



## KNOW YOUR RIGHTS:

# Workers' Compensation

Facts from the NC Justice Center's WORKERS' RIGHTS PROJECT

## ► YOUR RIGHT TO benefits in the case of injury or illness on the job

If you have been injured on the job, you may have the right to workers' compensation. Workers' compensation provides benefits to workers who are injured on the job or who have an illness, disease, or disability caused or made worse by workplace conditions. In North Carolina, every employer with three or more employees must have workers' compensation insurance, with a few exceptions. All workers, including minors and undocumented workers, are eligible for workers' compensation benefits.

### If I am injured on the job, can I choose between workers' compensation and suing my employer?

Usually, workers' compensation is the only remedy for injured workers. An employee covered by workers' compensation normally cannot sue the employer for causing the injury.

### What if the injury was my fault?

Workers' compensation is a "no-fault system." Generally, the employer must provide workers' compensation even if the injury was your fault.

### What types of injuries are covered by workers' compensation?

- **Specific traumatic injuries**— These include injuries such as sprains, fractures, cuts or concussions. These can also include injuries caused by a traumatic event such as a fire, chemical spill, or fall.
- **Cumulative traumatic injuries** – These are injuries that occur over time. For example, you may develop an injury over weeks or months by doing the same movement over and over again all day at work. Carpal tunnel syndrome is one kind of cumulative traumatic injury.
- **Occupational diseases** – These include diseases affecting the respiratory system, skin, hearing or other body systems. Illness caused by exposure to asbestos is one example. These diseases usually occur over time.

Injuries normally *not* covered by workers' compensation include:

- **Injuries caused by drugs or intoxication**

- **Purposefully self-inflicted injuries**
- **Injuries occurring on personal time**

### Is my injury covered under workers' compensation?

To be eligible for workers' compensation, **you must be an employee** – not an independent contractor, guest, visitor, customer or anything else. However, employers sometimes misclassify workers as independent contractors. If your employer can exercise control over the manner in which you perform your work, then you may be an "employee" and not an "independent contractor" for the purposes of workers' compensation.

An injury which is the result of an accident must have arisen out of your employment and occurred in the course of your employment. Back injuries, cumulative traumatic injuries, and occupational diseases can be particularly difficult workers' compensation situations. In any case, you may want to consult an attorney for help.

This fact sheet is intended to provide accurate, general information regarding legal rights relating to employment in North Carolina. However, this fact sheet does not address exemptions and does not go into detail regarding legal rights. In addition, laws and legal procedures are subject to frequent change and differing interpretations, and the North Carolina Justice Center cannot ensure the information in this sheet is current nor be responsible for any use to which it is put. Do not rely on this information without consulting an attorney or the appropriate agency about your rights in your particular situation.

## ► YOUR RIGHT TO Workers' Compensation

### What should I do if I am injured on the job?

- 1. Notify your employer.** You should give written notice of any work-related injury to your employer as soon as possible, but no later than 30 days after the date of your injury.
- 2. Write down** as soon as you are able what happened, when it happened, who was there, what hurt first, how you felt, what you told a nurse, etc. When in doubt, get your injury checked by a medical professional.
- 3. Describe clearly** to whoever treats your injury exactly what happened, and note on the payment questions that you believe this is a work-related injury.
- 4. File a workers' compensation claim.** You must file a claim with the North Carolina Industrial Commission no later than 2 years from the date of your injury. If you have an occupational disease, you must file a claim within 2 years of learning that the disease is related to your work or within 2 years of becoming disabled. The best way to file a workers' compensation claim is by filing a Form 18 with the Industrial Commission. The filing of a Form 19 by your employer does NOT establish your claim for workers' compensation benefits.
- 5. See an attorney** if any question arises regarding your employment status, the cause of the injury, pre-existing conditions, or your degree of disability.

### Take Action!

Workers should be able to count on unemployment benefits when they lose a job through no fault of their own. However, benefits are under attack in North Carolina.

**Your story can help us make the case for the importance of protecting the UI system. If you are unemployed, or have recently been unemployed, please contact us to tell your story.**

Check out

[www.tarheelworkers.org](http://www.tarheelworkers.org)

to learn more about the campaign to protect North Carolina's unemployment insurance.

### RESOURCES

For help finding a lawyer, call:

- North Carolina Advocates for Justice ..... 1-(800) 688-1413
- North Carolina Bar Association Lawyer Referral Service ..... 1-(800) 662-7660
- Legal Aid of North Carolina ..... 1-(866) 219-5262

*To file a claim with a government agency or to seek information on the following issues, contact:*

<b>DISCRIMINATION</b>	<ul style="list-style-type: none"><li>▪ US Equal Employment Opportunity Commission</li><li>▪ Office of Special Counsel for Unfair Immigration-Related Employment Practices</li></ul>	1-800-669-4000 - or - <a href="http://www.eeoc.gov">www.eeoc.gov</a> 1-800-255-768 - or - <a href="http://www.justice.gov/crt/about/osc/">www.justice.gov/crt/about/osc/</a>
<b>E-VERIFY</b>	<ul style="list-style-type: none"><li>▪ Department of Homeland Security / E-Verify</li></ul>	1-888-897-7781 - or - <a href="http://www.dhs.gov/e-verify">www.dhs.gov/e-verify</a>
<b>FAMILY AND MEDICAL LEAVE</b>	<ul style="list-style-type: none"><li>▪ US Department of Labor</li></ul>	1-866-487-9243 - or - <a href="http://www.dol.gov/whd">www.dol.gov/whd</a>
<b>HEALTH &amp; SAFETY</b>	<ul style="list-style-type: none"><li>▪ NC Department of Labor</li></ul>	1-800-NC-LABOR (625-2267) - or - <a href="http://www.nclabor.com/osh/osh.htm">www.nclabor.com/osh/osh.htm</a>
<b>MISCLASSIFICATION</b>	<ul style="list-style-type: none"><li>▪ Internal Revenue Service</li></ul>	<a href="http://www.irs.gov/pub/irs-pdf/fss8.pdf">http://www.irs.gov/pub/irs-pdf/fss8.pdf</a>
<b>RETALIATION</b>	<ul style="list-style-type: none"><li>▪ NC Department of Labor, Employment Discrimination Bureau</li></ul>	1-800- 625-2267 - or - <a href="http://www.nclabor.com/edb/edb.htm">www.nclabor.com/edb/edb.htm</a>
<b>UNEMPLOYMENT INSURANCE</b>	<ul style="list-style-type: none"><li>▪ NC Department of Commerce, Division of Employment Security</li></ul>	1-877-841-9617 - or - <a href="https://www.ncesc.com/">https://www.ncesc.com/</a>
<b>UNIONS &amp; COLLECTIVE ACTION</b>	<ul style="list-style-type: none"><li>▪ National Labor Relations Board</li></ul>	1-866-667-6572 - or - <a href="http://www.nlrb.gov">www.nlrb.gov</a>
<b>WAGE THEFT</b>	<ul style="list-style-type: none"><li>▪ NC Department of Labor, Wage and Hour Bureau</li><li>▪ US Department of Labor</li></ul>	1-800-625-2267 - or - <a href="http://www.nclabor.com/wh/wh.htm">www.nclabor.com/wh/wh.htm</a> 1-866-487-9243 or <a href="http://www.dol.gov/whd/">http://www.dol.gov/whd/</a>
<b>WORKERS' COMPENSATION</b>	<ul style="list-style-type: none"><li>▪ NC Industrial Commission</li></ul>	1-800- 688-8349 - or - <a href="http://www.ic.nc.gov/">http://www.ic.nc.gov/</a>