

Do I Need A Lawyer For My Ohio Work Injury?

An explanation of the complex Ohio workers' compensation system

Most workers in Ohio are aware that [workers' compensation](#) is available to them in the event of an injury, but few have more than a passing familiarity with how the system works. Those who haven't been through the system before are at risk of getting less compensation than they need at a time when they can ill afford the financial loss.

Injured workers ought to be aware of all of their options when they are hurt on the job, including retaining an attorney to help them with their workers' compensation claim.

How workers' compensation claims are administered in Ohio

Ohio is one of a few states considered "monopolistic states" in workers' compensation. This means that the state uses a single provider, the Ohio Bureau of Workers Compensation (BWC) to underwrite workers' compensation claims. The Ohio BWC is the second-largest workers' compensation provider in the nation and the largest exclusive state fund, managing over [\\$29 billion in assets](#).

Approximately two thirds of workers in Ohio are employed by businesses that are insured by the BWC, also known as state-fund employers. The BWC's managed-care system is known as the Health Partnership Program (HPP). The remaining third of workers are covered directly through self-insured employers that have met the BWC's strict qualifications; these are typically very large companies.

For employees of companies insured by the BWC, claims are medically managed by managed care organizations (MCO). Each MCO is a private company certified by the BWC and selected by the employer or assigned by the BWC to coordinate medical care and make treatment decisions for the injured workers.

While the BWC provides insurance coverage, collects premiums from insured employers and pays out compensable claims, claim disputes and appeals are handled by the [Ohio Industrial Commission \(IC\)](#). The IC's purposes include conducting hearings on disputed claims, providing a forum for claims resolution and determining eligibility for permanent total disability benefits, as described in the next section.

Types of benefits available in Ohio

The state of Ohio has a complex and comprehensive workers' compensation system, and many workers are unaware of the benefits that they may be entitled to claim after an on-the-job injury. Some of the most commonly awarded workers' compensation benefits in Ohio include:

- **Temporary total disability (TTD):** This is the most common initial award paid to workers injured on the job. It is paid to compensate an injured worker who is totally unable to work for a relatively short period of time due to the work-related injury or illness.

- **Permanent total disability (PTD):** This type of compensation is paid to workers who are determined by the Ohio Industrial Commission to be totally unable to perform sustained remunerative employment. PTD benefits are payable for life.
- **Scheduled loss (SL):** This type of compensation pays for permanent injuries, known as residual damage, sustained on the job. Scheduled loss awards include injuries requiring amputation or otherwise permanent total impairment of a limb, as well as total loss of vision and hearing. These are often called “Paragraph B” awards in Ohio.
- **Percentage of permanent partial award (%PP):** This type of award, often called a C-92 or C-92A award in Ohio, pays for partial impairment of a member of the body. For instance, a worker might sustain a hand injury and permanently lose 30% of use of the hand. The compensation awarded would then be 30% of the scheduled award for the loss of the entire hand.
- **Facial disfigurement (FD):** This is a one-time award for visible damage to the face or head that might make it more difficult for the injured worker to obtain or retain employment. FD awards are capped at \$10,000 in Ohio, with the amount awarded depending on the severity of the damage.
- **Wage loss (WL):** These benefits are paid to injured workers who are less able to earn as a result of an on-the-job injury. Working wage loss (WWL) is paid to workers who return to employment other than their original position – whether with the same employer or a new employer – and earn less pay due to lighter duties or fewer hours as a result of their physical impairment. Non-working wage loss (NWWL) is paid to workers who are not employed but can demonstrate that they are making a good-faith effort to find employment within their physical restrictions.
- **Death benefits:** In the event of a fatal workplace injury, the deceased worker’s dependents can claim death benefits. The amount of benefits paid is based on the amount of support that the worker provided to each dependent when he or she was alive and working.

Depending on the circumstances of the injury and its effects on the injured person’s ability to work, several other types of benefits may also be available. One of the advantages of consulting an attorney with experience handling workers’ compensation claims is that the attorney can review the injured worker’s case and identify all available sources of compensation.

Getting medical treatment for an on-the-job injury

In Ohio, injured employees of state-fund employers have the right to seek treatment with any medical provider they wish, so long as the provider is certified by the BWC. However, requests to change medical providers need to be approved by the MCO. The MCO also needs to approve or deny all requests for medical treatment needed for the on-the-job injury.

The major benefit of going through workers’ compensation for medical treatment is that injured workers do not need to pay anything out of pocket once their claim is allowed. The

medical provider submits bills to the MCO, which reviews them and forwards them to the BWC; the BWC then pays the MCO which in turn pays the provider. Prescription medications are handled separately through the BWC's Pharmacy Benefits Manager (PBM).

However, injured employees also need to navigate a system in which the majority of treatment decisions are made for them by the managed care organization. When there is a dispute between the employee and the MCO regarding treatment, retaining an attorney can help the injured worker get the treatment he or she needs.

The claims and appeals process in Ohio

After the injured worker notifies his or her employer of the injury, typically the claims process proceeds when the managed care organization files a claim with the BWC. The injured worker also has the right to file a claim directly with the BWC by filing a First Report of Injury (FROI) form, either electronically or at a BWC office. Employees of self-insured employers similarly need to follow their employer's procedures to file a workers' compensation claim.

Unfortunately, disputes between the employee and the employer or the BWC regarding the type and amount of compensation required are common. In those cases, the injured worker has 14 days from the date of receiving the BWC's decision to appeal to the Ohio Industrial Commission.

There are three levels of appeals established by the Industrial Commission:

- **District Level:** The involved parties present their dispute before the District Hearing Officer (DHO) nearest the injured worker's residence. Once the hearing is complete, the DHO's decision will be mailed to the parties involved. Those parties (the injured worker, the employer, and the BWC) then have 14 days to file an appeal to the next level in the process.
- **Staff Level:** If either party appeals the DHO's decision, another hearing will be held before a Staff Hearing Officer (SHO). Again, the parties present their dispute and the SHO's decision will be mailed to the parties involved after the decision, after which the parties have 14 days to make an appeal to the commission level.
- **Commission Level:** Unlike the district and staff levels, appeals at the commission level are not guaranteed; the three Commissioners can choose whether to accept or hear the appeal. If the Commissioners choose to accept the appeal, the parties again have an opportunity to present their dispute and will be mailed a decision after the hearing.

Beyond the Industrial Commission itself, the injured worker or employer has the option of appealing to state court, though whether the court will hear an appeal depends on the nature of the dispute. For example, issues regarding whether to allow a claim or compensate the worker for a specific medical condition can generally be appealed to state court, while disputes regarding the extent of disability generally cannot.

Throughout the appeals process, there are strict deadlines that need to be met in order for the injured worker to preserve his or her right to appeal, which experienced workers' compensation lawyers are familiar with. In addition, the BWC and the employer will nearly always have legal representation, and the hearing officers themselves are attorneys as well. Finally, appeals are focused largely on technical matters of law, and an injured worker who enters this complex process without legal representation is at a significant disadvantage.

Negotiating settlements

It's not uncommon for workers' compensation claims to be resolved through a lump sum settlement negotiated between the injured worker and the employer or the BWC. Settlements are commonly associated with long-term disabilities and other serious injuries, but the reality is that many claims, both large and small, settle. It is often in the interest of all parties involved to reach a settlement rather than continuing with weekly benefits.

In order to reach a fair and reasonable settlement, the parties involved need a thorough understanding of the law and a long-term perspective on the implications of the work injury. Again, an experienced workers' compensation attorney knows how to effectively represent the employee in these negotiations and reach an agreement that takes care of his or her needs.

For more information

Contact [Hochman & Plunkett, Co., L.P.A.](#), a workers' compensation law firm with decades of experience serving injured workers in southwestern Ohio. The firm has offices in Dayton, Cincinnati, Springfield and Troy, OH.