



Protecting Employers' most valuable asset: **Employees**

Employer FAQ

First Premium Installment

If a policy premium is over \$2500, a deposit is due to TECIS upon binding coverage. All deposits include 25% of premium plus all fees and surcharges. If you have paid your deposit and have not received your policy, please contact your broker.

"Work related" illness complaint vs. common illness complaint:

It may be difficult to determine when an employee complains of illness at work whether it was caused by the job or if the employee is simply ill. A good sign that it is simply a common illness would be to see if the employee is merely engaging in good natured grouching and does not request to see a physician. If this is the case, there would be no need to report it. If the employee indicates he/she will need ongoing medical treatment, it is likely a good idea to send the employee to the clinic for an evaluation and determination as to whether the physical injury or illness could be work related.

Have the new Workers' Compensation laws changed the requirements for an injury to be work related?

The answer to this question is no they have not. An injury or illness must occur while the employee is in the scope of his/her job, and the injury/illness must occur from the performance of the job. Prior changes in the Labor Code forced stricter requirements for psychiatric injuries to be compensable and for injuries which are reported for the first time after an employee has been terminated.

Employers have 90 days from receipt of the claim to obtain an investigation and make a decision regarding compensability. The potential circumstances have been narrowed, based on recent court decisions under which a Workers' Compensation claim can be considered as being formally reported to an employer and when the clock starts running on the 90 days. The court holds that an actual return of the DWC-1 by an employee to his/her employer is necessary before the 90 days begins to run. If the employer neglects to provide a claim form on a timely basis, the Workers' Compensation Appeals Board must determine if that delay was willful and designed to delay or prevent the provision of Workers' Compensation benefits to the employee. Barring such a finding the Courts have held the employer cannot be required to provide a claim form simply because a potential claim might exist. Though this decision assists employers, it should be noted that a failure to provide a claim form to an employee will still likely be held to extend the statutory time period in which the claimant has to file a formal claim with the Worker's Compensation Appeals Board.

Employers Liability for non-work related injuries has been affected by the provision that an employer must begin providing medical treatment within one day of the receipt of a claim form and continue to provide treatment up to a maximum of \$10,000 until such time as the compensability of the claimed injury is determined. If the claim is declared as non-work related, the employers' liability remains for payment of medical treatment costs during the period between receipt of the DWC-1 and the issuance of a denial.

Reporting First Aid is no longer required to be reported.

If you need assistance in determining whether an injury is classified as 'First Aid', please refer to our First Aid Reference. If your employee does have a 'First Aid' injury, you may want to notify us in case we receive a bill from the occupational provider

The reason for allowing first aid compensation directly by the employers to clinics is so that employers without nurses on staff, who might otherwise address these minor injuries, are not at a disadvantage with those companies that do have nursing staff in the calculation of the regularity of their experience modification.

Please remember that any case which involves disability beyond the date of injury is also beyond the limits of first aid and needs to be reported to GAB Robins.

Can an employee who has filed a Workers' Compensation Claim, be terminated or reprimanded?

If the termination is not based on retaliation for or because of the employee's filing of a work related injury you may treat an injured worker the same as any other employee. However, it is not always viewed from the same perspective by those who are affected by our actions. This is probably truer when the affect is adverse. An employee who is disciplined or terminated after reporting an industrial injury might believe there is an association, which could lead to him/her filing a claim against you at the Workers' Compensation Appeals Board.

It would be recommended to seek counsel from a labor attorney for recommendation of how to handle a personnel situation with an employee who has a pending Workers' Compensation claim.

What to do if a claim is suspected as fraudulent.

Immediately contact GAB Robins or TECIS. Please be sure to include all supporting evidence or information of your theory.

Is it required for the employer to pay for time off to attend medical evaluations? Is the employer required to allow an employee to attend medical appointments during work hours?

There is no technical requirement of the employer to pay for the employee's time off during scheduled work hours. However it is customary for employers to pay for employees' to take a reasonable amount of time off to attend medical and physical therapy appointments. The employer may want to encourage the employee to schedule such appointments before or after work and encourage the employee to follow through with all appointments to assist in the full recovery of the injury.

If the time off is not provided to the employee with pay, the employee is entitled to temporary partial disability provided he/she does not earn more than the threshold of earnings for the maximum temporary disability rate. If the employee is above the maximum, he/she may well be entitled to no temporary disability unless he/she misses all or most of a day's work.

Forcing an employee to exhaust or use up his/her sick time to maintain the employee's salary for the trips to the doctor or therapist can be found as discrimination. However, the injured employee may choose to use personal or sick time if it's available to him/her. Time away to attend medical visits should be treated the same for work related injuries and personal injuries/illnesses.

How to deal with an employee who seeks representation from an attorney

It is ok to discuss any work related issues your injured employee such as work modifications. The employer may also want to check in on the employee to see how he/she is feeling. Asking questions about the status of their litigation, specific benefit issues or any treatment that may be rendered for the work related injury should be refrained from. If the employee has a specific question regarding his/her case, you should direct them to their attorney.

If you have any other questions, please contact TECIS. We are willing to assist you in any way possible to help protect your most valuable Asset: Employees