

Worker's Compensation FAQ

It is an unfortunate reality, but school district employees can get injured or contract an occupational illness while on the job. Missouri has a procedure to assist workers who are injured on the job and are unable to continue working. The state's Workers' Compensation law is intended to provide relief from the financial strain of being injured and/or unable to return to work.

The Division of Workers' Compensation, a branch of the Department of Labor, is the state agency responsible for the administration of the state's workers' compensation benefit program. The division's website (<http://www.labor.mo.gov/DWC>) offers workers information and guidance regarding the procedures to follow when injured on the job.

This FAQ provides answers to some of the common questions surrounding the workers' compensation laws and procedures.

How do I know if I qualify for worker's compensation coverage?

The law is written to cover as many people as possible. The definition of employee in the law is "every person in the service of any employer." An employer is considered anyone that employs at least five people. That is an incredibly broad definition intended to cover just about every working person. As such, it is practically impossible to find a school-district employee that would not be considered an "employee" for the purposes of the workers' compensation law.

How do I know if the law covers my injury?

An injury must "arise out of and in the course" of the injured person's employment to be covered under the workers' compensation law. To meet this standard you must be able to show that: (1) it is reasonably apparent that the accident was the prevailing factor in causing the injury AND (2) the injury did not come from a hazard or risk unrelated to the employment to which you would have been equally exposed outside of and unrelated to the work environment.

As a general rule, courts look to see if the injury is a "natural and reasonable incident" related to the work the employee performs, and if the accident occurred within the period of employment at a place where the employee may be reasonably fulfilling the duties of employment. For example, this would preclude you from collecting workers' compensation for injuries that occurred while driving to and from work since the injury did not occur "within the period of employment."

Further, employees will not be compensated for injuries caused by idiopathic causes. This refers to injuries caused by conditions that are "peculiar to the individual." Examples include injuries caused by an employee's seizure disorder, use of illegal drugs at the workplace, or a physical defect.

An occupational illness is a condition or illness caused by occupational exposure in the workplace. The exposure must be the prevailing factor in causing both the medical condition and the disability.

What should I do if I have been injured on the job?

The first step is immediately reporting your injury to your supervisor or other appropriate personnel. Failing to report an injury within 30 days could result in a loss of compensation. The notification should be in writing and should include the date, time and place of the injury; the nature of the injury; and the name and address of the person injured. It is also a good idea to keep a copy of the notice for yourself and to record when and how you provided the notice to your district.

Once you have reported an injury, your district is responsible for providing medical treatment to "cure and relieve" you from the effects of the injury. All costs of treatment are paid by the district, or the district's insurance provider. If you receive a bill for any medical treatment related to a work injury, contact your district's central office immediately.

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Can the district tell me which doctor I have to visit? Shouldn't I be able to see my own doctor?

Missouri's workers' compensation law gives the school district the ability to select the health care provider(s) for injured employees. The district does not, however, direct the employees' medical care, nor can the district dictate what specific care should be provided. That decision falls to the physician.

You may select your own medical care provider in lieu of the district's chosen physician to receive a second opinion, or to seek additional treatment, but doing so will be at your own expense.

Other than paying for my medical costs, what benefits does the workers' compensation law provide?

If you are unable to return to work due to your injury(ies) or recovery from surgery, you may be entitled to payment for lost wages. The extent of lost wages that can be recovered depends on the severity of the disability. The amount of the benefit you will receive depends upon the level of disability you sustained. For instance, if you suffered an injury and qualify for temporary partial disability payments (i.e. you can return to work, but only in light or modified duty) you will receive 66.66 percent of the **difference** between the average earnings prior to the accident and the amount that you will be able to earn during the period of disability.

If, on the other hand, you suffered a permanent total disability (i.e. you are no longer able to work at any job) you may receive weekly payments for your lifetime, or you may negotiate a lump-sum settlement. The weekly payment is based upon 66.66 percent of your average weekly earnings at the time of the injury.

What should I do if I feel I have not been properly compensated for my injuries?

The first step to resolving potential problems should be contacting the district and/or the district's workers' compensation insurance carrier. Some issues could simply be a data processing or timing error. Many problems can be resolved with a simple phone call.

If contacting the district and/or the district's insurance company does not settle the complaint, injured workers may file a *Claim for Compensation* with the Division of Workers' Compensation. Filing a claim begins a contested case proceeding where an administrative law judge has the authority to decide the issues in dispute.

MSTA recommends contacting an attorney that specializes in workers' compensation litigation. A list of attorneys can be found at the Missouri Bar Association website, www.mobar.org/.

There is a statute of limitations on workers' compensation claims that injured workers must be aware of. Your Claim for Compensation must be filed:

- Within two years after the date of injury or the last payment made on the claim OR
- Within three years after the date of injury or the last payment made on the claim if the district does not file a Report of Injury with the Division of Workers' Compensation.