

How To File A Texas Workers' Compensation Claim

Injured workers often feel like they face a dilemma following an injury. They often know they need to say something so they can get some medical attention, but they often either fear for their job or have the mindset that they want to be a good “company man.” But the worst thing any claimant can do is fail to do anything at all. The most common thing I hear from injured workers with Texas workers’ compensation claims is that they thought the injury was no big deal and it would go away. And then when it didn’t, they figured out why waiting to say anything was the wrong thing to do. Once an injury occurs, there are three things all Texas injured workers must do:

REPORT THE INJURY IMMEDIATELY

Anytime an injury occurs, it should be reported to the employer immediately. In Texas, injured workers have thirty days to report an injury to an employer, or they can lose their right to workers’ comp benefits. Injuries have to be reported to someone in a supervisory position, or someone who works in the human resources department. Some companies specify other types of employees to whom injury reports can be made, such as a safety manager.

Although the law allows thirty days to report an injury, it should be done immediately. Insurance companies often deny claims simply because they weren’t reported right away. This is especially common when injuries occur on a Friday, the injured worker is not scheduled to work over the weekend, and then comes in Monday morning and reports an injury. In that scenario, carriers and employers often claim that the injury occurred over the weekend and not at work. The longer the delay in reporting, the more questionable the injury seems to be. Even if the injury turns out to be serious, a delay in reporting brings into question when the injury actually occurred and whether it was at work or not.

A report to a supervisor can be verbal or written. Obviously, a written report of injury, like an accident report, is best because it is tangible and can be used as proof that the report of injury actually occurred. Sometimes supervisors claim that the injured worker never told them they were hurt. In those cases, a written report comes in handy.

For a report of injury to satisfy all legal requirements the claimant should notify the employer about the general nature of the injury and that it occurred at work.

GET MEDICAL TREATMENT

Because so many injured workers try to wait and see if the injury will go away like most regular aches and pains do, they often fail to get immediate medical attention. This means that in many cases there will not be any evidence of an actual injury on the date that the employee actually sustained the injury. That is not an ideal situation if the claim has to be litigated. Get to the doctor as soon as possible. That way all of the acute injuries can be documented. Make sure the doctor documents every injury that you think you have. If your low back is the most significant injury, don’t fail to have the doctor document that your neck hurts too.

If you reported your injury promptly to your supervisor, chances are that the company made you go see one of its doctors. That is fine, but it is often a mistake to continue to treat with the company doctor. Consider why the company wants you to see that particular doctor. In Texas, injured workers get to select their own doctor. You are not required to treat with the company doctor.

FILE A CLAIM WITH THE DIVISION OF WORKERS' COMPENSATION

If you have a Texas workers' comp claim, you have one year to file a claim with the Division of Workers' Compensation. Failure to do so may prevent you from ever collecting workers' compensation benefits. This requirement is met by filing [form DWC-041](#) at the local Division office. Make sure when you turn it in to ask for a copy for your file. The Division will put a stamp on it marking it as "received" and that will be your proof that you filed the claim.

Complying with these directives will help you satisfy all of the legal requirements to have a workers' comp claim in Texas, and it will help you set your claim up to have the best chance at avoiding a claim denial. There are exceptions to these rules, so if you find that you have failed to follow the reporting requirements, there may still be hope. Consult an attorney immediately.



Matt Lewis is a licensed Texas attorney, practicing primarily in North Texas, including the Dallas and Fort Worth Metroplex. Mr. Lewis is Board Certified in Workers' Compensation Law by the Texas Board of Legal Specialization. He has also attained an AV Rating from Martindale-Hubbell, the highest ratings in both ability and ethics, and has been included in Texas Monthly's list of [Texas SuperLawyer's Rising Stars Edition](#) for 2009 and 2010.

Mr. Lewis writes the [Texas Workers' Comp Blog](#) for www.dallasworkcomp.com, and speaks around the state on workers' compensation issues. For more information, you may visit his firm site at www.rogersbookerlewis.com. You can follow Matt on [Twitter](#), [Facebook](#) or [LinkedIn](#).