

Reporting a work injury

This document contains general information. It is not legal advice. Every situation is different and other laws might apply to your situation. If you have questions, contact an attorney, visit the Department of Labor and Industry website at www.dli.mn.gov/business/workers-compensation-businesses or call the workers' compensation hotline at 800-342-5354 and press 3.

Note: This information sheet is about reporting work-related injuries, not occupational diseases. Call the workers' compensation hotline at the number above if you have a question about reporting an occupational disease.

When you are injured, tell your employer right away

If you are injured on the job, you must report the injury to your employer as soon as possible. The workers' compensation law has deadlines for reporting your injury to your employer. If you do not tell your employer about the injury by these deadlines your claim might be denied.¹

Deadlines for telling your employer about the injury

Within 14 days – If you tell your employer within 14 days after your injury, your notice is on time. The employer cannot deny your workers' compensation claim because you gave late notice of the injury.

Fifteen to 30 days – If you tell your employer between 15 and 30 days after your injury, your employer is allowed to deny your claim because of late notice *only* if your employer shows it has been prejudiced (harmed) by the delay.

Thirty-one to 180 days – If you tell your employer between 31 and 180 days after your injury, your employer is allowed to deny your claim for late notice *unless* the delay in telling your employer about the injury is due to:

- your mistake, inadvertence, ignorance of fact or law, or your inability to give notice; or
- fraud, misrepresentation or deceit (dishonesty) by your employer or your employer's agent.

If you delayed reporting the injury for one of the reasons listed above, your employer is allowed to deny workers' compensation benefits because of late notice *only* if your employer shows it has been prejudiced by the delay.

More than 180 days – If you tell your employer more than 180 days after your injury, no workers' compensation benefits are allowed *unless* you did not give notice because you were mentally or physically incapacitated. But you must notify your employer within 180 days after you are no longer incapacitated.

If you didn't notify your employer because your supervisor was aware

If your employer has actual knowledge of your injury, you are not required to give additional notice. For example, if your supervisor saw you get injured, your employer can't deny workers' compensation benefits because you did not give notice on time. But, your employer does not have to see an injury happen to have actual knowledge of it. Under the law, an employer also has actual knowledge of an injury if it knows facts and circumstances that would make a reasonable person ask whether the disability or injury is work-related.²

If you are not sure whether your employer actually knows about your injury, it is best to notify your employer in writing to be sure.

If you didn't notify because you were unaware it was a work comp claim

Sometimes injuries are not the result of a sudden accident at work, but instead happen gradually over time. An example of this is where repetitive work activities cause an injury after weeks, months or years, eventually resulting in disability. Under the law, if an injury happens gradually over time, you must notify your employer of the injury within 180 days after it becomes reasonably apparent to you that the injury has resulted in, or is likely to cause, a compensable disability.²

Another example is where your injury is initially so minor you do not recognize it as a compensable work injury. In these cases, the courts will look at when the employee should have recognized the seriousness of the injury and that it is probably payable as workers' compensation.

The date that an employee has enough information to trigger the duty to notify the employer of a possible work injury will depend on the facts of each case. If you suspect your injury may have been caused by or worsened by your work activities, it is best to talk to your doctor and notify your employer as soon as possible.

Your employer cannot fire you for reporting a work injury

Minnesota law allows an employee to sue an employer for damages if the employer fires, threatens to fire or intentionally obstructs (blocks) an employee from seeking workers' compensation benefits.

If you have an injury covered by workers' compensation and your employer is unable to find work for you within any restrictions your doctor has given, workers' compensation benefits (including vocational rehabilitation) are available. If your employer is unwilling to make any accommodations, you may have legal rights under the Americans with Disabilities Act or the Minnesota Human Rights law.

If your employer does not report the injury to the insurance company

It is the employer's responsibility to report injuries to the insurance company, but there are steps an employee can take if the reporting is not done.

The first step is to make sure you give your employer notice of the injury in writing and keep a copy of the written notice. Also keep a record of the dates you discussed your injury with your employer.

If your employer does not complete a report and does not tell you the name of its workers' compensation insurer, you can find out the insurer by checking the area in your workplace where employee information is posted. Your employer is required to post your workers' compensation rights and responsibilities and the name of its insurer. You can also look up the name of your employer's insurance company online at <http://www.inslookup.doli.state.mn.us> or call the Department of Labor and Industry's insurance verification request line at 651-284-5170 (you'll need your employer's name and address and the date of your injury). You can then contact the insurer to be sure the report has been completed.

After you report your injury to your employer

Your employer must report a work injury that requires medical treatment or that involves lost time from work to its workers' compensation insurer. If your employer is self-insured for workers' compensation, the injury must be reported to the employer's workers' compensation administrator. If you are wholly or partially unable to work for more than three calendar days, or if you have permanent loss of use or function of part of your body due to the injury, your employer's workers' compensation insurance company is required to report your injury on a First Report of Injury form to the Workers' Compensation Division of the Minnesota Department of Labor and Industry within 14 days of its occurrence. (There are shorter reporting times for serious injuries and fatalities.) If you are part of a union, your employer must also send a copy of the First Report of Injury form to your local union office. Your employer (or its insurer) must give you a copy of the First Report of Injury form, along with a workers' compensation employee information sheet.

How to know if your workers' compensation claim is accepted

If you have been wholly or partially disabled for more than three calendar days, or if you have permanent loss of use or function due to the injury, the insurer or administrator must file another form with the Department of Labor and Industry, the Notice of Insurer's Primary Liability Determination. Your insurer must also send you a copy of this form, which will tell you whether your claim is accepted or denied. If the insurer accepts liability for your claim and you have been disabled for more than three calendar days, the insurer must start paying any wage-loss benefits within 14 days of the date your employer knew about your work injury and lost wages. The insurer must pay wage-loss benefits at the same intervals as your work paychecks.

If your claim is denied

If your claim is denied, the insurer must send you a Notice of Insurer's Primary Liability Determination form, which must explain the facts and reasons why the insurer is denying your claim. If it is easily available, you may provide the insurer with more information that will assist in resolving the issue. Otherwise, you may file a Claim Petition form with the Department of Labor and Industry or contact an attorney for assistance. Your Claim Petition must be filed within three years of when the First Report of Injury was filed with the department or within six years of the date of injury if no report was filed with the department. Otherwise, the law will probably not allow your claim because of the statute of limitations. A call to the Workers' Compensation Hotline, at 651-284-5032 or 800-342-5354 (press 3), will put you in touch with a Department of Labor and Industry workers' compensation specialist who can answer questions.

Other resources

Employee guide to the Minnesota workers' compensation system

www.dli.mn.gov/business/workers-compensation/work-comp-employee-guide-minnesotas-workers-compensation-system

Minnesota Statutes section 176.141 (Notice of injury)

www.revisor.mn.gov/statutes/?id=176.141

Minnesota Statutes section 176.151 (Time limitations)

www.revisor.mn.gov/statutes/?id=176.151

Minnesota Statutes section 176.231 (Reports of injury)

www.revisor.mn.gov/statutes/?id=176.231

Minnesota Statutes section 176.82 (Obstructing employee from filing a workers' compensation claim)

www.revisor.mn.gov/statutes/?id=176.82

Americans with Disabilities Act information

www.eeoc.gov/facts/ada18.html

Minnesota Human Rights Act information

<https://mn.gov/mdhr/yourrights>

¹There is a form for notifying your employer of a work injury, but you do not have to use this form. The optional form is available online at www.revisor.mn.gov/statutes/?id=176.145.

²The notice requirements described in this paragraph were decided by the Minnesota Supreme Court in a case called *Anderson v. Frontier Communications*, 819 N.W.2d 143 (Minn. 2012). See also *Bonilla v. Dakota Premium Foods*, stating: "It is simply not enough that the employer is aware that an employee has shoulder pain.' Rather, to constitute actual knowledge, 'an employer must have some information connecting work activity with an injury.'" (citations omitted) (WCCA Jan. 6, 2015).