

## INFORMATION REGARDING WORKERS' COMPENSATION AND A CLAIMANT'S RIGHTS

Colorado law says that when an insurer takes a position on a claim (determines whether a claim will be paid), it must also provide a brochure to the claimant (the injured worker or employee) describing the claims process and the claimant's rights. This is that brochure.

- Whenever a workers' compensation report is filed with the Division of Workers' Compensation (Division), a workers' compensation number (W.C. #) is assigned to the claim. This is in addition to any claim number that has already been assigned by the insurer. An injured employee can file a *Workers' Claim for Compensation* within 2 years after the date of injury or occupational disease. When a claim is filed at the Division, the insurer is expected to take a position on the claim. This means that the insurer must either admit or deny responsibility (liability) for the claim in writing and send you a copy of its decision. When a claim is admitted, an *Admission* is provided. When a claim is denied, you should receive a *Notice of Contest*. An Admission will contain important information, including your gross average weekly wage. You should verify the accuracy of this information and bring any information you believe is inaccurate to the attention of the insurance company's claims adjuster.
- Under state law, the insurer is required to provide medical care to you that is reasonable, necessary, and related to the workplace injury. You cannot be charged for this care. Exactly what medical care you are entitled to may not always be clear and could be an issue that ends up in dispute. Your treating doctor may refer you to other doctors or medical providers as part of that medical care.
- Most, but not all, employees injured on the job are entitled to a choice of doctors from at least two different doctors. You may also have the right to change doctors one time within 90 days after the date of injury and before reaching maximum medical improvement (discussed below). You are also entitled to request a change of doctor at other times under certain other circumstances. Questions on this topic should be addressed to the adjuster, your employer, or an attorney.
- You are entitled to discuss with the doctor who should be present during an examination, and let the doctor know if you have concerns with anyone who may be present. You have the right to refuse to have a nurse case manager employed on the claim present at your medical appointments. As you receive medical care there will be medical records created, and you have the right to see and have copies of those medical records related to the workplace injury.
- If you want to see your own doctor, or have another doctor present at a medical examination, you have the right to do so. However, you are responsible for paying that doctor.

- You are entitled to be reimbursed mileage expenses for travel to and from authorized medical visits and to go to the pharmacy. You will need to request reimbursement in writing and should discuss this process with your adjuster.
- If the injury causes you to miss more than three days or shifts from work you should be entitled to wage replacement benefits. If you work part-time or for lower wages while recovering you should receive wage replacement benefits, though in a smaller amount. There are a variety of ways those benefits can be terminated, including if you miss medical appointments or do not show up to work if the employer offers you a position. You should pay attention to any letters you receive and communicate with the adjuster if you have questions.
- Once an authorized doctor determines that your injury has become stable and no further treatment is reasonably expected to improve your condition, the doctor will say that you have reached maximum medical improvement. At this point you are entitled to have a doctor (which is usually, but not always, the same doctor) determine whether you have any permanent impairment. If you do have permanent impairment, you may be entitled to monetary benefits. The doctor should also determine whether you need to receive any continuing medical care. The process can vary, but at some point the insurer should file a Final Admission.
- A *Final Admission* is a critical document because it represents the insurer's final decision on what it believes is owed to you. The Final Admission contains important information, including your impairment rating and whether the insurer will continue to provide medical care. You can dispute the Final Admission if you act within 30 days. Important information about how to pursue a dispute and the mandatory timelines is contained in the Final Admission. You should read this document carefully.
- You may also be entitled to a payment for disfigurement if your injury caused scarring or disfigurement.
- If the insurer or employer violated the law, including the rules or any orders, you can request penalties. For instance, if you were entitled to benefits and the insurer refused to pay or didn't pay timely, those could be grounds for penalties.
- If you have a dispute and cannot resolve the matter with the adjuster, you can request a prehearing conference. If you are disputing the Final Admission or some other issue that requires a hearing, you can file an Application for Hearing. At a hearing you have the right to testify, to call witnesses, to introduce evidence and to make arguments. There are certain rules and processes that must be followed, so if you do not have an attorney you will need to learn about this process. Information is available at the OAC website, at [www.colorado.gov/dpa/oac](http://www.colorado.gov/dpa/oac).
- You may want to discuss settlement of your claim. If you settle your claim you will need to sign a settlement agreement form. If you settle you will not be able

to reopen your claim except in rare circumstances. If you do not settle your claim, it will eventually come to an end and be closed. Subject to certain requirements, you may be able to request that your claim be reopened. A request to reopen must be made within 6 years of the date of injury or within 2 years after the date of the last receipt of medical or monetary benefits.

The workers' compensation system can be very complex. Therefore, it is almost impossible to provide information that fully explains the process and applies to all claims. This brochure is meant to provide basic information on a large number of issues. If any of these issues are important to you in your claim, you are encouraged to ask questions or gather more information.

If you have questions on your claim, the first step is to contact your legal counsel, if any, or the insurer and speak with the claims adjuster handling your claim. If you have more general questions or don't understand something you can call the Division of Workers' Compensation at 303-318-8700, or toll-free at 1-888-390-7936. You can also check the Division's website at [www.colorado.gov/cdle/dwc](http://www.colorado.gov/cdle/dwc). Pay special attention to the information contained in *The Employee's Guide*, which is available to you on the website or by calling the Division. You are also free to hire an attorney at your own expense, who can provide you with information and legal advice. If a dispute arises that needs to be resolved at hearing before a judge, those hearings are conducted at the Office of Administrative Courts. That agency can be contacted at (303) 866-2000, or through its website at [www.colorado.gov/dpa/oac](http://www.colorado.gov/dpa/oac).