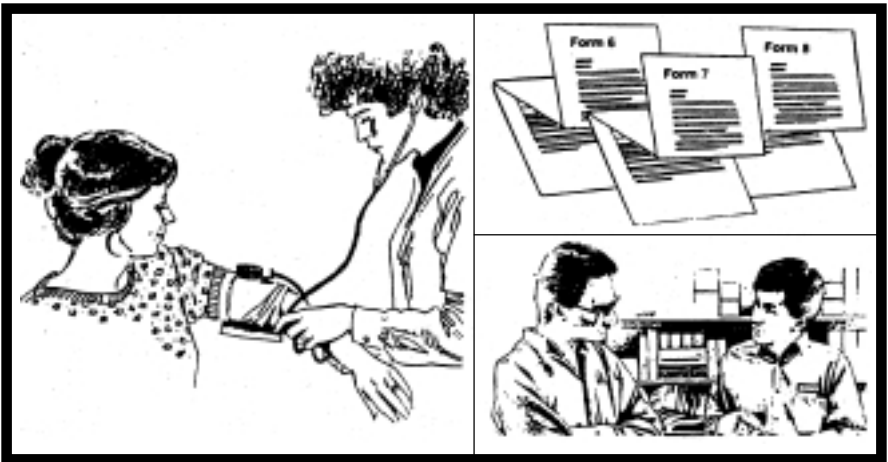


# Workers' Compensation:

## How to make a claim



**Note:** On January 1, 1998, workers' compensation law changed, including the official name of the Board. The Workers' Compensation Board (WCB) is now the Workplace Safety and Insurance Board. In this booklet we call it "the Board".



## **I was just injured on the job. What should I do now?**

Report every injury to your employer, no matter how small you think it is. Make sure your employer writes down everything you say about your accident. Keep notes about the report you make to your employer. This is very important. If you do not report your injury right away it might be hard or even impossible to prove later that it happened at work.

Get medical help right away.

Your employer must report your injury to the Board if:

- you miss time from work,
- you get less than regular pay for regular work (for example, you switch to part-time work),
- you need modified work for more than 7 calendar days,
- you need modified work at less than regular pay, or
- you need health care that is more than minor first aid.

You also have to file a report. This is explained later in this booklet.

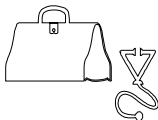
A work-related injury can be something that happens over time. For example, you might think it is normal to have back pain because you have it all the time. You

might not connect your pain with your job because you did not have an “accident”. But your back pain could develop over time because of your job. For example, your pain could be from a lot of lifting at work, or from a twisting movement you do over and over in your job. This means it is work-related and you are entitled to workers’ compensation benefits.



## **Who do I report my injury to at work?**

Report your injury to your supervisor at work. If you cannot report it right away, report it to your supervisor before the end of your shift. Get the names of any of your co-workers who saw you get hurt. If no one saw you get hurt, make sure you tell someone about it right away.



## **Do I have to be treated by the company doctor?**

No. You have the right to choose the doctor you want to see. You do not have to be treated by the company doctor.



## What should I do after I report my injury to my employer?

First, go to a doctor. See your family doctor, or a doctor at your local hospital or community health clinic. Your employer has to pay the travel cost for you to see a doctor on the day of your accident.

After you report your injury to your employer, you must deal with the following forms:

- Doctor's First Report (Form 8),
- Functional Abilities Form,
- Employer's Report of Injury/Disease (Form 7), and
- Worker's Report of Injury/Disease (Form 6).

These forms are available from the Board or on-line at <[www.wsib.on.ca](http://www.wsib.on.ca)>.

### **Doctor's First Report (Form 8)**

Get your doctor to send a **Form 8** to the Board. Your doctor probably has this form. Tell your doctor all the details of how your accident happened. Make sure your doctor makes a note of each part of your body that was hurt. For example, if you fell and broke your arm, you might also have bruised many parts of your body and twisted your back.

Your doctor probably does not know about your workplace or the duties of your job. Tell your doctor everything you were doing when you got hurt. Try to remember things like distances, the size and weight of objects, the types of chemicals, the temperature, and the noise. Make sure your doctor writes down everything you tell him or her.

It is not enough for your doctor to just say that your injury is “work-related”. Your doctor must explain how the injury happened and why it is work-related.

### **Functional Abilities Form**

This is another Board form for your doctor to fill out. Your employer will have copies of this form that they can send to your doctor if you are hurt at work.

The law says that when you make a claim, you must agree to allow your doctor to fill out this form and give copies to your employer and the Board. You also get a copy.

This form is supposed to help you get back to work after an injury. It tells your employer what parts of your job you can and cannot do. But this form does not ask if you are able to return to work right now. If you cannot return to work right now, make sure your doctor writes this somewhere on the form.

Tell your doctor about all the ways your injury will affect you in your job. For example, if you have broken your leg, remember to tell your doctor about the truck

you sometimes drive in your job. Or, if you have injured your back, remember to tell your doctor about the lifting you do in your job.

### **Employer's Report of Injury/Disease (Form 7)**

Your employer must file a **Form 7** with the Board within 3 business days from when they learned of your injury. This form is important because it gives the Board information that affects your claim. It will affect the amount of money you might get in benefits. It also can give you an idea of whether or not your employer will be fighting your claim.

Your employer might ask you to sign a section of the **Form 7**. By signing this, you agree to have your doctor give the **Functional Abilities Form** to your employer and the Board, after he or she fills it out. The law says you must agree to this, if you want to claim benefits. But, you do not have to sign on the employer's form. You can fill out your own report for the Board and give your signature there. You can do this using a Form 6, which is described later in this booklet.

The law says your employer must give you a copy of their **Form 7** when they file it with the Board. If your employer will not give it to you, get it from the Board or your union, if you have one.

Check that your employer has correctly described the accident and your injuries. Also make sure that all of your wages are reported on the form. Your wages include:

- your hourly rate or salary,
- shift premiums,
- overtime pay,
- lead hand pay,
- travel allowances,
- living allowances, and
- anything else that can be estimated in money (for example, the cost of room and board or any merchandise given to you as payment for work).

Also make sure that the form reports your proper income tax “net claim code” if it is different from what your employer uses.

It is important for the Board to know your wages from any other jobs you have somewhere else. It is not up to your employer to report this, you must do it. Write a letter to the Board if there is anything missing from the **Form 7** or if there are mistakes on the form. Also write to the Board if your co-workers get any retroactive pay raises after your accident.

### **Worker’s Report of Injury/Disease (Form 6)**

A claim must be filed within 6 months from the date of your accident or from the date you learned you were injured or sick. This can be done by filling out a

Worker's Report of Injury/Disease form (Form 6) and sending it to the Board. If you signed your employer's **Form 7**, and your employer sent it to the Board, then your claim has been filed.

Even if your claim has been filed on a **Form 7**, you can still file a **Form 6**.

But, if you did not sign the **Form 7**, or if you think your employer might not have sent it to the Board, then you *must* file a **Form 6**. Contact the Board right away to get the **Form 6** sent to you. Fill out the form and return it to the Board. When you send your form to the Board, you must also give your employer a copy.

Part of the **Form 6** is a section that asks for your signature. When you sign this section, you agree to allow your doctor to fill out the **Functional Abilities Form** and give copies to your employer and the Board. You also get a copy. The law says you must agree to this if you want to claim workers' compensation benefits.

You can let the Board know about your injury before you get your **Form 6**. You will still have to fill out this form, but if you write to them first, you might speed things up. Write to the Board and give them your employer's company name, your name, address, social insurance number, and date of birth. Write down the details about the job you were doing at the time you were hurt. Give the names of anyone who saw you get hurt. List all the parts of your body that were hurt. Ask the Board to send you a **Form 6**.



## What should I say in my report to the Board?

Give a lot of details. Do not just say “I fell and hurt myself”. Say how you fell and how you were hurt. For example, “I was walking in the factory in the assembly department. I slipped on some oil that was on the floor. My right leg went forward and I lost my balance. I fell backward. I hit my shoulder on the machine, then I landed on the floor. I hurt my right shoulder on the machine. When I landed on the floor, I also hurt my neck, my back, and my right hip”.



## Is there a time limit on making a claim to the Board?

Yes. The law says you must file a claim within **6 months**:

- of the day of the accident, or
- of the day you first knew you were injured or sick.

Make your claim to the Board as soon as possible. Unless you signed a **Form 7** and your employer sent it to the Board, you should fill out a **Form 6**. But, if you do not have this form and you are close to 6 months from the time limit, write a letter to the Board with the details of your injury. Also ask for a **Form 6** to be sent to you.

If the 6 months have passed, make your claim right away by writing to the Board. Explain why you did not file earlier. The Board has the power to allow a late claim to be filed.

If the Board does not allow your claim because it is late, get legal help right away. There is a list of places to get legal help at the end of this booklet.



## **What happens when the Board gets a report of my injury?**

Once the Board gets a **Form 6**, **Form 7**, or **Form 8**, they will open a claim file for you. You should get a letter from the Board giving you a claim number. Use this number whenever you contact the Board. Getting a claim number does not mean you will get benefits. If you do not get this letter, you should contact the Board right away to find out why you have not been sent a letter.

Every time you talk to someone at the Board, that person will make a note of the conversation and put that note into your Board file. Every time you write the Board or they write you, a copy of the letter will go into your file. Medical reports and other papers about your claim will also be in your file. If you need to appeal a Board decision, you should get a copy of your Board file.



## What if my employer does not file a report of my injury?

If your employer does not file a report, file your own report anyway. Get your doctor to send in the **Form 8**. The Board can look at your claim without your employer's report.

If you have a union or a health and safety committee representative at work, tell them about your injury too.

Also tell the Board that your employer has not filed a report. The Board can fine your employer for not filing a report or for not filing it on time.



## What else must my employer do?

The law says your employer must:

- pay your full wages for the day you were injured,
- pay for you to get to your doctor, a hospital, or your home on the day you are injured, and
- keep up their payments into any benefits plan for health care, life insurance, or pensions for 1 year.

If your plan is one that both you and your employer pay into, your employer can stop their payments if you stop yours. So, if you want your benefits plan to continue while you are off work, keep paying your part of the payments.

Many employers have to do things to help you get back to work after your accident. See the booklet in this series called, *Workers' Compensation: Getting your job back after an injury*.



## What benefits can I get from the Board?

There are 2 types of claims:

- **lost time**, and
- **no lost time**.

In **lost time claims**, you cannot work at your regular job for a period of time. You are entitled to benefits for your lost or reduced wages and your medical expenses.

In **no lost time claims**, you are injured but you continue to work at your regular job with no lost wages. You are only entitled to benefits to cover your medical expenses because you have not lost any work days from your injury. It is still important to make a claim to the Board because your injury could get worse later.

Medical expenses include doctor's bills, other bills for medical treatments, the cost of prescription drugs, the cost of artificial aids like hearing aids or braces, the cost of replacing clothing damaged by a brace or wheelchair, and in some cases the travel costs for going to and from medical treatments.

You may have to pay these expenses first, and then ask the Board for your money back. Get receipts for everything. Keep a record of the dates of your medical appointments.

If you are using your car to go to your medical appointments, keep a record of how many kilometers you drive there and back. Send your receipts and records to the Board. Keep a copy of everything in case the Board loses anything you send in.



## **What if my employer wants me to take sick pay instead of making a workers' compensation claim?**

Do not let your employer talk you out of making a claim for workers' compensation benefits. If you think your injury is related to your job, you should claim benefits from the Board. Report your employer to the Board if they will not accept your accident report.

Even if you get sick pay from a disability insurance plan at work, you should still file a claim with the Board. Getting money from your workplace insurance plan first may make it harder for you to get benefits. Tell the insurance company that pays your sick pay that your injury is work-related and that you have applied for workers' compensation benefits.



## The Board can take 12 weeks or more to decide a claim. Where can I get money to live on until then?

There are a number of places you can go for help while you are waiting for your claim to be decided. You should apply for everything. You will be told if you are not eligible.

- **Disability Insurance**

You may have disability insurance through your work. You must tell the insurance company that you were hurt at work, and that you are claiming workers' compensation benefits.

Most insurance companies will not let you get money from them and from the Board for the same injury. The insurance company will probably make you sign an **assignment of benefits**. This means that when you get your workers' compensation benefits, the Board will probably take money out of your first benefits cheques to pay back the insurance company. Sometimes it is hard to tell if the Board has done this. If the Board has not paid back the insurance company, you will probably have to do it yourself.

You may also have another kind of disability insurance. You may have disability insurance on your mortgage, credit cards, car loan, or other personal loans. Check with your bank or mortgage company. If you have this

insurance, then your monthly loan payments will be made for you or will be delayed until you can pay them again.

- **Employment Insurance (EI)**

If you are eligible, you can get up to 15 weeks of **EI sick benefits**. Apply as soon as possible. It takes at least 4 to 6 weeks to receive your first cheque and the first 2 weeks after you apply are not covered by EI.

Apply at your local Human Resources Centre of Canada office. To find the one nearest to you, look in the Government blue pages of your phone book in the Employment section under “Human Resources Development Canada”.

You cannot get money from both EI and the Board for the same time you are off work. This means that once you get your workers’ compensation benefits, you will have to pay back the money you got from EI. You will probably have to sign an **assignment of benefits** form. The Board will probably pay back the money you got from EI before they give you any benefits. Make sure EI is paid back.

- **Social Assistance**

If you have little or no money while you wait for your benefits, you can apply for social assistance. The social assistance programs in Ontario are Ontario Works (OW) and the Ontario Disability Support Program (ODSP). To find out more about OW and ODSP, contact a community legal clinic. To order

CLEO publications on this topic call **416-408-4420** or visit our Web site at <[www.cleo.on.ca](http://www.cleo.on.ca)>.

To apply for OW or ODSP benefits, contact the Ontario Works (social services) office nearest you. They are usually listed in the government section (blue pages) of the phone book. The OW office might give you the telephone number of a regional call centre that you will have to phone in order to apply.

When you apply for social assistance, you will have to sign an **assignment of benefits** form. This means that the Board will probably pay back some or all of the social assistance benefits you received, out of the workers' compensation benefits. If the Board does not do this, then you will have to do it.

You cannot get social assistance if your family income or assets are too high.

- **CPP Disability Benefits**

The Canada Pension Plan (CPP) has disability benefits. If you are not going to be able to work for a long period of time because you are disabled, you should apply. Your family income does not affect the decision to give you CPP benefits. Also, they will look at all your medical conditions, not just your work injuries. If you are eligible, the amount of benefits you get is based on the contributions you have made to CPP over the years. You do not have to pay these benefits back when you get your workers' compensation benefits. But you must immediately report to the Board any CPP disability benefits you start to receive.

To get a CPP disability application kit call Human Resources Development Canada free of charge at **1-800-277-9914**. If you have a hearing or speech impairment and you use a TCC/TTY device, please call **1-800-255-4786**.



## Where can I get help?

- **Community legal clinic:** Clinic lawyers and community legal workers give free legal help to people with low incomes. Some clinics take workers' compensation cases. The community legal clinic nearest you should be listed under "Legal Aid" in the white or yellow pages of your phone book. You can also visit Legal Aid Ontario's Web site at <[www.legalaid.on.ca](http://www.legalaid.on.ca)>.
- **Office of the Worker Adviser (OWA):** The OWA gives free legal help with workers' compensation cases for non-unionized workers. If there is an office in your area, it will be listed in the Government blue pages of your phone book under the Labour section. If there is no listing for your area, call toll-free **1-800-435-8980** or **416-325-8570** in Toronto, or visit their Web site at <[www.gov.on.ca/lab/owa](http://www.gov.on.ca/lab/owa)>.

- **Member of Provincial Parliament (MPP):** Staff at your MPP's office may be able to help you. To find out who your MPP is, call Elections Ontario toll-free at **1-888-668-8683**, or visit their Web site at <[www.electionsontario.on.ca](http://www.electionsontario.on.ca)>.
- **Union:** Call your staff representative. If he or she cannot help you, ask for the staff person who knows about workers' compensation law.
- **Injured workers' group:** Your local injured workers' group may be able to help you. To find out if there is a group near you, call the Ontario Network of Injured Workers' Groups (ONIWG) at **905-387-1894**, or visit their Web site at <[www.oniwg.on.ca](http://www.oniwg.on.ca)>.
- **Legal Aid certificate:** This certificate pays all or part of your lawyer's fees. Contact your nearest legal aid office to find out how to apply. The phone number is listed under "Legal Aid" in the white or yellow pages of your phone book. You can also visit Legal Aid Ontario's Web site at <[www.legalaid.on.ca](http://www.legalaid.on.ca)> or call toll-free **1-800-668-8258**.
- **Lawyer Referral Service:** If there is no community legal clinic near you and you want help finding a lawyer who practices workers' compensation law, you can call the Lawyer Referral Service at **1-900-565-4577**. The call

costs \$6.00. They should give you the name of a lawyer who will talk with you for free for 30 minutes. For more information you can visit their Web site at <[www.lsuc.on.ca](http://www.lsuc.on.ca)>.

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It is not a substitute for getting legal advice for your  
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