

Workers' Compensation Frequently Asked Questions

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Injured Workers

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Q: What do I do if my employer has failed to file a claim?

A: If you are not certain whether your employer has reported your injury to the Workers' Compensation and Safety Division, contact our office and ask our staff to check our records. If your employer has not filed a Form 1, you may complete a Form 5 and send it to our Division. You may download a Form 5 by clicking here [include link pdf Form 5] or by contacting our office at (802) 828-2286.

Q: What is a Medical Case Manager and must I have one?

A: An injured worker is entitled to medical care and treatment that is reasonable, necessary and related to his/her work injury. The employer (or carrier) is required to provide the worker these medical benefits. However, an injured worker has a right to choose his/her physician and health care providers. The employer/carrier must bear the cost of medical care the worker selects, but the carrier may take action to ensure the efficient delivery and proper utilization of such medical benefits. The Medical Case Manager (MCM) is a skilled medical professional hired by the employer/carrier to medically follow or medically manage the injured worker. The injured worker cannot choose to have one or not.

For more information about Medical Case Management, click here [include link to Medical Case Management in Workers' Compensation].

Q: Do I need a lawyer?

A: That depends upon the complexity of your claim. Many claimants represent themselves before the Department, particularly at the informal level of dispute resolution, but if your claim is appealed or referred to the formal hearing docket, the Department strongly encourages an injured worker to hire an attorney due to the quasi-legal nature of formal hearings. Most attorneys work on a contingency fee basis - meaning, they will not charge you unless they succeed in obtaining benefits for you.

If you are not sure about whether you can handle your claim without legal representation, you may wish to contact the Lawyer Referral Service offered by the Vermont Bar Association by calling (802) 223-2020 or clicking [include external link here - www.vtlawhelp.org] or you may consult with an attorney of your own choosing who has some experience with workers' compensation law.

Another legal reference source is Law Line at www.vtlawhelp.org, which is part of Legal Services of Vermont, Inc. This site contains lots of useful information for all kinds of Vermonters.

If you decide to represent yourself, you must keep the adjuster or the carrier's attorney as well as the Workers' Compensation and Safety Division apprised of any change in your address or other contact information. Additionally, you will be expected to comply with the Rules of Procedure [include link to Rules 1-40] and other requirements of Vermont's Workers' Compensation law.

Q: What can I do if I think I have been discriminated against by my employer because of my workers' compensation claim?

If you feel you have been discriminated against or retaliated against because of your work related injury you should contact the Attorney General's Office Civil Rights Division. Their toll-free Vermont telephone number is (888) 745-9195 or you can click here for their website <http://www.atg.state.vt.us/display.php?smod=50>.

Q. Can I receive both workers' compensation and unemployment insurance benefits?

A: As a general rule, no. There are, however, several factors that the Department must review to determine if you would be eligible to receive unemployment insurance benefits while you are receiving or have received Workers' Compensation benefits. Therefore, it is suggested you call the toll-free Unemployment Claimant Assistance Line at 1-877-214-3332 for detailed information regarding your specific situation.

If your employer's adjuster is proposing to discontinue your temporary total disability benefits, you may be eligible for unemployment insurance benefits if you have a work capacity and are able and available to return to work. To explore your potential eligibility, you must contact the Unemployment Initial Claims Line at 1-877-214-3330 within 6 months of the date your temporary total disability benefits have ended. Further information about unemployment benefits may also be found by clicking here [include link to UI Landing pg].

Q. How do I report a hazard or safety condition in my workplace?

A. If you want to report a serious hazard or safety condition in your workplace, you need to contact the Vermont Occupational Safety and Health Administration (VOSHA). Call toll free at (800) 287-2765 or click on this link [include link to VOSHA home page and/or complaint form].

Q: What is an Independent Medical Examination? Do I have to go to this?

A: An Independent Medical Examination (IME) is a medical exam set up by your employer or its insurance carrier to address a medical issue or issues concerning your work injury. Such exams are scheduled to determine, among other things: whether your injury or medical condition is actually related to work, whether you have reached maximum medical improvement (MMI), whether a certain medical procedure or treatment is necessary; and what is your permanent impairment, if any.

You must attend an IME if you are given 7 days' notice and there is a reasonable medical question to be answered. If you are asked to go to more than one IME you should contact the Workers' Compensation and Safety Division to discuss whether or not you are required to attend.

Q: What does it mean to have reached maximum medical improvement or a medical end result?

A: These terms are used by doctors to mean that you have plateaued in your recovery and significant further improvement is not expected. If your doctor has recommended surgery or other significant treatment you are not at a medical end point. Once you have reached maximum medical improvement (MMI) or medical end result (MER) your wage benefits may be discontinued by the carrier.

Q: Can I miss work to go to a medical appointment?

A: Yes. If you are not working full time you should schedule your medical appointments outside of work hours. However, if you need to go to a medical appointment during work, your employer is required to pay you for such time.

Q: Can I pick my own doctor?

A: Yes. Your employer can pick a doctor for your first medical visit. After that visit, you may pick your own doctor by filing a Form 8. [Click here to download a Form 8 \[include link pdf Form 8\]](#). However, you must provide a reason for selecting a new doctor.

Employers

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Q: Can I be self-insured for workers' compensation?

A. Yes, however the financial responsibility necessary may be greater than the cost of an insurance policy. Usually only large employers qualify for self-insurance. Click here for an Application for Self-Insurance, Form 30. (include link to form30)

Q: I am a sole proprietor of my corporation and the only employee, why do I need workers' compensation coverage?

A. By statute you are an employer of persons performing work for you if it is work that would otherwise be done by employees. This means that even if the worker is an independent contractor for tax purposes, he is still an employee for workers' compensation purposes. (VDOL)

Q: Where can I get more information about my rights and responsibilities with regard to workers' compensation matters?

A: Contact the Workers' Compensation and Safety Division at the Vermont Department of Labor. We will try to provide you with the information you need. Call our main phone number, (802) 828-2286, or click here for contact information [click on contacts link].

Also, we recommend that before you call that you review the following documents: Fact Sheet for Employers, Best Practices for Employers (include links to those pages)

Q: Does filing a Form 1 mean that my business is liable for the claim?

Many employers are reluctant to file workers' compensation First Reports of Injury, particularly on minor or disputed injuries. Some employers are unaware that they have to file First Reports in relatively "minor" claims. The filing of a First Report (Form 1) does **not** create liability and may actually benefit the employer by providing accurate information in a timelier manner. For these reasons, it is important for employers to know their reporting obligations and to know how timely filing of first reports can benefit them.

To learn more about your obligations to report an injury, click here [include link to Filing Form 1 Does Not Create Liability]. To understand what is a first-aid only injury claim, click here [include link to First Aid Only Injury and Deductible Policies]

Q. Who regulates Workers' Compensation in Vermont?

Vermont's Workers' Compensation is regulated by two state agencies. The Department of Financial Regulation (DFR) (formerly the Department of Banking, Insurance, Securities and Health Care Administration or BISHCA) regulates insurance companies, (8 V.S.A.). The Vermont Department of Labor (VDOL) administers the Workers' Compensation Act, (21 V.S.A.).

If you have questions regarding insurance requirements or insurance adjuster licensing you will need to contact the Department of Financial Regulation at (insert link). If you have questions regarding a work related injury you need to contact the Department of Labor, Workers'

Compensation Division at (802) 828-2286.

Q. How many years can the insurance company go back and audit?

A. The insurance company may conduct audits within three years after the policy period ends. For more information, contact DFR at [include link <http://www.dfr.vermont.gov/insurance/rates-forms/workers-compensation-insurance-information-resource-page>

Q. How do I know that my experience rating is accurate?

A. Cross reference your loss runs with your experience modification worksheet and address any discrepancies with your insurance company. Often there are timing differences with the valuation of the data, however, this is a simple way to monitor the checks and balances of your experience rating. For more information, contact DFR at [include link to <http://www.dfr.vermont.gov/insurance/rates-forms/workers-compensation-insurance-information-resource-page>

Q. What is the Workers' Compensation Assessment?

A. The workers' compensation administration fund was created to provide the funds necessary to administer Vermont's Workers' Compensation Program. The fund consists of contributions from employers. To find the current assessment rate, click here: [include link to Workers' Compensation Assessment Rate page).

Q. Can my insurance company cancel my policy in mid-term?

A. Yes, as long as you have been given the statutory notice of 45 days in advance of the cancellation.

Q. What can I do if I believe that my account is not getting fair treatment from my insurer?

A. An employer who believes that the rules or classifications of the workers compensation system have not been properly applied can request the assistance of NCCI in resolving their dispute. NCCI's dispute resolution assistance and administration of an appeal process provides an opportunity for employers and carriers to efficiently resolve conflicts. Your agent should be able to help you with the process. Employers with coverage issues or other problems with their insurance company can contact the Vermont Division of Financial Regulation, Consumer Services Section at 1-800-964-1784 consumercomplaints@vermont.gov

Q. Where can I obtain workers' compensation insurance?

A. Any insurance agent licensed in Vermont can provide coverage through various markets. You can contact the Vermont Insurance Agent's Association at (802) 229-5884 for agent contacts. For more information, contact DFR at [include link to DFR, Workers' Compensation Insurers License to do Business in Vermont at <http://www.dfr.vermont.gov/insurance/producer-licensing/pc-adjuster-license-info>.

Q: How do I report Workers' Compensation fraud?

A. To report an instance of suspected workers' compensation fraud, complete and submit an

electronic complaint form by clicking here [include link to online complaint form <https://uipublic.labor.vermont.gov/Misclassification/EmployerReport.aspx>]

Q: What is the penalty for making a false statement or representation or for refusing or neglecting to comply with an order or rule or regulation?

A: An injured worker who willfully makes a false statement or representation for the purpose of obtaining any workers' compensation benefit or payment may be assessed an administrative penalty of not more than \$5,000 and shall forfeit all or a portion of any right to compensation.

An employer who refuses to comply with rules and regulations or orders of the Department of Labor may be assessed an administrative penalty of up to \$5,000. An employer who makes a false statement for the purpose of obtaining a lower workers' compensation premium, or who refuses to comply with rules and regulations, may be assessed an administrative penalty by the Department of Financial Regulation (DFR) of up to \$20,000. 8 V.S.A. §3661(c) and 21 V.S.A. §§687, 688, and 708.

For more severe cases of fraud, stiffer, criminal penalties may be applied to the guilty party.

For fraud involving \$10,000.00 or more, a fine of not more than \$100,000.00 or imprisonment for no more than three years, or both may be assessed.

For fraud involving less than \$10,000.00, a fine of not more than \$10,000.00 or imprisonment for no more than two years, or both, may be assessed.

Insurers/Adjusters/Attorneys

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Q. How do I get licensed to adjust workers' compensation claims in Vermont?

A. The Department of Financial Regulation (DFR) licenses all insurance adjusters doing business in Vermont, including those who adjust workers' compensation claims for out-of-state carriers. To find out about licensing requirements, examinations, and relicensing information, contact DFR at <http://www.dfr.vermont.gov/insurance/producer-licensing/producer-individual-licensing>

Q. What continuing education is offered in Vermont?

A. In order to be re-licensed to adjust Vermont workers' compensation claims, adjusters must receive continuing education credit by attending Vermont Department of Labor sponsored trainings. Twice a year, in the spring and the fall, the Department sponsors Adjusters' Conferences, usually in Burlington, Vermont. For information about upcoming Adjusters' Conferences and registration forms, periodically check our web page devoted to training information by clicking this link [include link to Adjuster Licensing and Training]

Q. Where can I find information about Vermont's Workers' Compensation Process?

A. Whether you are a newly licensed adjuster or have been adjusting Workers' Compensation claims for many years, your primary resource for how to adjust Vermont claims and effectively participate in Vermont's Workers' Compensation process should be our newly revised and updated Adjuster's Manual. You can find this by clicking here [include link to Adjuster's Manual page].

In addition to this Manual, you should familiarize yourself thoroughly with the Workers' Compensation Act, the Department's Rules of Procedure, and other requirements. You can find links to these at [include link to Rules under WC legal section.] Given that Vermont has a form-based Workers' Compensation Program, you should also acquaint yourself with the forms, instructions, and guidance found at [include link to Forms page].

Q. Are there any new requirements of law that I should be particularly aware of? What about new pre-authorization requirements?

A. Yes, there are new pre-authorization requirements. The Vermont Legislature passed Act 50, effective July 1, 2011. Section 3 of the Act created specific statutory procedures and tight timeframes governing a health care provider's request that a Workers' Compensation Insurer preauthorize proposed medical treatment. All adjusters are advised to review the Department's Guidance regarding implementation of the new pre-authorization law. Just click on the following links to obtain additional information about the law and its requirements. [Include links to pdf preauthmemo under attorney's publications folder]

To download the Medical Provider Preauthorization form, click here [include link].

Q. Where do I find information about Weekly Payment Requirements?

A. Carriers are required to establish and report to the Department and the claimant the day of the week on which payment shall be mailed or deposited. This is true whether benefits have been awarded or are not, according to the provisions of 21 V.S.A. sec. 650(f). For guidance on how to implement this requirement, we suggest that you read our Payment Scheduling Clarification Guidance Document [include pdf link to weekdaypaymentsclarification filed under Adjusters / Attorneys publications].

Q. Where do I find information about mileage and meal reimbursement?

A. You can obtain information about the current rate for mileage reimbursement and meal allowances on the publications page.

Q. Our carrier uses medical case managers to help coordinate claimants' medical treatment. Are there any rules or guidance regarding medical case management (MCM) in

Vermont?

A. The Department of Labor does not regulate MCM or license medical case managers who coordinate claimants' medical treatment in Vermont. Registered nurses who serve as Medical Case Managers should be licensed by the Vermont Board of Nursing. Click here for more information about licensing requirements [<http://vtprofessionals.org/opr1/nurses/>]. More information about MCM in Vermont can be found at [[include link to Medical Case Management page](#)].

Q. How do I get updates about changes in the law, upcoming training events, and other information relevant to insurance carriers and adjusters?

A. You should regularly check this website. In addition, you may join one of our listserves to receive up-to-date information relevant to insurance carriers, adjusters, attorneys, and other Workers' Compensation practitioners. To join, just contact Trudy Smith at Trudy.Smith@vermont.gov

Q. Is there a brochure, or another document, I can give to claimants to help them better understand the Workers' Compensation Process?

A. Yes. We have a brochure that you can download [[link to pdf wcbrochure](#)] Also, we are in the process of developing a Claimant Handbook which we will post here in the near future.

Vocational Rehabilitation

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Q: What is vocational rehabilitation?

A: If you are unable to return to employment you have training and experience for because of an injury, then vocational rehabilitation (VR) is a benefit that can assist you in returning to suitable work. Vocational rehabilitation benefits can provide valuable training and guidance in the process of returning to suitable employment.

Q: How do I get vocational rehabilitation?

A: If you have received 90 days of temporary total disability benefits, the insurance carrier will refer you for a vocational rehabilitation screening or entitlement assessment. If the insurance carrier does not refer you, then you can request vocational rehabilitation and you will be provided with a vocational screening.

Q: Can the insurance carrier refuse to give me vocational rehabilitation?

A: The insurance carrier can file a denial indicating why they feel that your request for vocational rehabilitation is not necessary in your claim. They must provide their evidence and send you a copy.

You can appeal that denial if you disagree.

Q: What happens if I am referred for an entitlement assessment?

A: A vocational rehabilitation counselor will contact you to set up an initial meeting. They will discuss your past employment history, your work injury, your likes and dislikes and your current work capacity. The counselor will review all the information along with the medical information that is provided to them from the insurance carrier and make a determination if you are entitled to further services.

If you are able to return to employment you have training and experience for, not necessarily the job that you were doing when you were injured, at a wage as close to the wage as you were making when you were injured you will be found not entitled to services.

Q: What happens if I am found entitled to vocational rehabilitation?

A: The vocational rehabilitation counselor will work with you and the insurance carrier to create a return to work plan. The return to work plan will outline the steps that are necessary to return you to suitable employment.

Q: Can I change vocational rehabilitation counselors?

A: Yes. You can change vocational counselors once for any reason. To change counselors you need to complete a Change of Counselor form and note the reason that you wish to change.

Q: Do I have to participate in vocational rehabilitation?

A: No. If you do not want to participate you do not have to. If you find that you need services at a later date you can request them at that time.