encourage the re-employment of North Dakota's injured workers, it also offers cost-saving incentives to employers participating in the program.

To be eligible to participate in the Preferred Worker Program, an injured worker must have:

- Sustained a compensable work injury in North Dakota, resulting in an obstacle in their ability to return to work.
- Not been released for, nor returned to, regular work.
- Not refused an offer of appropriate employment with the employer of injury.

Benefits for Injured Workers who participate in the Preferred Worker Program:

- **Work Search Allowance:** Once the vocational assessment is received and an injured worker is deemed eligible for the program, a job search allowance will be provided to the preferred worker in the amount of \$250 to be utilized for appropriate interviewing clothing, uniforms, travel expenses, or other items deemed mandatory for employment. Maximum benefit in this category is \$250.
- **Certification, Licensure or Related Testing Costs:** Testing for certifications, licensure or related testing requirements for employment may be reimbursed. This includes physical examinations or membership fees required for the job. Maximum benefit in the category is \$500.
- **Moving Expenses:** Relocation expenses to move the household to the locale where the preferred worker has actually located work and the distance is greater to or equal than 35 miles from the primary residence. Moving expenses shall be paid in accordance with N.D.C.C. 65-05.1.
- **Reimbursement for Lodging, Meals and Travel Expenses Relating to On-The-Job Training:** WSI may reimburse the preferred worker for lodging, meals and travel expenses (public transportation or mileage) to attend on-the-job training. Reimbursement shall be paid at the North Dakota state rate existing at the time of travel.
- **Tools and Equipment:** Upon WSI approval, the preferred worker may be reimbursed for tools, equipment or starter sets deemed mandatory for employment. Maximum benefit in this category is \$2,500.
- **Union Dues:** Includes initiation fees and one month's

current dues.

Program eligibility for employers:

- Have and maintain an account providing WSI coverage.
- Be in good standing with WSI.

NOTE: The employer of the injury is not eligible for program participation with its own employees unless the employer of injury has identified permanent alternate work for the injured employee. Alternate work is considered permanent work that is provided to the employee that is outside of the pre-injury position and requires the employee to perform work duties in another role.

Benefits for employers who participate in the Preferred Worker Program:

- **Premium exemption:** Upon hiring a Preferred Worker, the employer will not be charged premium on the Preferred Worker's salary for up to three years. **Benefit is not available to the employer of injury who provides alternate work for an injured worker.**
- **Wage reimbursement:** WSI may reimburse the employer up to 50% of wages (not to exceed the States Average Weekly Wage) at the time of employment start date. The wage reimbursement period is not to exceed 26 consecutive weeks. **Benefit is not available to the employer of injury who provides alternate work for an injured worker.** If a worker has a catastrophic injury as defined in N.D.C.C. 65-05.1-06.1 (2)(1), the wage subsidy duration is 52 consecutive weeks with a reimbursement rate of 75 percent. **Benefit is not available to the employer of injury who provides alternate work for an injured worker.**
- **Claim cost exemption:** If the Preferred Worker sustains a new on-the-job injury during the premium exemption period, WSI will not charge the claim costs to the employer. **Benefit is not available to the employer of injury who provides alternate work for an injured worker.**
- **Reimbursement for worksite modifications:** Upon WSI approval, participating employers may be reimbursed for worksite modifications.
- **On-site job analysis:** Upon employer request, WSI will conduct an on-site job analysis/ergonomic assessment involving the preferred worker, at no cost to the employer.

- **Experienced workers:** When you hire a Preferred Worker, you benefit by having an experienced worker on the job.

It's Easy - We're Online: Our Preferred Worker Program is listed in the Online Services section of our website at <https://www.workforcesafety.com/online-services/onlineservices.asp>. Please visit our website often for updated program information.

Registration Forms: Workers and employers can complete the registration process online to be considered for the program participation.

Job Search Tools for Preferred Workers: Workers may also reference a number of employment-related web sites and also view available job-seeking workshops.

For more information on this program, please contact:
Return-to-Work Coordinator
(701) 328-3876 or 1-800-440-3796 (Ext. 83876#)

Reimbursement for personal expenses

If your injury claim is accepted, WSI will reimburse you (upon your request) for mileage, meals, and other out-of-pocket costs that are necessary for your medical care, within the limits of the law. The calculation for reimbursement for travel must be calculated using miles actually and necessarily traveled. Mileage will be calculated from injured workers address to address of destination. When the residential 911 address is unknown, mileage will be calculated from city limit to city limit.

For personal expense reimbursement, you may print a "Request for Personal Reimbursement" form (C40a) from our web site at www.WorkforceSafety.com (Library section) or call our office and request a copy. Complete this form, attach your receipts, and submit them to WSI. You will need to provide original, itemized, dated receipts. Request for reimbursement must occur within one year of the date the expense was incurred. The following conditions apply:

- No payment may be made for mileage or other travel expenses when the distance traveled is less than 50 miles one way, unless the total mileage equals or exceeds 200 miles in a calendar month.
- Travel reimbursements are payable at the North Dakota State employee rate, except WSI may not pay more than the actual cost of meals, lodging, and 55 cents per mile

traveled. When traveling in state, you can receive up to \$25 a day for meals (\$5 for breakfast, \$7.50 for lunch, and \$12.50 for dinner) and up to \$63 a day (plus applicable state or local taxes) for lodging. If you travel out of state, it is important to contact your claims analyst for information on reimbursement rates.

- Travel reimbursements may only be paid, when necessary, to obtain the closest available medical care needed for your injury.
- Reimbursements are not paid for travel and associated expenses incurred by your spouse, children, or other persons unless your doctor verifies, in writing, that your injury prevents you from traveling alone.
- Expenses such as telephone calls and car rentals are not reimbursable.
- Travel reimbursement may be denied if you choose to seek treatment outside your area when medical treatment is available in your local area.

Death benefits

Surviving spouse and dependent children

WSI pays death benefits to the survivors of workers killed in work-related accidents. Benefits are paid to the eligible spouse or the dependents of the deceased worker at a rate of 2/3 of a deceased worker's weekly wage, up to 110% of the state's average weekly wage. They will also be paid up to \$10 each week for each dependent child.

Additionally, the surviving spouse receives a one-time death benefit of \$1,200, plus \$400 for each dependent child. There are also scholarships available for some dependents. Total benefits may not exceed \$250,000 over the lifetime of a claim. WSI pays all medical bills directly related to the compensable injury and death of a worker, including up to \$6,500 for funeral expenses.

Surviving non-dependent family members

If the deceased worker is not survived by a spouse or other dependents, WSI will pay a lump sum of \$12,500 in equal parts to any surviving non-dependent children. If the worker is not survived by non-dependent children, the \$12,500 will be paid in equal shares to the worker's surviving parents. If there are no surviving parents, this sum will be paid in equal shares to surviving brothers and sisters. If there are no living

brothers or sisters, the \$12,500 will be paid in equal shares to surviving grandparents.

Filing for death benefits

There are three forms that must be filed when survivors are seeking death benefits:

1. A surviving spouse and/or dependent must complete, sign, and return the “Spouse and/or Dependent(s) Application for Death Benefits form (C8).
2. The deceased worker’s employer must complete, sign, and return the “Employer’s Report for Death Claims” form (C9).
3. The doctor who attended the worker at the time of death must complete, sign, and return the “Physician’s Statement in Proof of Death” form (C10).

When surviving parents and non-dependent children of the deceased worker are seeking death benefits, they must complete, sign, and return the “Application for Non-Dependent Benefits” form (C12).

Survivors of a worker killed on the job must file claims within 2 years of the worker’s date of death.

Other Important Information

Time frames for reporting an injury

WSI encourages injured workers and employers to immediately (within 24 hours of occurrence) file a claim with WSI after a work-related injury occurs. Immediate notification allows for more effective management of the claim. If medical treatment has occurred, you will need to file a claim with WSI.

The law requires that you notify your employer within 7 days after an accident or when the general nature of the injury becomes apparent. Within 7 days of receiving notice of an injury from you, your employer is required to file a FROI with WSI. If your employer does not do this, WSI may consider that to be an admission that the alleged injury may be compensable.

All claims for benefits must be filed within one year after an injury or within two years after a death. The date of injury is the first date that a person reasonably knew or should have known that a work-related injury occurred.

Reopening a claim

If you are experiencing symptoms relating to a prior compensable claim, you may be eligible for reinstatement of benefits. To reopen a closed claim, you must provide clear and convincing medical evidence that the original compensable injury is the primary cause of your current symptoms.

To file for reinstatement of benefits, write a letter explaining the circumstances of your condition or complete the “Worker’s Notice of Reapplication” form (C4), which you can obtain by calling WSI. If benefits are reinstated, disability benefits can only be paid for the 30 days prior to the date your written request is received by WSI.

Confidentiality of your claim information

Most information contained in a claim file is confidential and is not open to the public. Information that is available to the public (upon request) is your name; date of birth; injury date; employer name (at the time of injury); type of injury (the body part injured); whether the claim is accepted, denied, or pending (claim status); and whether the claim is in active or inactive pay status. WSI may provide information to doctors and other health care providers who are treating you or advising WSI; vocational rehabilitation consultants; managed care representatives; and your employer at the time of your injury. Additionally, you can grant file access to anyone you wish.

Transitional work

Transitional work is work that allows the temporarily or partially disabled injured worker to remain safely on the job (with the employer where the injury occurred), but in a modified or alternate position. This type of work allows the injured worker to “transition” into the work environment after sustaining a work-related injury. It also allows the worker to remain in the workplace until they have either recovered sufficiently to return to their regular job or reached maximum medical improvement.

WSI involves the injured worker’s employer in the decision as to whether the injured worker could be offered transitional work rather than be taken off work.

Please note that if you voluntarily limit your income or refuse to accept employment suitable to your capacity that is offered to or secured for you, you are not entitled to any

wage replacement (disability) or vocational rehabilitation benefits during the limitation of income or refusal to accept employment unless WSI determines that the limitation or refusal is justified. **NOTE: You will remain eligible for medical only benefits as long as the medical condition you are treating for is directly related to your work injury.**

When you perform work activities after sustaining a work-related injury

Please notify WSI immediately if you perform ANY type of work activity whether you receive pay for it or not. This is important to avoid any possible occurrence of overpayment of wage replacement benefits - in which case you would be responsible for repaying WSI the overpayment amount.

Fraud

WSI has a responsibility to the workers and employers of North Dakota to investigate allegations of fraud. An employer, medical provider, or worker can commit fraud. In the simplest terms, fraud occurs when someone knowingly lies to obtain a benefit or advantage or to cause some benefit that is due to be denied. People who provide false information or withhold information in order to receive workers' compensation are guilty of fraud and will face stiff penalties. People who commit fraud must repay WSI for any benefits falsely obtained. They will also forfeit their right to any additional benefits surrounding their work injuries.

A person who defrauds the workers' compensation system of \$500 or less is guilty of a Class A misdemeanor, punishable by up to one year in prison and/or a \$1,000 fine. A person who defrauds the system of more than \$500 is guilty of a Class C felony, punishable by up to five years in prison and/or a \$5,000 fine.

We cannot stop fraud alone - if you suspect fraudulent behavior is occurring, please contact us. Anyone may leave a confidential and anonymous tip by calling 328-3800 or 1-800-777-5033.

Decision Review Office (DRO)

If you disagree with a decision regarding your benefits and have received an Order of Workforce Safety & Insurance (WSI), you may contact the Decision Review Office (DRO) to request assistance. DRO services are provided at no cost to you. An attorney is not needed to contact the office.

DRO will review your claim information, answer your questions, and may gather additional information. Your active participation is encouraged during the review process. You will be informed in writing of the results of the review. The review will result in one of three outcomes:

- A reversal of WSI's Order
- An alternative resolution agreed upon by both the injured worker and WSI
- No change in WSI's Order

After completing the DRO process WSI will pay for a consultation of up to \$500.00 if you wish to meet with an attorney. If you choose to appeal the order further, and win your case in whole or in part at the final point of appeal, WSI will pay your attorney fees up to established caps.

Frequently asked questions

Do I need to hire a lawyer?

No. A lawyer is not needed to request assistance from the Decision Review Office (DRO).

Are employees required to request the assistance of DRO regarding a WSI Order?

No. It is the employee's decision whether to request DRO assistance regarding an Order or to bypass DRO by appealing an Order directly to an administrative hearing.

What is the cost of requesting DRO assistance?

Nothing; the program provides services free of charge to the employee.

How long does a review of a WSI Order take?

Review time varies with each case, but 30 days is the standard.

Is DRO part of Workforce Safety & Insurance?

Yes; however, DRO is independent of WSI's Claims Department, is located off-site, and reports to the WSI Board of Directors.

Can DRO provide a legal opinion or provide legal representation?

No. Claim examiners are skilled claims personnel but are not lawyers.

Is my communication with DRO confidential?

Yes. DRO file information and your communication with the office may not be released without your permission.

You may contact DRO by:

- Visiting their office at 1611 East Century Avenue, Suite 402 in Bismarck, ND. No appointment is necessary, but you may wish to call ahead to ensure an advocate is available to meet with you upon arrival.
- Calling (701) 328-9900 or 1-800-701-4932
- E-mailing them at wsidro@nd.gov
- Faxing (701) 328-9911
- Writing to 1611 East Century Avenue, Suite 402, Bismarck ND, 58503-0780

The Role of Workforce Safety & Insurance (WSI)

WSI manages and regulates an exclusive employer-financed, no-fault insurance system covering workplace injuries, illnesses, and death. WSI is the sole provider and administrator of the workers' compensation system in North Dakota.

In addition to collecting premium payments from employers and processing claims filed by North Dakota workers, WSI promotes workplace safety by assisting employers in providing safe work environments for their workers.