



# Workers' Compensation

*What Is Workers' Comp?*

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*What are the  
Medical Benefits?*

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*What is the  
Mandatory Alternate  
Duty Program?*



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## WHAT IS WORKERS' COMPENSATION?

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Workers' Compensation is insurance paid for by your employer that provides cash benefits and medical care if you become disabled because of an injury or sickness related to your job. If death results, benefits are payable to your surviving spouse and dependents as defined by law. The insurance carrier for New York State is the State Insurance Fund (SIF).

## WHAT ARE YOUR RESPONSIBILITIES?

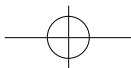
***Important:*** In order for the State Insurance Fund to pay wage replacement benefits, they need to have an accident report from your employer and a medical report from a physician indicating your disability is due to your job-related injury.

1. OBTAIN first aid or other necessary medical treatment as soon as possible. Be sure to inform your medical provider that your injuries are work-related so that the medical information will be sent to the State Insurance Fund. For subsequent treatment, you may choose your own physician, podiatrist, chiropractor, psychologist, out-patient clinic of a hospital, or health maintenance organization authorized by the Workers' Compensation Board to treat the type of injury you incurred. Remember, all medical bills relating to your on-the-job injury are covered by Workers' Compensation.



2. NOTIFY THE ACCIDENT REPORTING SYSTEM (1-888-800-0029). This initiates your Workers' Compensation benefits including ONECARD Rx.

3. NOTIFY your supervisor about your injury and the way in which it occurred as soon as possible, following your agency's accident reporting procedures. If you fail to inform your employer, in writing, within 30 calendar days after the date of the accident causing your injury (or your disability after contracting an occupational disease within two years after you knew or should have known that the disease was work related, whichever is later) you may lose the right to Workers' Compensation benefits.



4. CHOOSE which benefit you wish to participate in: the Workers' Compensation Law Benefit or the Medical Evaluation Program as provided in your contract. Your participation in the Medical Evaluation Program is automatic unless you advise your agency in writing that you elect the Workers' Compensation Law coverage only. There are important differences in compensation, pay status and other benefits that are provided under each program. Refer to page 5 of this brochure or your personnel office for more information on the benefits provided by the two programs.

5. ADVISE your agency if you do not want to charge credits during your first five work days of absence if you are participating in the Medical Evaluation Program.

***THEREAFTER — you should:***

1. FOLLOW your doctor's instructions to speed full recovery.

2. KEEP in touch with your employer.

3. ADVISE your employer of the name and address of your medical provider.

4. REMIND your doctor to send medical information to the State Insurance Fund.

5. REFER to your claim number when you call the State Insurance Fund and to your ARS incident number for ONECARD Rx.

6. ATTEND any hearing held in your case if you are notified to appear.

7. CONTACT your agency before returning to work, following your agency's return-to-work procedures.

8. GO BACK to work as soon as you are able. Remember, under the Mandatory Alternate Duty Program you can go back to work when you are 50% or less disabled and within 60 days of return to full duty.

You will be given an opportunity to return to work. If you choose NOT to return to work, serious consequences may result. In addition, should you fail to return to work after being determined to be fit for duty, denial of all wage benefits by the Workers' Compensation Board may occur.

**Note:** If you have questions about your leave status, your leave credits, your eligibility for a supplement, return-to-work procedures or the Mandatory Alternate Duty Program, call your agency.

If you have questions about your Workers' Compensation claim, your wage replacement payments from SIF, or receipt of medical treatment, call the State Insurance Fund.

### WHAT ARE YOUR AGENCY'S RESPONSIBILITIES?

1. ASSIST you in obtaining medical treatment when immediate treatment is needed.

2. ASSIST you in completing an accident report.



3. REPORT the injury to the State Insurance Fund immediately, following Workers' Compensation Law reporting requirements, including completion of Form C-2 for the State Insurance Fund and the Workers' Compensation Board within ten calendar days.

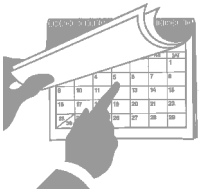
**Note:** The Law requires a report from your agency with respect to every accident resulting in personal injury that causes a loss of time from regular duties beyond the working day or shift on which the accident occurred, or that requires medical treatment beyond first aid or more than two treatments by a doctor or persons rendering first aid. A report of an occupational disease should also be made by your agency on the C-2 form.

4. COMPLY with all requests for information by the Workers' Compensation Board and the State Insurance Fund such as statements of your earnings before and after your accident, reports of the date of your return to work, or other reports that may be required to determine your work status following your injury. These reports are usually made to the State Insurance Fund, which in turn notifies the Workers' Compensation Board.

5. SUBMIT the necessary forms in accordance with the Office of the State Comptroller (OSC) procedures to initiate, change, or stop supplemental payments.

- 6. TAKE all necessary actions to keep you in correct status during the course of your disability.
- 7. ADVISE you of your rights and responsibilities regarding accident reporting, submissions of medical documentation to your agency, leave status, due process and return-to-work procedures.
- 8. DEVELOP an alternate duty assignment if you become eligible to participate in the Mandatory Alternate Duty Program.

**WHAT ARE THE STATE INSURANCE FUND'S RESPONSIBILITIES?**



1. ASCERTAIN the facts. In cases not in dispute and in which lost time exceeds seven calendar days, begin the payment of compensation within 18 calendar days after disability begins or within ten calendar days after your employer's knowledge of your injury, whichever is greater.

2. PROVIDE you with a written statement of your rights under the law within 14 calendar days or accompanying the initial check, whichever is earlier.

3. FILE a notice with the Workers' Compensation Board on Form C-6/9 or C-7, indicating either that the payment of compensation has begun or the reasons why payments are not being made. Such notice must be filed within 18 calendar days after disability begins or within 10 calendar days after your notification of your injury, whichever period is greater, and a copy must be mailed to you and your representative, if any, and your agency.

4. CONTINUE to make payment of benefits to you every two weeks during your continuance of disability and loss of time from work.

5. PROVIDE the OSC with the information on your wage replacement payments necessary for OSC to calculate and issue you any supplemental compensation for which you may qualify.

6. NOTIFY the Workers' Compensation Board (Form C-8) when compensation is stopped or modified. Where the State Insurance Fund has been directed to discontinue payments, notify the Workers' Compensation Board (Form C-22b) of intention to stop or modify compensation. These notices should be sent promptly and must be

accompanied by, or refer to, the medical information or other evidence on which the action is based. A copy of the notice must be mailed to you and to your representative, if any, and your agency.

7. CONSIDER the necessity of arranging rehabilitation treatment for you. In any event, when lost time exceeds eight weeks, file an R Form (R is for Rehabilitation) with the Workers' Compensation Board to indicate what steps, if any, are being taken with respect to your rehabilitation.

**IN ADDITION — the insurer is required to:**

ATTEND HEARINGS on your case whenever they are scheduled by the Worker's Compensation Board, and comply with the directives of the Board and its Law Judges.



PAY AWARDS made by Law Judges or the Board within ten calendar days, except in cases of application for review.

FILE NOTICE with the Workers' Compensation Board within five calendar days after terminating treatment or refusing authorization for special medical services (Form C-8.1) with copies to you, your doctor and your representative, if any, and your agency.

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## BENEFITS

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### WHAT ARE YOUR MEDICAL BENEFITS?

Whether you elect to participate in the Medical Evaluation Program or the Workers' Compensation Law Benefit, you are entitled to all necessary medical care as the nature of your injury or your process of recovery may require. The broad range of services available covers medical, osteopathic, dental, podiatric, psychological and chiropractic treatment, surgery and hospital care, x-rays, laboratory tests, prescribed drugs, authorized nursing services and the provision, repair or replacement of medical or surgical appliances or prosthetic devices as necessary, required by the injury.



You are free to choose any physician, podiatrist, chiropractor, out-patient clinic of a hospital or health

maintenance organization authorized to give medical care by the Workers' Compensation Board. You can obtain a list of authorized medical providers from your local Workers' Compensation Board office. Cost of necessary medical services is paid by the State Insurance Fund. Your doctor may not collect a fee from you. However, if your compensation claim is disputed by the State Insurance Fund, your doctor may require you to sign Form A-9 guaranteeing payment if the Workers' Compensation Board disallows your claim or if you do not pursue your claim.

You should coordinate with your health care and Workers' Compensation providers so that bills can be submitted in the event that injuries are not compensable. One way to avoid problems is to select treating physicians who are authorized by both the Workers' Compensation Board and who are participating providers under your health insurance plan. DO NOT submit bills to two carriers, one as ordinary and one as occupational disability, because it will result in denial for both benefits.

In the event your Workers' Compensation claim is disputed, you will still be eligible for some coverage under Article 9 of the contract.

**ONECARD Rx Program \***

Classified service employees who are enrolled in Empire Plan are eligible to participate in the ONECARD Rx Program. This program allows employees to fill prescriptions for work-related injuries or illnesses with the same card they currently use to obtain prescription drugs under their health plan. There is no copayment, no out-of-pocket cost and no claim form for most work-related prescriptions. Although the program is voluntary, you are urged to take advantage of the ONECARD Rx benefit any time you need to purchase a prescription drug for a workers' compensation illness or injury. Employees are eligible for the ONECARD Rx Program if covered under the Empire Plan Prescription Drug Program, only.



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\* *Effective January 1, 2006 a new prescription benefit will be created to provide this benefit to all State employees and this booklet will be updated.*

## WHAT RULES GOVERN WAGE REPLACEMENTS?

### Is There a Waiting Period?

No wage replacements are paid for the first seven calendar days of disability (which is the Workers' Compensation Law waiting period) unless the disability extends beyond 14 calendar days, you may be entitled to wage replacement benefits retroactive to your first day of disability. You have the option of using accrued leave credits to cover your absences during the first seven calendar days. You must advise your agency if you do not want to charge credits during the waiting period.

### Can You Use Your Leave Accruals?

While you are absent for full days on Workers' Compensation, you may not charge your leave credits except during the first seven calendar days of the initial waiting period. If, when you return to work, you are absent for partial days that are related to your Workers' Compensation incident, you may use your leave accruals to cover these absences. For any full days of absence, you will be placed on leave without pay and may be eligible for wage replacement benefits from the State Insurance Fund. *(See the section below on Other Benefits concerning your entitlements while on leave without pay.)*

### When Will You Receive Wage Replacement Payments?

If the State Insurance Fund, as New York State's insurance carrier, accepts responsibility for your claim, the first payment must be made within 18 calendar days after your disability begins or ten calendar days after you notify your employer, whichever is later. In order for the SIF to pay wage replacement benefits, they need to have an accident report from your employer and a medical report from your physician indicating your disability is due to your job-related injury. Payments are then due every two weeks for the period of your disability. If you receive notice from the SIF that your claim is being disputed, call the SIF or your agency.

***Please Note:*** If you are entitled to wage replacement benefits from the SIF, you will receive two checks at approximately the same time at the beginning of your disability: a check from your agency for the two weeks you worked prior to your accident (lag pay check) and a wage replacement check from the SIF for the initial period of your disability. As a result

**of receiving these two checks at approximately the same time, you are now no longer on a two-week lag payroll cycle. Consequently, when you recover, return to work and are restored to your agency's payroll, you will be required to make up this two week lag period. The result is that you will not receive your first agency pay check after your return to work until you have worked for approximately four weeks, while your SIF disability payments will stop close to your return to work date.**

**How Will Your Wage Replacement Rate Be Determined?**

If you are disabled and are eligible for wage replacement benefits, you will receive two-thirds of your average weekly wage, but no more than the maximum benefit of \$400 per week. Your average weekly wage is determined by the State Insurance Fund based on payroll records for the year prior to the date of disability or accident.

Under the Workers' Compensation Law, disabilities are classified under several groups. When a disability is classified as total, you will receive the maximum benefit based on your average weekly wage. When your disability is classified as partial, you will receive a percentage of your maximum benefit based on your average weekly wage and you may qualify to participate in the Mandatory Alternate Duty Program described below. Contact your agency for details.

**What Supplemental Payments May You Receive?**

During the first nine months (39 weeks) of your disability, if you are determined by the SIF to be more than 50% disabled, you may be eligible for a supplemental payment in addition to the wage replacement from SIF. The supplement is designed to bring your biweekly income (SIF payment and supplement



combined) up to 60% of your pre-disability gross salary, which is defined as your annual salary plus geographic differential, shift differential, inconvenience pay and location pay. The SIF will notify OSC of your wage replacement payment amount when you are more than 50% disabled. OSC then will

calculate your supplement and issue a check on your agency's regular payroll cycle. Please note that this supplement will be issued approximately four weeks after receipt of the SIF wage replacement payment, not concurrently. Once you have been

determined to be 50% or less disabled, supplemental wage benefits will end. If you are 50% or less disabled and within 60 days of full recovery you may request or may be required to return to work under the Mandatory Alternate Duty Program.

### **What Deductions Are Taken From Supplemental Payments?**

All deductions previously taken from your regular paycheck will be taken from your supplemental check if your supplement is sufficient. If your supplement is insufficient to cover all fixed deductions, it will be necessary to cancel those deductions. You are responsible for arranging to make payments directly for all payroll deductions not taken.

### **What Are Your Other Benefits?**

If you participate in the Medical Evaluation Program, you will be treated as though you are on the payroll for the length of your disability for up to a maximum of one year (52 weeks). While you are receiving Workers' Compensation payments directly from the State Insurance Fund, you will be treated as though you are on the payroll in full pay status for this one year period. This means you will be entitled to accrue seniority and continuous service credit and you will earn vacation, sick leave and personal leave.

Your health insurance will continue and you will be responsible for payment of the bi-weekly employee share of the premium.

You will be treated as though you are on the payroll for retirement service credit. If you contribute to the Retirement System, you will continue to be responsible for these payments based on your normal salary.

If you are a member of the Employees' Retirement System, you may be eligible for accidental or ordinary disability retirement benefits. For further information contact the Employees' Retirement System.

### **What Happens in the Event of Death?**

If you should die as a result of a compensable injury, your surviving spouse and dependents, as defined by law, may be entitled to weekly cash benefits pursuant to the Workers' Compensation Law. Further information is available from your local Workers' Compensation Office.

## What Are Your Social Security Benefits?

If you are seriously and permanently disabled you may be entitled to monthly Social Security benefits, provided you are covered by the federal Social Security Act. For additional information about these federal Disability Insurance Benefits, write or call the nearest field office of the Social Security Administration.

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## WHAT IS THE MANDATORY ALTERNATE DUTY PROGRAM?

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New York State and the Public Employees' Federation (PEF) negotiated a Mandatory Alternate Duty Program that allows employees receiving Workers' Compensation benefits to return to work in an assignment that meets both the needs of the agency and the medical limitations of employees.

This program was negotiated by PEF and the State as part of the changes in the Workers' Compensation benefit in the 1991-1995 agreement and continues through the 1999-2003 agreement. Employees benefit from this program by receiving their regular salaries during the alternate duty assignment. Agencies benefit by being able to utilize the capabilities of these employees who would otherwise be unable to return to work.

The term "mandatory" as used in this program means that if you meet the eligibility criteria and request a mandatory alternate duty assignment, you must be offered an assignment or receive a Workers' Compensation benefit supplement. Alternately, if you meet the eligibility criteria, your agency may require you to return to work in a mandatory alternate duty assignment even if you do not request it. Once a determination is made that you are 50% or less disabled your supplemental payments cease. The only way to receive compensation other than the statutory benefit is to request a mandatory alternate duty assignment.

### Eligibility Requirements

You are able to participate in the Mandatory Alternate Duty Program if you meet the following criteria:

- you must be classified as partially disabled at 50% or less by the State Insurance Fund;

- AND -

- you must have a prognosis of full recovery within 60 calendar days. Full recovery is defined as the ability to perform the full duties of the job you held when injured. These medical findings may occur as a result of an examination by a State Insurance Fund consulting physician, by your own physician, or in connection with a management-ordered medical evaluation. Your agency determines what documentation will be acceptable to establish your eligibility and determine your physical limitations.

**Mandatory Alternate Duty Assignments**

A mandatory alternate duty assignment is a short-term assignment (not to exceed 60 days) that reflects your physical limitations as described in the medical documentation accepted by management. It may involve performing some duties of your regular position, some duties of another position, or a combination of tasks from several positions. Your assignment may involve performing the same duties for the entire period or may consist of a series of different assignments, each performed for a specific period of time.

You should receive the following information when offered a mandatory alternate duty assignment by your agency:

- description of the proposed alternate duties
- location of the assignment
- work hours and workweek
- name of your supervisor
- starting and ending dates



Your agency is expected to make every effort to tailor the assignment to your specific limitations and to discuss the assignment with you. The assignment may not necessarily fall within your regular title, grade, or job duties. Your agency is not required to provide you with your regular work location, schedule, or workweek. However, once a mandatory alternate duty assignment is established for a fixed period of time, the provisions of Article 32 (Workday/Workweek) cover you during that same period. While performing a mandatory alternate duty assignment, you receive your regular salary and are treated like any other employee in full pay status for attendance and leave and benefit purposes. It is the policy of the State to attempt to place employees in mandatory alternate duty assignments that are as close to their regular title and duties as possible based on the needs of the agency.

The mandatory alternate duty assignment will be based on the medical documentation accepted by management. If you believe that some part of the proposed assignment constitutes a personal hardship, you may express your concern to the appropriate agency official. Your agency will respond in writing, with a copy to PEF, prior to the proposed start of your assignment or as soon thereafter as possible. You may not grieve your agency's determination.

**Applying for a Mandatory Alternate Duty Assignment**

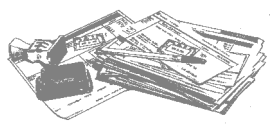
Contact your agency to request a mandatory alternate duty assignment. You can request a mandatory alternate duty assignment 65 days before your full recovery date. However, you are not entitled to receive an assignment until 60 days before your full recovery date.

Once you meet the eligibility requirements, request a mandatory alternate duty assignment, and provide your agency with acceptable medical documentation, your agency must do one of the following:

- 1. Offer a mandatory alternate duty assignment for up to 60 calendar days which takes into account your physical limitations.

- OR -

- 2. If a mandatory alternate duty assignment cannot be provided, arrange for you to receive a supplemental payment that will provide you with 60% of your gross income when added to the SIF payment. The supplement will not be paid beyond the point the mandatory alternate duty assignment would have expired.



You are not required to apply for a mandatory alternate duty assignment, but your agency may direct you to return to work on a mandatory alternate duty basis if you meet the eligibility criteria. If you decline a mandatory alternate duty assignment, you will be referred to the State Insurance Fund for a benefit determination.

If you meet the eligibility requirements and do not request a mandatory alternate duty assignment, or your agency does not direct you to return to work, you will continue to receive wage replacement benefits from the State Insurance Fund in accordance with the Workers' Compensation Law until you are fully recovered. However, you will not receive the supplement.

# IMPORTANT PHONE NUMBERS

**Accident Reporting System . . . . . 1-888-800-0029**

## **Workers' Compensation Board**

- Albany District . . . . . 1-518-474-6674
- Binghamton District . . . . . 1-607-721-8356
- Buffalo District . . . . . 1-716-847-3158
- New York City District . . . . . 1-718-802-6600
- Rochester District . . . . . 1-716-238-8300
- Syracuse District . . . . . 1-315-428-4464
- TTY/TTD . . . . . 1-718-802-4969
- Advocate for Injured Workers . . . . . 1-800-580-6665

## **State Insurance Fund**

- Albany Office . . . . . 1-518-437-6400
- New York City Office . . . . . 1-212-312-7379
- Melville Office . . . . . 1-631-756-4300
- White Plains Office . . . . . 1-914-997-4912
- Buffalo Office . . . . . 1-716-851-2005
- Rochester Office . . . . . 1-716-258-2150
- Syracuse Office . . . . . 1-315-453-6693

## **ONECARD Rx Program**

Empire Plan . . . . . 1-800-964-1888

## **Other Numbers** \_\_\_\_\_

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## PEF REGIONAL OFFICE NUMBERS

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**REGION 1**

(Buffalo) ..... 1-800-462-1462

**REGION 2**

(Elmira/Hornell) ..... 1-800-724-5001

**REGION 3**

(Rochester) ..... 1-800-724-5003

**REGION 4**

(Syracuse) ..... 1-800-724-5004

**REGION 5**

(Binghamton) ..... 1-800-724-4998

**REGION 6**

(Utica) ..... 1-800-724-5005

**REGION 7**

(Malone) ..... 1-888-498-8532

**REGION 8**

(Albany) ..... 1-800-342-4306

**REGION 9**

(Poughkeepsie) ..... 1-800-548-4870

**REGION 10**

(Manhattan/Bronx) ..... 1-800-522-8700

**REGION 11**

(Qns/Bklyn/S.I) ..... 1-800-522-8700

**REGION 12**

(Long Island) ..... 1-800-832-5284

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EMPLOYEE RELATIONS

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