



**INSURANCE COVERAGE OFFICE  
WORKERS COMPENSATION (W/C)  
FREQUENTLY ASKED QUESTIONS (FAQs)**

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**Q. 1.0      What is Workers' Compensation?**

A. 1.0      Workers' Compensation is a system, created by the Delaware Legislature, which provides benefits to workers who are injured or who contract an occupational disease while working.

**Q. 1.1      Who is Covered?**

A. 1.1      Workers who are employed as a State of Delaware employee.

**Q. 1.2      What should an employee do if injured?**

A. 1.2      Immediately notify the employer, directly to Human Resources, or through a supervisor of the claim.

**Q. 1.3      What should an employer do if an employee is injured?**

A. 1.3      Ensure the employee receives the necessary medical treatment at the time of the injury. Human Resources files a First Report of Occupational Injury or Disease Form with the Third-Party Administrator for the State of Delaware.

**Q. 1.4      Who pays the benefits?**

A. 1.4      The State of Delaware is self-insured for its Workers' Compensation program. Benefits are administered by a Third-Party Administrator on behalf of the State of Delaware.

**Q. 1.5      What benefits are payable under Workers' Compensation?**

A. 1.5      The benefits are medical care, temporary disability payments and compensation for a resulting permanent impairment. In the event of the death of an injured worker, benefits are payable to the family of the worker.

- *Medical Benefits*

All necessary medical treatment and hospitalization services are provided by the employer or the employer's insurance carrier. The employee has the right to choose the treating physician. **Effective 5/23/08, Delaware put in place a new and comprehensive Health Care Payment System (HCPS) for medical treatment.** A list of participating health care providers and information on the whole HCPS is available at the link below.

<https://dia.delawareworks.com/workers-comp/hcps/provider-certification.php>

- *Temporary Total Disability Benefits (TTD)*

If there is lost time which extends beyond three days due to the injury, temporary total disability benefits become payable starting with the fourth day lost. If, however, the disability extends to seven days, the full disability period becomes compensable and no waiting period applies. The benefit amount is 66⅔ percent of gross weekly wages received at the time of the injury, up to a maximum established annually by the Secretary of Labor.

- *Temporary Partial Disability Benefits (TPD)*

If the employee goes back to work part-time or at a lower rate than his/her pre-injury wage, the employee may be entitled to ⅔ of the difference between the pre-injury wage and his/her current wage. Partial disability may be received up to 300 weeks.

- *Permanent Impairment Benefits*

When a job-related injury or illness results in a permanent partial disability, benefits are based upon a percentage of certain "scheduled" or "nonscheduled" losses. A "scheduled" loss is one involving arms, hands, fingers, legs, feet, toes, eyes, and ears. A "nonscheduled" loss is one involving the back, heart, lungs, etc.

- *Disfigurement Benefits*

An employee may file a petition for disfigurement one year post accident/surgery for any scar, burn, or amputation related to the work accident. Disfigurement is paid out in a number of weeks up to 150 weeks, depending on the severity of the scar.

- *Death Benefits*

When a job-related accident or illness results in the workers' death, benefits are payable to the dependents of the worker as defined by the law. The weekly benefit payments are based upon the number of dependents, but the maximum total benefit payable to all of the worker's dependents cannot exceed 80% of the maximum rate established by the Secretary of Labor.

Children who are deemed to be dependents remain so until the age of 18 years or if a full-time student until the age of 25 years. If a child is physically or mentally disabled, he/she may be eligible for further benefits.

The employer or its insurance carrier is responsible to pay up to \$3,500 in funeral expenses for a job-related death.

**Q. 1.6 What if an employer refuses to provide medical services and/or temporary disability benefits?**

A. 1.6 If the employer denies the claim, the employee has two years from the date of accident to file a petition for compensation due with the Department of Labor - Office of Workers' Compensation. An employee may file a petition with or without an attorney. There is no fee for filing a petition. The decision on whether an employee should have an attorney is an individual one that depends on the complexity of the case. The Department of Labor - Office of Workers' Compensation will not provide an attorney for the employee. However, a Workers' Compensation specialist is provided to guide a claimant through the

process of filing a petition and to answer any questions about the hearing process. If the case goes to a hearing, the employee must arrange for the presence of a medical witness or the scheduling of a deposition prior to the hearing date. Employees should be aware that the employers are required to be represented by attorneys.

**Q. 1.7 Can an employer take action against a worker for filing a claim?**

A. 1.7 The Workers' Compensation statute prohibits the employer from firing or in any other manner discriminating against an employee because the employee has claimed or attempted to claim workers' compensation benefits, or because he/she has testified, or is about to testify in a Workers' Compensation case.

**Q. 1.8 How often are wage benefits paid?**

A. 1.8 A check from the Third-Party Administrator is generated every two weeks. Your first and last check for your disability is mailed to your Human Resources Department. This is done to have the necessary Department of Labor –Office of Workers' Compensation forms signed by the employee.

**Q 1.9 How long does it take before I receive wage benefits?**

A. 1.9 The Third-Party Administrator shall within 15 days after receipt of knowledge of a work related injury notify the Department of Labor and the injured employee in writing of: the date the notice of the employee's alleged industrial accident was received; whether the claim is accepted or denied; if denied, the reason for the denial; or if it cannot accept or deny the claim, the reasons therefor and approximately when a determination will be made. 19 Del.C. §2362(a)

**Q. 1.10 What are my obligations as an injured employee while on Workers' Compensation?**

A. 1.10 Keep your supervisor, the Human Resources Department, and the Claims Adjuster aware of your medical status and work status.

**Q. 1.11 If I have questions, concerns or problems while out on Workers' Compensation who should I contact?**

A. 1.11 Your Human Resources Department and/or your Claims Adjuster.

**Q. 1.12 Can I change treating physicians/facilities during the course of my treatment?**

A. 1.12 Yes. The health care provider must be certified by Department of Labor – Office of Workers’ Compensation per Title 19 § 2322D 19 Del.C.§2322D. If the provider is not certified, the first visit will be paid. Any further visits will have to be pre-authorized by the Claims Adjuster.

**Q. 1.13 Are Workers’ Compensation wage benefits taxable?**

A. 1.13 The lost wage benefits payments you receive for an occupational sickness or injury are fully exempt from tax if they are paid under a Workers’ Compensation act or a statute. The exemption also applies to your survivors.

**Q. 1.14 If I return to work after recovering from a workplace injury that is covered by Workers’ Compensation and have subsequent medical appointments related to those injuries, am I compensated through Workers’ Compensation for any of my time if I have to take time from work?**

A. 1.14 No. 19 Del. C. §2324 outlines that the claimant is not entitled to continued total disability benefits after said disability ceases. Similarly, partial disability is based on a loss of earning capacity or earning power. The fact that you returned to your former work at the same or higher wage is evidence that your earning capacity has not been impaired for workers’ compensation purposes, and unless there is some affirmative evidence of impairment, compensation will be denied. 19 Del C § 2325. *Ruddy v. I.D. Griffin & Co.*, 1968, 237 A.2d 700.

**Q. 1.15 Is mileage reimbursable for the trips to and from my medical appointments? If so, at what rate am I reimbursed?**

A. 1.15 Yes. Title 19 §2322 (g) “An employee shall be entitled to mileage reimbursement in an amount equal to the State specified mileage allowance rate in effect at the time of travel, for travel to obtain: (1) Reasonable surgical, medical, dental, optometric, chiropractic and hospital services; and (2) Medicine, and supplies, including repairing and replacing damaged dentures, false eyes or eyeglasses, and providing hearing aids and prosthetic devices.”

**Q. 1.16 Are prescriptions covered by Workers’ Compensation?**

A. 1.16 Prescriptions directly related to your Workers’ Compensation injury are covered under Workers’ Compensation. The Delaware statute provides a drug formulary that can be accessed on the Department of Labor - Workers’ Compensation website.

<https://dowc.optum.com/docs/Pharmacy%20Formulary%202013%2009-11%20Effective.pdf>.

If your claim is determined to be compensable, you will be required to obtain your prescriptions through the Pharmacy Benefit Manager, Cadence Rx. If you do not use a Cadence Rx network pharmacy, your prescription medication may not be paid for.

**Q. 1.17**      **Can a doctor's office balance bill me for the charges not paid by Workers' Compensation?**

A. 1.17      No. Under Title 19 § 2322D (h) "Agreement not to balance bill any employee or employer. Employees shall not be required to contribute or meet any deductible."