



Employer Rights and Responsibilities

Employer rights

- **An employer has the right to contest the compensability of a claim if the insurance carrier accepts liability.**

Contesting the compensability of a claim means the employer can argue in dispute resolution proceedings and in court that the worker's injury did not occur or that the injury or illness was not job related.

- **An employer has the right, if the employer has asked the insurance carrier in writing, to have the carrier tell the employer of any dispute resolution or court proceeding related to an employee's claim or any proposal to settle the claim.**
- **An employer has the right to attend any dispute resolution proceeding related to a claim filed by one of the employer's workers.**
- **An employer has the right to present relevant evidence about disputed issues at dispute resolution proceedings.**
- **An employer has the right to report suspected workers' compensation fraud to the Commission or to the insurance carrier.**
- **An employer has the right to contest the failure of the insurance carrier to provide the accident prevention services required by the Texas Workers' Compensation Act.**
- **An insurance carrier must provide free accident prevention services to policyholders.**

These services include surveys, safety consultations and recommendations, safety training assistance, analysis of accident causes, and industrial health and hygiene services.

Employer responsibilities

Reporting injuries and other information

- **An employer must tell the insurance carrier about each**

- work-related injury that causes a worker to miss more than one day of work
- occupational illness that the employer knows about, even if the worker has not missed any work
- work-related fatality.

An employer may report injuries by mail, fax, phone, or by electronic transmission. The employers should keep a record of the date the injury is reported to the carrier.

An employer must notify the carrier within eight days of the date

- a worker misses more than one day of work because of a work-related injury
- the employer learns that a worker has a work-related disease or illness
- a worker dies because of a work-related injury or illness.

The employer must send a copy of the report of injury to the worker at the same time the injury is reported to the carrier. The copy sent to the worker must include a statement explaining the worker's rights and responsibilities. The statement must be in wording specified by the Commission. The insurance carrier may send a copy of the report of injury and the statement of rights and responsibilities to the injured worker for the employer. However, the employer has the ultimate responsibility to ensure that the worker receives the information.

If an employer does not send a copy of the report and the statement to the worker, or if the employer does not ensure that the worker receives the information, the employer could be fined up to \$500 per occurrence.

- **An employer must report an injured worker's wages and other compensation to the insurance carrier.**

The employer must send form TWCC-3, Employer's Wage Statement, to the carrier within 30 days of the date income benefits begin to accrue. The employer must also send a copy of the form to the worker. A copy of the wage statement should *not* be sent to the Commission unless the Commission asks for it.

- **An employer must report any changes in an injured worker's pay or employment to the carrier.**

The employer must send form TWCC-6, Supplemental Report of Injury, to the carrier within

- 10 days of the end of a pay period in which an injured worker's pay changes
- 10 days of the date an injured worker resigns or is terminated
- three days of the date an injured worker returns to work
- three days of the date an injury causes a worker to miss additional work after returning to work.

The employer must also send a copy of the form to the worker.

If an employer does not send the required forms, or does not send them on time, the employer could be fined up to \$500 per occurrence.

Record-keeping responsibilities

- **An employer must keep a record of work-related injuries, illnesses, and fatalities.**

An employer must keep the injury and fatality records for at least five years from the last day of the year in which the injury or fatality occurred, or for the period of time required by the Occupational Safety and Health Administration, whichever is longer.

If an employer does not keep these records, the employer could be fined up to \$500.

Notice responsibilities

- **An employer must post notices in the workplace telling workers that**
 - the employer has workers' compensation insurance and telling workers the name of the workers' compensation insurance company
 - the Commission has staff to explain their rights and responsibilities and to help resolve disputes about claims
 - the Commission has a 24-hour, toll-free hotline to report suspected safety violations in the workplace.

Posted notices must be in the wording and format adopted by the Commission.

If an employer does not post these notices, the employer could be fined up to \$1,000.

- **An employer must give new workers a written notice that includes the information in the posted notices.**

The written notice must also tell new workers that they have the right to choose not to be covered by the employer's workers' compensation policy. Workers have five days from the date they begin employment to tell the employer if they do not want to be covered by the policy. The written notice to new workers must be in the wording adopted by the Commission.

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

- **An employers must give all workers written notice if the employer cancels a workers' compensation policy or if the policy is canceled by the carrier.**