



## Injured Worker Rights and Responsibilities

### Injured worker rights

- **An injured worker may have the right to receive benefits.**

An injured worker may receive benefits regardless of who caused or helped cause the injury. An injured worker may not receive benefits if:

- the injury occurred while the worker was intoxicated;
- the worker injured himself or herself intentionally or while unlawfully attempting to injure someone else;
- the worker was injured by another person for personal reasons;
- the worker was injured while voluntarily participating in an off-work activity;
- the worker was injured by an act of God; or
- the injury occurred during horseplay.

- **An injured worker has the right to receive the medical care reasonable and necessary to treat a work-related injury or illness without any specific time limit.**

- **An injured worker has the right to the initial choice of doctor.**

An injured worker may not change doctors except with the approval of the Commission. An injured worker does not need to get approval to go to a different doctor for emergency treatment.

- **An injured worker has the right to hire an attorney to help the worker get benefits or to help resolve disputes.**

- **An injured worker has the right to receive assistance from appropriate, qualified Commission staff and, in the event of a dispute resolution proceeding, from a Commission ombudsman free of charge.**

Injured workers may request assistance by calling the field office handling their claims, or by calling 1-800-252-7031.

An injured worker has the right to receive information and assistance regarding the worker's claim. Commission staff will explain the worker's rights and responsibilities under the Texas Workers' Compensation Act. Additionally, an injured worker has the right to be assisted by a Commission ombudsman in informal dispute resolution and in administrative proceedings if the worker is not represented. However, an ombudsman cannot serve as a legal representative or attorney.

- **An injured worker has the right to confidentiality.**

Only people who need to know — such as the injured worker's doctor, employer, or employer's insurance carrier — may see information in the Commission's files. A prospective employer may get limited information from the Commission about an injured worker's claims, however.

## Injured worker responsibilities

- **An injured worker has the responsibility to tell his or her employer about a work-related injury or illness.**

An injured worker must tell his or her employer within 30 days of the date of the injury, or within 30 days of the date the worker first knew the illness might be work-related. The injured worker, or someone helping the worker, may either talk with or write the employer or any supervisor at the worker's place of employment.

*If an injured worker does not tell the employer within 30 days, the worker could lose the right to get benefits.*

- **An injured worker has the responsibility to fill out a claim form and send it to the Commission.**

An injured worker must send a completed claim form, called a TWCC-41, to the Commission within one year of the date the worker was injured, or within one year of the date the worker first knew the illness might be work-related. The completed claim form must be sent to the Commission even if the worker is already getting benefits.

*If an injured worker does not send the form within one year, the worker could lose the right to get benefits.* Copies of the claim form may be obtained by calling any field office, or by calling 1-800-252-7031.

- **An injured worker has the responsibility to tell the Commission and the insurance carrier any time the worker's income changes.**

An injured worker who is *not* getting benefits and who has changed employers since the injury must tell the Commission if the injury causes the worker to miss work or lose income. Call 1-800-252-7031.

An injured worker who is getting benefits and who has changed employers since the injury must tell the Commission and the insurance carrier paying benefits if the worker's income changes. The injured worker must tell the Commission and the insurance carrier regardless of whether income went up or down.

An injured worker who has stopped working since the injury must tell the Commission and the insurance carrier if the worker starts working again or has a job offer.

- **An injured worker has the responsibility to tell the doctors how the worker was injured and if the worker believes the injury may be work-related.**

If possible, an injured worker should tell the doctor before the doctor provides treatment.

- **An injured worker has the responsibility to tell the Commission and the insurance carrier how to contact him or her.**

An injured worker should contact the Commission and the insurance carrier if the worker's home address, work address, or phone number changes, so the Commission and the insurance carrier will be able to contact the worker when necessary.

The notice must be given to workers within 15 days of the date the employer cancels the policy or is notified that the carrier intends to cancel the policy.

*If an employer does not provide this notice to workers, the employer could be fined up to \$500 per occurrence*

#### **Other responsibilities**

- **If an employer has 15 or more employees, the employer must have a policy to eliminate drug abuse in the workplace.**

Employers must give a copy of the policy to each worker. A free copy of the Commission's *Drug-Free Workplace Resource Guide*, which includes information on developing a drug-free workplace policy, can be downloaded from our [safety and health publications](#) page. Employers can also obtain a free copy by contacting the Commission's Health and Safety Resource Center at 512-804-4620, or at MS-25, 4000 South IH-35, Austin, Texas, 78704-7491.

- **If an employer is identified by the Texas Mutual Insurance Company to participate in the START/Rejected Risk program, or, if the employer is a public employer identified by the Commission as a hazardous employer, the employer must adopt an accident prevention plan developed by an approved consultant.  
(See Rule [164.3](#) and [165.2](#))**

The consultant must be an Approved Professional Safety Source and may be obtained from the Commission, the employer's insurance carrier, or from the list of private consultants provided by the Commission.

*If an employer, who is required to adopt an accident prevention plan, fails or refuses to do so, the employer could be fined up to \$5,000 per day of noncompliance.*