



UTAH
LABOR COMMISSION
Industrial Accidents Division

Employee's Guide to Workers' Compensation





The Industrial Accidents Division of the Utah Labor Commission has prepared this pamphlet to answer questions employees often ask about workers' compensation benefits. This pamphlet provides a general understanding of the workers' compensation system. If you need more information or have specific questions, please contact us at:
Industrial Accidents Division (801) 530-6800 Toll Free (800) 530-5090
Toll Free In-State (800) 222-1238 Email IACCD@utah.gov

Additional copies of the "*Employee's Guide to Workers' Compensation*" may be obtained by contacting the Industrial Accidents Division or by visiting our website laborcommission.utah.gov and downloading digital copies of the guide.

Industrial Accidents Division Mission

Established by state law, the Industrial Accidents Division monitors and administers the workers' compensation program for the State of Utah. The Division's sections are established to work with injured workers, employers, physicians, adjusters and attorneys on various injury and compliance issues. Rules, procedures and certain medical fees are established by the Division to ensure fair claims handling practices, compliance adherence and access to quality medical care.

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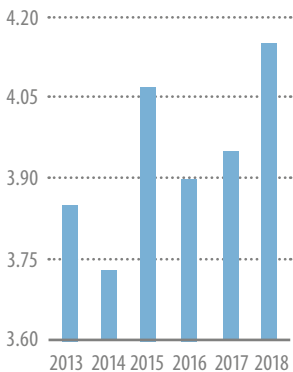
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Workers' Compensation in Utah



WC Injuries per 100 Workers in Utah



Workers' compensation is a no-fault insurance system established by the Utah Legislature in 1917. It pays medical expenses and helps offset lost wages for employees with work-related injuries or illnesses. Employers provide workers' compensation coverage by purchasing workers' compensation insurance or obtaining permission from the Industrial Accidents Division to "self-insure."

Every employer is required to provide workers' compensation coverage for all its employees. An employer is responsible to pay for workers' compensation coverage and the cost cannot be deducted from an employee's wages. Furthermore, an employer is required to post its workers' compensation insurance carrier's policy, address and phone number at its employment site, or indicate that it is self-insured.

If you would like to confirm if your employer has a workers' compensation insurance policy, please contact our office at 801-530-6800 or visit our website, laborcommission.utah.gov

Eligibility for Workers' Compensation Insurance

Protection for employees by the workers' compensation system begins as soon as an employee begins work with an employer. Employees are entitled to workers' compensation benefits for work injuries and illnesses even if an employee has only been on the job a short time or only working part-time.

Workers' compensation is a no-fault system. However, workers' compensation does not cover intentional self-inflicted injuries. Disability compensation may be denied for injuries from alcohol or drug abuse. Disability compensation can also be reduced by 15% for willful failure to use safety devices or follow safety rules.

Under Utah law, a fraudulent workers' compensation claim for compensation or medical benefits is a crime and any employee found guilty of fraudulently receiving these benefits is subject to fines and incarceration.





Reporting a Work Injury or Illness



An injured employee should report an injury or illness to their employer immediately. It is the responsibility of the employee to report the injury to a physician, supervisor, manager, human resources, or any individual or department that should receive the report of injury. If the employee is not able to report the injury directly, next of kin can report on their behalf. It is important to ensure the report of an injury or illness is documented. If an injured employee fails to report an injury or illness within 180 days, they may be disqualified from receiving workers' compensation benefits.

Once an injury or illness has been reported to the employer, the employer has 7 days to report the claim to its insurance carrier and the insurance carrier has 14 days to report the "First Report of Injury" (Form 122) to the Industrial Accidents Division. The employer and its insurance carrier must provide a copy of the report to the injured worker.

A doctor treating an injured employee is required to complete a "Physician's Initial Report of Injury or Illness" (Form 123) and submit the report to the Industrial Accidents Division within 7 days of the initial visit. An injured employee should explain to the treating doctor HOW, WHEN and WHERE the injury or illness occurred. The injured employee can request a copy of the Form 123 from the medical provider.

The insurance carrier will open a claim for benefits once they have received either one or both reports from the employer or doctor. The insurance carrier is to make a determination of compensability of the injury or illness within 21 days of having received the claim for benefits. If further investigation is necessary, the insurance carrier or self-insured employer has an additional 24 days to accept or deny your claim.

Workers' Compensation Benefits

If a claim is accepted, checks for disability compensation are usually issued every two weeks. Depending on specific circumstances, workers' compensation can pay one or more of the following benefits:

- ◆ Medical care expenses that are reasonable and necessary to treat an employee's injury or illness. This includes visits to a treating doctor, hospital bills, medicine and prosthetic devices. It also includes reimbursement for the cost of mileage to travel to receive medical treatment. Medical benefits are considered a lifetime benefit as long as the medical treatment is necessary to continue to address a work related injury or illness.
- ◆ Temporary Total Disability Compensation is paid to an injured employee if they are unable to do any work because of the injury or illness. No compensation is paid for the first 3 days after an injury or illness unless the disability prevents an employee from working for more than a total of 14 days. In that case, the employee will be paid for the first 3 days of disability. This type of compensation ends when the injured employee returns to work or has reached medical stability. An injured employee can receive temporary total disability compensation until they can return to regular work, the employer offers suitable light-duty work, or the injured employee has reached medical stability. The maximum duration for temporary total disability compensation is 312 weeks within a 12 year period of time from the date of injury.

Disability Compensation is paid to an injured employee if they are unable to work due to their injury or illness or they can only return on a modified schedule working less hours. Compensation covers a portion of wage-loss until a treating doctor releases the injured employee back to work. Benefits are paid by the workers' compensation insurance carrier or a self-insured employer.



**An impairment rating is utilized to calculate the financial compensation for partial disabilities from the injury or event, after an injured worker reaches medical stability. An injured worker must receive an impairment rating within six years of an injury or file an application for a hearing to hold a claim open for 12 years from the date of injury.*

- ◆ **Temporary Partial Disability Compensation** is paid to an injured employee when the work injury or illness prevents them from earning their full regular wage while recovering. For example, if the injured employee works fewer hours or works at a light-duty job that pays less than their regular job, they are entitled to temporary partial disability compensation in addition to their earned wages.
- ◆ **Permanent Partial Disability Compensation** is paid if the injured employee's work injury or illness leaves them with a permanent impairment. This compensation begins when the doctor determines the employee has reached medical stability; this compensation is determined according to an impairment rating* provided by an authorized physician.

Once an injured employee has reached maximum medical improvement** (MMI), they are referred to an Independent Medical Evaluation (IME) to determine the extent of the employee's partial disability from their injury or illness. A qualified doctor will conduct the evaluation by reviewing the injured employee's medical records, treatment plan, as well as current state of stability. An overall report is made to determine the percentage of partial disability and the compensation for the disability is then based on the injured employee's wages and percentage of disability. Permanent partial disability compensation is specific to an employee's individual claim.



- ◆ Permanent Total Disability Compensation is paid if the injured employee's work-related injury or illness leaves them with a permanent disability that prevents them from returning to their former work or performing any other work that is reasonably available to them.
- ◆ Dependent Benefits and Funeral Benefits in case of a work related fatality.

Workers' compensation disability payments are not taxable and cannot be garnished to pay debts except for child support. There could be a reduction or termination of compensation benefits if an injured employee is terminated for:

- 1) Criminal conduct;
- 2) Violent conduct;
- 3) Violation of workplace health, safety, licensure, or nondiscrimination rules; or
- 4) Failing a drug or alcohol test.

Even if the disability compensation is terminated, an injured employee is still entitled to medical benefits.

***Maximum Medical Improvement (MMI) occurs when the medical condition of an injured employee has stabilized and further functional improvement is unlikely, despite continued medical treatment or physical rehabilitation. A treating physician determines when an injured employee has reached MMI.*



Wage Determination for Compensation

If a workers' compensation claim is accepted by the insurance carrier and an injured employee will lose work time, the carrier will contact the employee and employer to determine the rate of weekly pay the injured employee is to receive for the time off work. (*Workers' Compensation Rate = 2/3 of weekly salary for Temporary Total and Temporary Partial Disability benefits.*)

If the injured employee has more than one employer, they will need to provide wage information to the adjuster to have these wages applied to their average weekly wage. An employee will be paid at a minimum of 20 hours a week with a weekly minimum of \$45.00. Additionally, an employee shall receive \$20.00 per week for dependent spouse and \$20.00 for each dependent child under the age of 18, to a maximum of 4 children.



Lump Sum Requests for Permanent Partial Disability

Lump sum disability compensation can be paid after the Permanent Partial Disability compensation has been determined and with the prior approval of the Utah Labor Commission Adjudication Division. An injured employee will need to submit Form 134, "Application for Lump Sum or Advanced Payment", and if a lump sum payment is approved, the amount will be reduced to its discounted present value. For additional questions related to lump sum requests, please contact the Adjudication Division at (801) 530-6800.

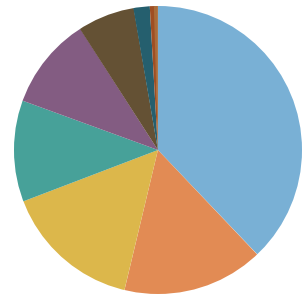
Medical Providers and Medical Records



An employer or their insurance carrier may require an injured employee to be initially treated by a preferred medical provider. After the initial visit to the preferred provider, an employee may choose to make a one-time change of medical providers during the course of their claim, however they must ensure the medical provider accepts workers' compensation insurance. An injured employee must also immediately inform the insurance carrier or self-insured employer of the one-time change of medical provider. A referral from one medical provider to another is not considered a change of medical providers.

Because medical records are necessary to evaluate and administer workers' compensation claims, workers' compensation insurance carriers and claims administrators of self-insured employers are generally entitled to 10 years of past medical records. An employer is not entitled to these records.

Distribution of Utah Workplace Injuries by Nature



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|---|--------------|
| ● Sprains/Strains/Tears | 2740 |
| ● Fractures | 1150 |
| ● All Other | 1120 |
| ● Soreness/Pain | 820 |
| ● Cuts/Lacerations | 750 |
| ● Bruises/Contusions | 470 |
| ● Multiple Traumatic Injuries | 130 |
| ● Heat (Thermal) Burns | 40 |
| ● Amputations | 20 |
| Total Cases | 7,240 |

Sources: U.S. BLS Survey of Occupational Injuries & Illnesses; State of Utah Department of Workforce Services & Workforce Research & Analysis



Industrial Accidents (Workers' Compensation) Records Request



The Industrial Accidents Division has a copy of your Industrial Accident records. A request for workers' compensation records for yourself or an individual must be submitted with the *Form 205 Request for Copies from the Industrial Accidents Division*, along with proper authorization and necessary documentation in order to process the request. A copy for Form 205, can be found on the Utah Labor Commission's website.

The Industrial Accidents records do not contain a copy of your medical records. Medical records are used/stored by the insurance carrier responsible for the claim or the doctor(s) that are involved in your care. Medical records can be requested by contacting your doctor's office.

If you have any questions, or would like to obtain a copy of your records, please contact the Records Department at (801) 530-6844.

Family Medical Leave Act (FMLA)

The Workers' Compensation Act does not require employers to continue paying for health insurance while an injured employee is off work and receiving workers' compensation benefits. An employee should talk to their employer about the Family and Medical Leave Act (FMLA) to see if it applies to them.

FMLA applies to all public agencies, including local, State and Federal employers, and local education agencies (schools); and Private sector employers who employ 50 or more employees for at least 20 work weeks in the current or preceding calendar year (*including joined employers and successors of covered employers.*)



FMLA does not distinguish between injuries that are work related and those that are not. FMLA leave and workers' compensation leave can run together, provided the reason for the absence is due to a qualifying serious illness or injury and the employer properly notifies the employee in writing that the leave will be counted as FMLA leave.

For additional questions related to FMLA please visit:
www.dol.gov/whd/fmla/ or call the U.S. Department of Labor, Wage and Hour Division, Salt Lake City District Office at 1-866-487-9243.



Utah Labor Commission **Industrial Accidents Division**



Returning to Work After an Accident or Illness

An employee can return to work after a treating doctor releases the employee to light-duty or full-duty work release. If an employer accommodates suitable light-duty work, the employee is required to accept the work or risk losing their temporary disability compensation benefits. If an employer cannot offer light-duty work to an injured employee, the employee will be entitled to continue to receive temporary total disability benefits until the treating physician determines they are medically stable and able to return to work.

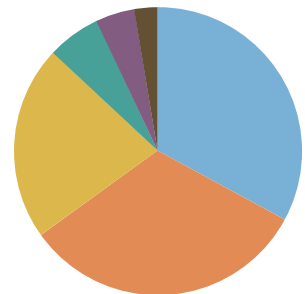
An employer may offer an injured employee a different position within their capabilities and pay the employee at the new position's wage rate. An injured employee may be eligible for an award of temporary partial disability compensation to help offset the difference between old and new wage rates.

If a doctor determines an injured employee has a permanent impairment from a work injury or illness, the employee will be entitled to permanent partial disability compensation or in certain cases may be eligible for permanent total disability compensation.

The Utah Workers' Compensation Act does not prohibit an employer from discharging an injured worker if the worker can no longer perform his or her job.

If an employee is incapable of returning to work and perform their same job duties, an employer is not required to offer an employee a new job or retain them as an employee. If an employee has permanent partial disabilities that inhibits their ability to complete the same type of work, they were doing prior to their injury or illness, they may be eligible for rehabilitation services through the Utah State Office of Rehabilitation (USOR). For more information regarding rehabilitation services, please call USOR at 1-866-454-8397.

Top Non-Fatal Events Injuring Utah Workers



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|---|------|
| ● Falls/Slips/Trips | 2380 |
| ● Overexertions/Reaction | 2330 |
| ● Object/Equip. Contact | 1590 |
| ● Transportation | 430 |
| ● Violence | 320 |
| ● Exposure | 180 |
| ● All Other | 130 |

Total Cases 7,240

Sources: U.S. BLS Survey of Occupational Injuries & Illnesses; State of Utah Department of Workforce Services & Workforce Research & Analysis



Coverage for Volunteers

A volunteer for a nongovernment entity is not an employee of the nongovernment entity for purposes of Chapter 3, Utah Occupational Disease Act, unless the nongovernment entity elects to provide workers' compensation insurance coverage. A nongovernment entity may elect to secure coverage for all of the nongovernment entity's volunteers by obtaining coverage for the volunteers in accordance with Section 34A-2-201 under the same policy it uses to cover the nongovernment entity's employees.

A volunteer for a government entity, is entitled to workers' compensation medical benefits; and in some cases, disability compensation benefits.



Workers' Compensation Dependent Death and Burial Benefits

When the death of an employee is the result of a work-related injury or illness, weekly dependent compensation is paid by the self-insured employer or insurance carrier to the surviving spouse and/or dependents.

If an employee dies from a work injury or illness, workers' compensation will pay up to a certain amount for funeral and burial expenses.

The insurance carrier or self-insured employer may request that the dependent(s) supply copies of marriage, death, and/or birth certificates, and also relevant divorce decrees as part of the claim filing.

For more information regarding dependent death benefits and burial benefits, please contact the Industrial Accidents Division at (801) 530-6800.

Dispute Resolution

If an injured employee's claim is denied, it is recommended the employee speak with the claims adjuster to inquire why the claim was denied and if there is any additional information that can be submitted to resolve the problem.

If the insurance carrier continues to deny the claim, an injured employee can contact the Industrial Accidents Division for assistance through the Intake Claims Department. If the efforts on behalf of the Industrial Accidents Division claims staff does not resolve the dispute, and the employee believes they are entitled to benefits, they can file an Application for Hearing with the Labor Commission's Adjudication Division.

If an injured employee determines to file an Application for Hearing, they may also request to participate in a Claims Resolution Conference*.

The Industrial Accidents Division staff can explain employee's rights under the Utah Workers' Compensation Act, however they cannot offer legal advice nor legally represent an employee. For more information regarding how to file an Application for Hearing please contact the Adjudication Division at (801) 530-6800.

**Claims Resolution*

Conference is offered by the Adjudication Division to assist in resolving workers' compensation disputes between an injured employee and a self-insured employer or insurance carrier.





Employer Unlawful Interference

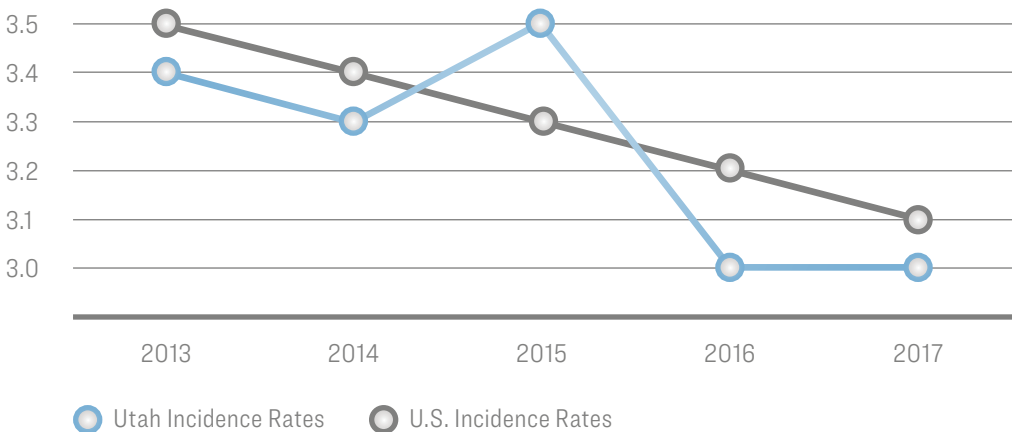
An employer may not engage in behavior towards an employee in which they are intimidated, coerced, or harassed with the intent of preventing the employee from making a workers' compensation claim or receive benefits.

The Industrial Accidents Division may impose a fine* of up to \$5,000 against an employer for such violation. An employee may contact the division for further information or to report non-compliance on behalf of an employer.

*Title 34A, Utah Labor Code, Chapter 2 Workers' Compensation Act, Section 114, Unlawful Interference, effective 5/8/18.

Note: For more information about these Acts, contact the Labor Commission's Anti-discrimination Division (801) 530- 6801 or toll free (800) 222-1238.

Overall Non-Fatal Incidence Rates Utah vs U.S.





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Heber Wells Office Building,
160 East 300 South, 3rd Floor
PO Box 146600
Salt Lake City, Utah 84114-6600

(801) 530-6800
Toll free instate: (800) 530-5090
laborcommission.utah.gov