

## **What is Workers' Compensation?**

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 illness related to performing your job. All State employees are covered by the Workers' Compensation Law. If death results from a work-related injury or illness, benefits are payable to your surviving spouse and/or other dependents. The insurance carrier for State employees is the New York State Insurance Fund (NYSIF).

## **What are Your Responsibilities?**

**IMPORTANT:** In order for New York State Insurance Fund (NYSIF) 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 or illness.

1. **OBTAIN** first aid or other necessary medical treatment as soon as possible. Be sure to inform your health care provider your injury or illness is work-related so the medical information will be sent to NYSIF. Your treating health care provider must be authorized by the Workers' Compensation Board (WCB), except in an emergency situation. To find an authorized provider, visit the Workers' Compensation Board website (<https://www.wcb.ny.gov/>) or call 1-877-632-4996 (tel:+18776324996). Remember, all medical bills relating to your on-the-job injury or illness are paid by your workers' compensation insurance through NYSIF (not your health insurance).

2. NOTIFY THE ACCIDENT REPORTING SYSTEM (ARS) at 1-888-800-0029 (tel:+18888000029) to report a work-related injury or illness. Be sure to write down your ARS incident number. The ARS Call Center is open from 8:00 a.m. to 5:00 p.m. EST, Monday through Friday and the Call Center is closed on state holidays. You will be able to leave a message after hours and on weekends and holidays. If you leave a message, a Call Center representative will return your call the next business day so you can report your injury or illness. An acknowledgement letter will be mailed to you after your incident is reported to the ARS. HOWEVER, a call to the ARS does not automatically initiate a workers' compensation report to the WCB and NYSIF. A report of your injury is submitted by your personnel office only if certain criteria are met, including:
  - a. You require(d) medical treatment beyond first aid; and/or
  - b. You lost one work shift (one FULL lost work day); and/or
  - c. You require(d) more than two first-aid treatments.
3. NOTIFY your supervisor about your injury or illness 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 of the date of the accident causing your injury you may lose the right to workers' compensation benefits. In the case of an occupational disease, you must file a claim within two years after you knew or should have known the disease was work-related, whichever is later.
4. CHECK the workers' compensation article of your contract. The Workers' Compensation Law benefits for many New York State employees are enhanced in the collective bargaining agreements and vary by bargaining unit and the initial date of the injury or condition. Please see: Article 11 of the Civil Service Employees Association (CSEA) Agreements, Article 13 of the Public Employees Federation (PEF) and Rent Regulations Services Unit Agreements, Article 14.9 of the Security Services Unit (SSU) and Security Supervisors Unit (SSPU) Agreements, and the workers' compensation section of the Handbook for Management/Confidential Employees (/handbook-mc-employees).

THEREAFTER you should:

- FOLLOW your health care provider's instructions to speed full recovery.
- KEEP in touch with your employer.
- ADVISE your employer of the name and address of your health care provider.
- PROVIDE your agency with required medical documentation.
- REMIND your doctor to send medical information for all accident/illness-related services to NYSIF and to WCB.
- REFER to your carrier case number when you call NYSIF.
- ATTEND independent medical examinations (IME) as scheduled by NYSIF.
- ATTEND such WCB hearings as may be held in your case if you are notified to appear.
- CONTACT your agency before returning to work, following your agency's return-to-work procedures.
- GO BACK to work as soon as you are able. Under certain contracts, management is required to provide an alternative duty position when your disability is 50 percent or less and, you will return to full duty within 60 days (as determined by your treating health care provider). In such circumstances, you will be given the opportunity to return to work in an assignment that accommodates your disability. 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 WCB 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* or *Light Duty Assignment*, call your agency or the Business Service Center, if applicable.

If you have questions about your workers' compensation claim, your wage replacement payments from NYSIF, or receipt of medical treatment, call your NYSIF case manager.

## **What are Your Agency's Responsibilities?**

1. ASSIST you in obtaining immediate medical treatment or first aid.
2. PROVIDE you with a Claimant Information Packet which includes an Employee Claim form (C-3), HIPAA release form (C-3.3), information on obtaining representation and information regarding use of the pharmacy network.
3. REPORT the injury to NYSIF immediately, following Workers' Compensation Law reporting requirements, by submitting the First Report of Injury (FROI) to NYSIF and the WCB within 10 calendar days after the accident.

**Note:** The Workers' Compensation Law requires your agency to file a report for any 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 through a submission of the FROI.

4. COMPLY with all requests for information by the WCB and NYSIF such as statements of your earnings before and after your accident (C-240), reports of the date of your return to work (C-11 & C-256.2), or other reports that may be required to determine your work status following your injury.
5. SUBMIT the necessary transactions in a timely manner and in accordance with the Office of the State Comptroller (OSC) procedures (Payroll Bulletin 1366) to initiate, change, or stop workers' compensation leave or supplemental wage payments.
6. ADVISE you of your rights and responsibilities regarding accident reporting, submission of medical documentation to your agency, leave status, due process, and return-to-work procedures.
7. DEVELOP an alternate duty assignment if you become eligible to participate in the *Mandatory Alternate Duty Program* or *Light Duty Assignment*, where applicable.

## **What are NYS Insurance Fund's (NYSIF)**

# Responsibilities?

1. **ASCERTAIN** the facts. NYSIF verifies the work-related accident claims, receiving assistance and cooperation from all parties involved.
2. **FILE** a First Report of Injury (FROI) notice on behalf of the employer, with the WCB.
3. **PAY** in undisputed cases where lost time exceeds seven calendar days and you are not being paid by your employer. NYSIF begins paying compensation within 18 calendar days after your disability begins or within 10 calendar days after your employer's knowledge of your injury, whichever is greater.
4. **PAY** in undisputed cases, causally related medical bills and medication or medical supplies prescribed by WCB authorized medical providers per NYS Medical Fee Schedule.
5. **PROVIDE** you with a written statement of your rights under the Workers' Compensation Law within 14 calendar days or accompanying the initial check, whichever is earlier.
6. **FILE** a notice with the WCB by submitting a Subsequent Report of Injury (SROI), 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 employer has knowledge of your injury or illness, whichever period is greater. A copy must be mailed to you and your representative, if any.
7. **CONTINUE** to make bi-weekly payments of benefits to you for your workers' compensation-related time away from work, corresponding with your degree of disability.
8. **NOTIFY** the WCB with a new SROI when compensation is stopped or modified. Where NYSIF has been directed to continue payments by WCB, notify the WCB (Form RFA-2) 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.
9. **CONSIDER** the necessity of scheduling independent medical examinations on your behalf to verify ongoing disability.

10. ATTEND HEARINGS on your case whenever they are scheduled by the WCB, and comply with the directives of the WCB and its Law Judges.
11. PAY AWARDS made by Law Judges or the WCB within 10 calendar days, except in cases of application for review.
12. RESPOND to your treating doctor's treatment/testing prior authorization requests within the specified time frame (see PAR Process, Time Frames for Payer Response (<https://www.wcb.ny.gov/onboard/payers-overview.jsp#par-process>)).

## Benefits

### What are Your Medical Benefits?

You are entitled to all medically necessary care related to your injury or illness, including office visits, 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.

You are free to choose any provider authorized to give medical care by the WCB. You can obtain a list of authorized medical providers by visiting the Workers' Compensation Board website (<https://www.wcb.ny.gov/>) or calling 1-800-781-2362 (tel:+18007812362). Cost of necessary medical services related to your work-related injury or illness is paid by NYSIF. Your doctor may not collect a fee from you. However, if your compensation claim is disputed by NYSIF, your doctor may require you to sign Form A-9 guaranteeing payment from you if the WCB 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 WCB 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 a denial of benefits.

### What Wage Replacements are Available?

The level of wage replacement is determined by the negotiated agreement applicable to you. The various levels of wage replacements include:

1. Statutory Benefits provide a weekly payment calculated according to the following formula:  $\frac{2}{3}$  x injured employee's average weekly wage for the previous year from the injury date (up to a maximum amount) x percent of disability/temporary impairment. The maximum amount is based on the New York State Average Weekly Wage (NYSAWW). The NYSAWW is the average weekly wage of the State of New York for the previous calendar year as reported by the Commissioner of Labor to the Superintendent of Insurance on March 31 of each year. Refer to the [schedule of maximum rates](https://www.wcb.ny.gov/content/main/Workers/ScheduleMaxWeeklyBenefit.jsp) (<https://www.wcb.ny.gov/content/main/Workers/ScheduleMaxWeeklyBenefit.jsp>).

**Note: The benefit rate a claimant receives is determined by the date of injury and does not increase with any subsequent changes in maximum benefits.**

2. Some contracts offer a Supplemental Pay Program, which supplements the statutory benefit for up to nine months so that the total wage replacement equals 60 percent of the employee's pre-disability gross wages.

3. Under some contracts, injured employees may receive up to six months of leave at full pay.

Contractual benefits vary not only by negotiated agreement but also by the date of disability, the severity of the disability, and the options exercised by the employee. Consult your [union contract \(/state-union-contracts\)](#) for the specific details of each benefit.

### **Is There a Waiting Period?**

Employees who are eligible for wage replacement benefits pursuant to the Workers' Compensation Law receive no wage replacements for the first seven calendar days of disability (which is the Workers' Compensation Law initial waiting period), unless the disability extends beyond 14 calendar days. If your disability lasts between eight and 14 calendar days, you may be entitled to wage replacements for the days that fall within that period. If your 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 initial waiting period. Employees who are eligible to remain on their agency's payroll on Workers' Compensation Leave at full pay, receive benefits from the first day of disability.

### **Can You Use Your Leave Accruals?**

The use of leave accruals depends on the negotiated agreement applicable to you. Most employees may not charge 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 NYSIF. (See specific contract language to determine what benefits are available and the section below on Other Benefits concerning your entitlements while on leave without pay.)

### **When Will You Receive Wage Replacement Payments?**

Unless NYSIF, as New York State's insurance carrier, disputes your claim, the first payment must be made within 18 calendar days after your disability begins or 10 calendar days after your employer first has knowledge of your accident, whichever is later, if you are not being paid by your agency. In order for NYSIF to pay wage replacement benefits, they must have an accident report from your employer and a medical report from your physician indicating your disability is related to your work-related injury or illness. Payments are then due every two weeks for the period of your disability. If you receive notice from NYSIF that your claim is being disputed, call NYSIF or your agency.

**Note: If your contract provides for a supplemental wage payment 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 NYSIF 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. This means you will not receive your first agency paycheck until you have worked for approximately four weeks from when you return to work.**

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

If you are classified as "totally" 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 allowed. Your average weekly wage is determined by NYSIF based on payroll records for the

year prior to the date of disability or accident.

If you are eligible for supplemental payments, you will receive a total wage replacement (statutory benefit plus supplemental payment) that equals 60 percent of pre-disability gross wages.

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

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

Other benefits available to injured workers vary by bargaining unit. Such benefits may include additional wages, health insurance coverage, retirement service credit, seniority, etc. Information on other benefits is detailed in the various union contracts.

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

If you should die as a result of a compensable injury or illness, your surviving spouse and dependents, as defined by law, may be entitled to weekly cash benefits pursuant to the New York State Workers' Compensation Law. Further information is available from the Workers' Compensation Board's website (<https://www.wcb.ny.gov/>) or call center (877) 632-4996 (tel:+18776324996).

### **What are Your Social Security Benefits?**

If you are seriously and permanently disabled, you may be entitled to the payment of 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 (<https://www.ssa.gov/>).

### **Are You Eligible for Disability Retirement?**

If you become permanently incapacitated either physically or mentally and unable to perform

your job as the direct result of an on-the-job accident that was not due to your own willful negligence, you may be eligible for an accidental disability retirement benefit. Contact the [New York State Retirement System](https://www.osc.ny.gov/retirement) (<https://www.osc.ny.gov/retirement>) for more information.

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