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# MISSOURI WORKERS' COMPENSATION LAW

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## General Overview

**If an employee is injured at work, while performing their job duties, they are entitled potentially to 3 benefits under workers' compensation:**

1. Medical care
2. Lost time benefits (TTD/TPD)
3. Permanent benefits (PPD/PTD)

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## Current legal standard

**The accident must be the “prevailing factor” in the injury. This is defined to mean the primary or superior factor.**

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● \* Parties' obligations

- Employee - must notify the Employer of the accident:
  - within 30 days,
  - in writing and
  - list the date, time, place and nature of the injury.

(§287.420)

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● \* Obligations (cont'd)

- Employer – within 5 days of receiving the notice from the Employee, report the incident to your insurance carrier or TPA.
- Either Employer or Insurer – within 30 days of the accident, complete and submit to the DWC the First Report of Injury.
- Offer guidance to Employee on where/who to see for authorized medical care.

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● \* Medical Treatment and Work

- Employee – obligated to attend medical appointments and remain in contact with the physician in terms of knowing appointment information and expectations.
- Employee – provide Employer with medical restrictions and off-work slips.

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## Employer

- Employer – keep Employee’s work comp file documented with work restriction slips, notes on conversations, and any billing or other items received.
- Employer – if accommodated work is available, convey in writing to the Employee.
- Employer – prepare a wage statement for Insurer (13 weeks prior to the date of accident).

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## Once medical care has concluded.

Discussion should be had to verify if the Employee is released to return to work with or without restrictions.

If the physician imposed permanent restrictions, discussion should be had as to whether you have work within those restrictions.

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## What to expect as the claim progresses.

- DWC may ask for information from time to time.
- Insurance carrier or TPA will ask for a wage statement, ability to accommodate with light duty or on a permanent basis, information as to the accident itself, background on Employee.
- If Employee retains counsel, do not speak to their attorney. All contact will come through your counsel. You may disregard letters (boilerplate requests) for production of documents. Counsel will handle.

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### What to expect (cont'd)

- If the injury was to certain body parts, ie. the head, neck, face, hands/fingers, or in cases of death, there will likely be a conference set by the DWC. This may result in a settlement (money) to the Employee.
- If the Employee retains counsel, they are looking for a financial recovery, ie. PPD.

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### WAYS TO MINIMIZE EXPOSURE

- Be clear in posting and discussing with workforce their obligations in the event of an accident.
- Train managers/supervisors/forepersons to dialogue and question workers in situations of possible accidents/injuries.
- Be aware of external factors that may be motivating an alleged claim.
- Avail yourselves of external sources of information and training: MWSP (Mo. Workers' Safety Program), your claims' adjusters, your defense counsel, your occ. clinic personnel, and seminars.

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### Checklist

- Do I have the most recent posters up and placed in a prominent location?
- Do I have my claims' adjuster's phone/fax/email address – memorized or at hand?
- Do I have the name/phone/address of my designated, authorized medical clinic available?
- Do we have accurate and legible pay records on employees?

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• • | Additional considerations

- Current pending legislation
- Overlap of ADA and FMLA with workers' compensation.

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• • | Sources of Information

- [www.constangy.com](http://www.constangy.com)
- [www.labor.mo.gov](http://www.labor.mo.gov)

*Thank you!*

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# Workers' Compensation Law

## Roles and Responsibilities for Employers and Employees

### EMPLOYER INFORMATION

With some exceptions, all employers with five or more employees, and construction industry employers with one or more employees, are required to insure their workers' compensation liability, either by purchasing a policy or obtaining self-insurance authority. Workers' compensation insurance provides benefits to workers injured on the job. Employers also are required to post this notice in the workplace for employees to view. This poster is required by section 287.127, RSMo, and is available to employers and insurers free of charge by contacting the Division at 800-775-Comp.

#### **Steps to Take When an Injury Occurs**

1. Be sure first aid is administered and the employee is taken to a physician or hospital for further medical care, if necessary.
2. Report the injury to the insurance company or Third Party Administrator (TPA) within five days of the date of injury or within five days of the date on which the injury was reported to the employer by the employee, whichever is later. The insurer, TPA, or admitted self-insurer is responsible for filing a First Report of Injury with the Division of Workers' Compensation **within 30 days** of knowledge of the injury.
3. Pay medical bills related to the work injury to cure and relieve the employee of the effects of the injury. This includes all costs for authorized medical treatment, prescriptions, and medical devices. The employer/insurer has the right to choose the healthcare provider or treating physician. (The employee may select a different healthcare provider or treating physician, but if the employee does so, it may be at his/her own expense.)
4. For more liability and insurance information relating to the Workers' Compensation Program, visit [www.labor.mo.gov/DWC](http://www.labor.mo.gov/DWC) or call 800-775-COMP.

### Workplace Safety

The Missouri Department of Labor offers free safety services to employers through its Missouri Workers' Safety Program (MWSP) to help employers reduce occupational injuries and workers' compensation costs.

Call 573-751-3403 or e-mail [mwsp@labor.mo.gov](mailto:mwsp@labor.mo.gov) for more information or for a registry of certified consultants and safety engineers. **Employees are urged to report all safety hazards or concerns to the Occupational Safety and Health Administration (OSHA) at 816-483-9531 or 314-425-4249.**

### Fraud/Noncompliance

**Employee Fraud** - knowingly making a claim for workers' compensation benefits to which an employee knows he/she is not entitled or knowingly presenting multiple claims for the same occurrence is a class D felony, punishable by a fine of up to \$10,000, or double the value of the fraud, whichever is greater. A subsequent violation is a class C felony.

**Employer Fraud** - knowingly misrepresenting an employee's job classification to obtain insurance at less than the proper rate is a class A misdemeanor. A subsequent violation is a class D felony. An employer who knowingly makes a false or fraudulent statement regarding an employee's entitlement to benefits to discourage the worker from making a legitimate claim or who knowingly makes a false or fraudulent material statement or material representation to deny benefits to a worker is guilty of a class A misdemeanor punishable by a fine of up to \$10,000. A subsequent violation is a class C felony.

**Insurer Fraud** - knowingly and intentionally refusing to comply with workers' compensation obligations to which an insurance company or self-insurer knows an employee is entitled is a class D felony, punishable by a fine of up to \$10,000 or double the value of the fraud, whichever is greater. A subsequent violation is a class C felony.

**Employer Noncompliance** - knowingly failing to insure workers' compensation liability under the law is a class A misdemeanor punishable by a fine of up to three times the annual premium the employer would have paid had it been insured or up to \$50,000, whichever is greater. A subsequent violation is a class D felony. An employer who willfully fails to post the notice of workers' compensation at the workplace is guilty of a class A misdemeanor punishable by a fine of \$50 to \$1,000 or by imprisonment or both fine and imprisonment.