

INJURED WORKERS *Handbook*



Personal information

Name:

WSIB adjudicator:

Contact information:

Union contact:

Contact information:

Claims numbers:



CUPE Ontario Injured Workers Advocacy Committee recognizes the need to assist CUPE members in matters relating to WSIB. This includes all concerns from the initial filing of a claim to an Early and Safe Return to Work.

The purpose of this handbook is to:

- Acquaint workers with their rights and the employers' obligations under the Workplace Safety and Insurance Act.
- Provide a guide to the WSIB claim process including the proper procedures and how to obtain appropriate benefits.

We sincerely hope the need never arises, but should you require assistance with a workplace injury or disease, please contact your local Union Office.

In solidarity,

CUPE Ontario's Injured Workers Advocacy Committee



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Introduction

The Workplace Safety and Insurance Board (WSIB) will sometimes be referred to as “The Board” in this handbook.

A claim must be filed within six months of an accident.

- For gradual onset injuries, the six month deadline begins from the date the worker reports the injury as work-related.
- In the case of an occupational disease, the claim must be filed within six months of the worker learning of the disease.


(Operational Policy. #15-01-03)

Reporting an injury/disease

1) Report all incidents immediately to your employer and your union.

- File an incident report and include:
 - All areas of the body involved (If you’re not sure, include it.)
 - Where it occurred
 - When it occurred
 - What caused the injury (be specific)
 - Who were the witnesses (give full names)

It is important to be consistent in reporting as you may have to report your incident / injury many different times. E.g. Employee Incident Report, Form 6, health care provider, claims adjudicator at the Board, manager / supervisor in the workplace.



2) Seek immediate healthcare. Be sure to tell the health care provider that the injury occurred at work.

- The employer is responsible for transportation arrangements and payment if required.
- Take a medical form with you. The employer pays for the cost of the medical form, if they have requested it.
- Be sure to provide the doctor with full details on how the accident happened. Make sure they examine each body part that was hurt and make a note of it.

3) Be verbal about the pain you feel.

- Tell co-workers, management and your health care provider.
- Some injuries may not seem serious initially but if you have problems later, continuity of complaint may help you substantiate your claim.

4) Track all correspondence.

5) Keep copies of all documentation pertaining to the claim including forms and doctor's notes.

6) Stay calm when you communicate with the WSIB. Getting angry will not benefit you. If you feel that you are being dealt with unfairly you can ask to speak with a manager.

- The WSIB documents all communications including phone calls.
- When speaking with the Board, keep notes of what was said including the time and date.



Filing a WSIB claim

When to claim benefits

If ANY of these statements are true, make a claim:

- Received medical attention and / or lost time or wages from work beyond the day of injury
- Had to do different work for more than 7 days due to the injury, at regular or reduced wages (the employer must report immediately if the worker still needs different work after 7 days)
- Continued to work, but on a reduced work schedule, at regular or reduced wages.

When NOT to claim benefits

If ALL of these statements are true, do NOT make a claim:

- Only first aid treatment was required
- You did not take any time off work
- Your pay was not affected
- Your job duties did not change as a result of the injury.

How to start a WSIB claim / forms

There are **3 ways** to start a WSIB claim. Submitting any of these forms will trigger the opening of a WSIB claim. All must be submitted.

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| 1. Form 7 | Employer's Report of Injury / Disease | Employer MUST give copy to worker |
| 2. Form 6 | Worker's Report of Injury / Disease | Worker MUST give copy to employer |
| 3. Form 8 | Health Care Provider's first report | When you tell your doctor that the injury occurred at work, they will file this form and give you a copy. |

NOTE: Forms are available and explained online at <http://www.wsib.on.ca/>



Employer's Responsibilities

The employer must:

- Make sure first aid is given immediately.
- Provide immediate transportation to a hospital, doctor's office, or home if necessary.
- Give the worker a medical form if worker needs more than first aid.
- Give the worker a Functional Abilities Form if they require one.
- Submit a Form 7, within 3 calendar days from when they first learn of the injury /disease or find out that a worker has a work-related injury or occupational disease that causes a worker to:
 - Be absent from regular work
 - Earn less than regular pay for regular work (e.g. part-time hours)
 - Require modified work at less than regular pay
 - Require modified work at regular pay for more than seven calendar days following the date of accident / incident
 - Need health care that is more than minor first aid
 - If eyeglasses, dentures, and / or artificial appliances were damaged as a result of work related injuries.
- Give a copy of the completed Form 7 to the injured worker.
- Pay full wages and benefits for the shift on which the injury occurred.
- Co-operate in the worker's, Early and Safe Return to Work.

Worker's Responsibilities

- Get first aid immediately.
- Inform the employer of any injury or possible onset of a work-related disease / condition.
- We advise that you also inform your union of any injury or possible onset of a work-related disease / condition.
- Seek medical attention.
- Submit Form 6 to the WSIB and give a copy to the employer.
- If the Board sends you a Form 8 (because they have not yet received one from the doctor) have them fill it out and they will send it to the Board.
- Do not change health professionals without permission from WSIB.
- Co-operate in healthcare treatment.
- Co-operate in Early and Safe Return to Work.
- Complete and return all WSIB forms promptly.
- Report to the Board any changes in income, return to work status, or any medical condition.
- Keep copies of all documents and communications.
- Stay in contact with your employer while you recover:
 - Talk with your employer about ways to return to work quickly and safely, including doing different work from your regular job, or working shorter hours.



Appeals

Both employers and workers can appeal WSIB decisions.

Operations Level of the WSIB

- The WSIB Eligibility Adjudicator makes a decision on your claim.
- If they do not allow entitlement, they will send a decision letter explaining their reasons for denying your claim.
- The decision letter will also tell you what the time limit is to notify them that you want to appeal. This is usually 6 months from the date of the decision letter. In Return to Work and Job Suitability claims, the deadline may be only 30 days.
- To notify the WSIB that you will be appealing a decision, submit an Intent to Object form which can be found on their site at **www.wsib.on.ca**.

NOTE: Submit an Intent to Object (ITO) for every decision you disagree with.

- Consult with your union local's Compensation / Pension Officer.
- Based on the reasons for denial given in the WSIB decision letter, you may gather new evidence and submit it back to the WSIB Eligibility Adjudicator asking them to reconsider their decision.
- If the Eligibility Adjudicator again denies your claim, file a new ITO.

Appeals Services Division of the WSIB

- After the reconsideration process has been exhausted at the Operations level, the claim can be referred to the Appeals Services Division of the WSIB.

- On the basis of a written submission or an oral hearing, the Appeals Resolution Officer (ARO) will decide your case and issue a written decision.

Workplace Safety and Insurance Appeals Tribunal (WSIAT)

- If the Appeals Resolution Officer's decision is negative, you can appeal again to the WSIAT by sending a Notice of Appeal.
- There is a 6 month time limit from the date of the ARO decision in which to do this.
- The Tribunal's decision is final, subject only to reconsideration for judicial review.

Frequently asked questions

Under what circumstances will WSIB reduce my benefits?

The WSIB will reduce your benefits by 50% of the total temporary benefits if:

- You do not co-operate in medical rehabilitation, Early and Safe Return to Work or a Labour Market Re-entry plan.
- WSIB feels that you should be looking for work and you are not looking.
- After notifying the worker of the obligation(s) to co-operate and you do not have a legitimate reason for not co-operating.



What happens if I refuse modified work?

Refusal may mean loss of WSIB benefits.

What medical information do I need to provide to the employer and the board?

Only medical information relating to the injury or disease is required.

What do I do if I cannot return to my pre-injury job, but am capable of doing some other kind of work?


- Employers have a duty to accommodate and your union rep can help you to navigate / negotiate this.
- Employment is considered suitable if you have or are able to acquire the skills necessary to perform the work and it does not pose a health and safety risk to you and your co-workers.

Am I able to utilize my sick time while waiting for WSIB approval?

- Employees who are absent from the work place because of a work place injury / disease are entitled to their sick time as per their Collective Agreement.
- A worker may access their sick time as per their Collective Agreement.

What medical costs are covered?

- This can vary from case to case. **Contact the WSIB to get information on what they will cover for your specific claim.**

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- They may cover:
 - Medical aids needed because of the work place injury.
E.g. Broken eyeglasses.
 - Travel to and from medical treatment.

What is a MATERIAL CHANGE IN CIRCUMSTANCES?

This is any change that effects whether WSIB has to pay you benefits, how much WSIB pays you, or whether WSIB has to give you services.

Examples are:

- Changes in your medical status.
- Changes in earnings or income.
- Changes in your work status.
- Changes in your availability for:
 - Early and Safe Return to Work activities
 - Health care
 - Labor market re-entry program.

WHAT IF I am experiencing pain or discomfort and / or am unable to complete my shift WHILE ON MODIFIED WORK?

- If rest periods are needed, (e.g. to ice affected area) get permission from your supervisor.
- Rest periods may need to be incorporated in your Return to Work plan.
- If you need to leave, your employer may request to have a medical form completed by your Health Care Professional, paid by the employer.



What is the difference between a short term earnings and a long term earnings basis?

Short Term Earnings Basis

- This is the amount that you were being paid at the time of your injury. It is used to calculate your benefit rate for the first 12 weeks that you receive benefits.

Long Term Earning Basis

- This used to calculate your benefits from the 13th week of your claim onward.
- If you were working at a regular, permanent job at the time of your injury, your short term earnings basis would be the same as your long term earnings basis.
- If you were working at a seasonal or temporary job when you were injured, the long term earning basis will be the average of your weekly earnings over the two years before your injury.

What if you have more than one employer when you are injured?

- Short Term Earning Basis will include earnings from each of your employers at the time of your injury.
- Long Term Earning Basis will include earnings from all employers over the two years before your injury.

If further assistance is needed, call your Union Office.

Glossary of Terms and Acronyms used in WSIB Files

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|---------------------------------------|---|
| Appellant | The party, worker or employer, who is appealing a WSIB decision. |
| Eligibility Adjudicator (EA) | Decides a claim |
| Ergonomics | Matching the job to the worker. Used for return to work accommodations and accident prevention. |
| Functional Abilities (FA) | Physical capabilities and limitations / restrictions of a worker completed by a Health Care Professional. |
| Functional Abilities Evaluation (FAE) | An assessment that is used to qualify a disabled employee's physical abilities. |
| Physical Demands Analysis (PDA) | Detailed assessment of a specific job. It's a valuable document to have when a specific FAE is being performed. |
| AE | Accident Employer |
| ARO | Appeals Resolution Officer |
| CM | Case Manager |
| Dx | Diagnosis |
| EA | Eligibility Adjudicator |



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|-------|---|
| ESRTW | Early and Safe Return to Work |
| FAE | Functional Abilities Evaluation |
| FAF | Functional Abilities Form |
| IW | Injured Worker |
| LDW | Last Day Worked |
| LMR | Labour Market Re-entry |
| LOE | Loss of Earnings |
| MMR | Maximum Medical Recovery |
| MSI | Musculoskeletal Injury |
| MVA | Motor Vehicle Accident |
| OHCOw | Occupational Health Clinics for Ontario Workers |
| OWA | Office of the Worker Advisor |
| PI | Permanent Impairment |
| RSI | Repetitive Strain Injury |
| RTW | Return to Work |
| Rx | Prescription |
| TTW | Temporary Transitional Work |
| Tx | Treatment |
| TM | Treatment Memo = Medical Form |
| WSIAT | Workplace Safety and Insurance Appeals Tribunal |
| WT | Work Transition |
| WTS | Work Transition Specialist |
| JD | Job Description |
| OEA | Office of the Employer Advisor |
| PDA | Physical Demands Analysis |



