



**Workers' Compensation
Review
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Objectives


- Review - Workers' Compensation Act
- Workers' Compensation Litigation



**Workers' Compensation
Review**

When are workers covered?

- Workers' compensation is designed to cover only injuries which **"arise out of and are in the course of employment."**
 - "Arising out of"**
 - refers to what is often called the causal relationship between the event and disability.
 - "In the course of"**
 - refers to the connection of the event with the employment.



Examples

- A custodian falls off a ladder while changing a light bulb in the school hallway – covered?
- A teacher walks down the school hall to the restroom and trips over his own feet. An idiopathic fall – covered?



More Examples

- A superintendent attending an MSBO conference leaves the event and stops at a convenience store. He falls in the party store parking lot – covered?
- A school nurse is traveling from one of her schools to another and is in a car accident – covered?



Workers' Compensation Review (continued)

Work related injury, compensable:

- Wage loss benefits
- Medical benefits
- Rehabilitation benefits



Wage Loss Benefits

How is a person's average weekly wage calculated?

- The basic method of calculation provides that the average weekly wage is based on the highest 39 of the last 52 weeks before the injury.
- Wage loss benefits are not taxable income by IRS guidelines



Wage Loss Benefits (continued)

Are fringe benefits included?

- Fringe benefits include:
 - Health care insurance
 - Employer contributions to a pension (MPSERS)
 - Vacation/holiday pay
- If an employer chooses to continue these benefits they are not included. If they are discontinued, the cash value of those benefits are added into the average weekly wage.



When and How Long are Wage Benefits Paid?

- No wage loss for first seven days - waiting period
- On the eighth day wage loss benefits begin
- Disabled longer than 14 consecutive days, waiting period waived
- Wage loss benefits continue as long as the worker is disabled



Medical Benefits

- An employee is entitled to all reasonable and necessary medical care for work related injuries or diseases.
- First ten days after beginning medical care we can direct treatment, after ten days an employee may elect to see a doctor of their own choice.
- The responsibility to provide medical care continues indefinitely so long as the need for care is related to the worker's injury.



Vocational Rehabilitation Benefits

- Difficult in a challenging economy
- Allows payment for retraining or job placement
- Used on specific cases that would allow a return to work
- Workers' Compensation wages cease if employee returns to any job earning equal or greater pay



Working with the Right Clinic


- For at least the first ten days of treatment, the employer designates the clinic
- Select a clinic that is familiar with your school/operation to help minimize lost time from work
- Select a clinic that will give your employee the proper treatment
- The clinic should be part of a PPO for increased savings



**Working with the Right Clinic
(continued)**


A few items to consider:

- Would you be treated there?
- Did you tour the facilities?
- Has the doctor toured the District?
- What is the clinic's reputation?



**Key Reminder: Injured
Employee Communication**


- Many injured employees feel excluded and become upset when they never hear from their employer.
- A call from their Supervisor or Human Resources Manager can have a positive effect on recovery time.



Return to Work Program

A return to work program is beneficial to the Fund, schools and employees. Benefits include:

- Reduced claim cost
- Allows an injured employee to continue to be productive and to contribute to the district
- Maintains communications between the injured employee and district
- Reinforces the district's interest and concern for an injured employee



Return to Work Program (continued)

A return to work program is beneficial to the Fund, schools and employees. Benefits include:

- Improves communication between the district, the employee and the treating physician
- Discourages malingering
- Reduces the disability associated with an injury and its related costs
- Helps a school comply to the Americans with Disabilities Act



Additional Resources

- "An Overview of Workers' Compensation in Michigan"
- (PUB-004) by Michigan Workers' Compensation
- Agency:
 - <http://www.michigan.gov/wca> (listed under publications)
- Medical questions/diagnosis: answermed.com
- CCMSI: 866-204-0808



Workers' Compensation Litigation

When does a claim go into Litigation?

- Injured employee's claim is denied during any point during the life of the claim
- Form 107 – formal denial sent to employee, District and State
- Employee wants to pursue legal action, files an application for hearing



Workers' Compensation Litigation (Continued)

Why does a claim go into Litigation?

- Not compensable, not work related
- Medical treatment is not directly related to the claim
- One doctor releases the claimant back to work with another doctor disabling the claimant
- Employee feels they are not getting all the benefits owed to them under the Act



Workers' Compensation Litigation (Continued)

Litigation formally starts with the employee filing an "Application for Hearing."

- Application received by the State, a formal filing is sent out and/or the employer is served upon
- Defendant completes a "Carrier's Response Form"
- Defense Attorney completes the response and notifies the district that they are assigned to the case



Workers' Compensation Litigation (Continued)

The State Agency has two hearing options:

- Set the case up for Mediation
- Set the case up for Pre-Trial



Workers' Compensation Litigation (Continued)

During the course of litigation, information is exchanged:

- Employment file
- All relative medical records
- All wage information
- Any details relative to the claim

(No formal discovery is allowed)



Workers' Compensation Litigation (Continued)

At any point during the litigation process, the case can be settled:

- Voluntary Payment
- Compromised Voluntary Payment
- Redemption, full and final



Workers' Compensation Litigation (Continued)

In the event that the case is not resolved during the litigation process it can be set for trial:

- Trial is informal
- Case is heard by the Magistrate
- Supporting depositions or documents are given to the Magistrate
- Outcome of a trial is not given immediately



Workers' Compensation Litigation (Continued)

Magistrate decision concludes with one of the following:

- Denial of all benefits
- An award for payments for a closed period of time
- An award for payments for the rest of the employees life (Open Award)



Workers' Compensation Litigation (Continued)

If either party disagrees with the Magistrate's decision:

- Appeal is filed to the Workers' Compensation Appellate Commission
- If you disagree with the Appellate Commission, you can appeal to the Civil Court system
- If you disagree with the Civil Court system, you can appeal to the State Supreme Court



Workers' Compensation Litigation (Continued)

- The litigation process can be costly and you are taking a risk, but at times it is a necessary process to move a case forward.
- The ultimate goal of the litigation process is to work through issues either party has, relative to the Workers' Compensation Act.



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Questions?