

Worker's Compensation Board (WCB) Hearing Locations Data Overview

Hearing Point Locations Data Overview

General Description

The New York State Workers' Compensation Board protects the rights of employees and employers by ensuring the proper delivery of benefits to those who are injured or ill, and by promoting compliance with the law.

A century ago, New York adopted the workers' compensation law. Hailed as the Great Compromise, this revolutionary piece of social legislation protected the interests of both business and labor with no-fault insurance, while removing them from the tort system. Few pieces of legislation can claim to have the same amount of success and tenure of necessity as the workers' compensation law. As the economy and social contracts developed over the last century, continued reforms and updates have been passed to ensure that injured workers receive medical treatment quickly and receive benefits efficiently. The workers' compensation system in New York has seen periods of reform including in the mid-1950's, 1996, 2007 and 2013. Implementing these reforms saw state government working together with business and labor groups to ensure all stakeholders involved were fairly represented.

Workers' compensation is insurance that provides cash benefits and/or medical care for workers who are injured or become ill as a direct result of their job.

Employers pay for this insurance, and shall not require the employee to contribute to the cost of compensation. Weekly cash benefits and medical care are paid by the employer's insurance carrier, as directed by the Workers' Compensation Board. The Workers' Compensation Board is a state agency that processes the claims. If Board intervention is necessary, it will determine whether that insurer will reimburse for cash benefits and/or medical care, and the amounts payable.

In a workers' compensation case, no one party is determined to be at fault. The amount that a claimant receives is not decreased by his/her carelessness, nor increased by an employer's fault. However, a worker loses his/her right to workers' compensation if the injury results solely from his or her intoxication from drugs or alcohol, or from the intent to injure him/herself or someone else.

A claim is paid if the employer or insurance carrier agrees that the injury or illness is work-related. If the employer or insurance carrier disputes the claim, no cash benefits are paid until the workers' compensation law judge decides who is right. If a worker is not receiving benefits because the employer or insurance carrier is arguing that the injury is not job-related, he or she may be eligible for disability benefits in the meantime. Any payments made under the Disability Program, however, will be subtracted from future workers' compensation awards.

If you can return to work but your injury prevents you from earning the same wages you once did, you may be entitled to a benefit that will make up two-thirds of the difference. You may also return to work in light or alternate duty before you are fully healed.

The Board may hold a hearing or hearings before a Workers' Compensation Law Judge. The Judge may take testimony, review medical and other evidence and will decide whether the claimant is entitled to benefits. If the claim is determined to be compensable, the Judge determines the amount and duration of the compensation award.

Either side may appeal the decision within 30 days of the filing of the Judge's decision. This is done by applying in writing for Board review. If the application is granted, a panel of three Board Members will review the case. This panel may affirm, modify or rescind the Judge's decision, or restore the case to the Law Judge for further development of the record. In the event the panel is not unanimous, any interested party may make application in writing for a full Board Review. The full Board must review and either affirm, modify or rescind such decision.

Appeals of Board Panel decisions may be taken to the Appellate Division, Third Department, Supreme Court of the State of New York, within 30 days. The decision of the Appellate Division may be appealed to the Court of Appeals.

Note: If a case is being contested, the carrier does not have to pay weekly benefits while the case is being reviewed by a Board Panel. However, payment of compensation and physician's bills must be made if the claimant's award is upheld by the Board Panel, even if an appeal is made to the Appellate Division. In addition, the uncontested portion of a Judge's award is paid even if an application for review is filed.

At any point, the claimant has the right to an attorney or licensed representative, **who may not ask for or accept a fee from the claimant**. The fee for legal services will be determined by the Law Judge or Board Panel and will be deducted from the award of compensation.

New York has had a no-fault workers' compensation system for nearly a century. Before enactment of the Workers' Compensation Law, when a worker was injured, the only remedy was to sue in the courts. When that happened, the employer could always raise an objection that the worker had assumed the risk of employment, or the injury was caused by the worker's negligence or that of another worker.

Today, the workers' compensation system guarantees both medical care and weekly cash benefits to people who are injured on the job. Weekly cash benefits and medical care are paid by the employer's insurance carrier, as directed by the Workers' Compensation Board. Employers pay for this insurance, and may not require the employee to contribute to the cost of compensation.

New York can trace its workers' compensation system back almost a full century and to a tragic fire at the Triangle Shirtwaist Factory in New York City. In that incident, 146 people died—mostly women, some as young as twelve. It was the greatest workplace disaster in New York until the attack on the World Trade Center on September 11. The fire galvanized labor and led to many reforms in safety, health, and labor laws. More to the point, it helped lead to the workers' compensation system both here in New York and across the country.

New York's Workers' Compensation law pre-dates Social Security and Prohibition. It is a law that needs to be revisited to keep up with the times. In 2007 the state of New York, in close partnership with labor and the business community, adopted a sweeping workers' compensation reform measure. Since then,

benefits have increased while costs have decreased; injured workers are getting benefits faster; and fraud is being rooted out.

Who Needs Insurance

- Workers in all for-profit businesses, including volunteers and family members.
- Domestic workers, sitters, and companions employed 40 hours per week in a residence, including time spent living at a residence.
- Farm workers whose employer paid \$1,200 or more for farm labor in the preceding calendar year.
- Most workers compensated by a nonprofit organization.

Who Doesn't Need Insurance

- Sole proprietors with no employees.
- Individuals in partnerships (including LP, LLC, LLP, PLLC, PLLP or RLLP) with no employees.
- One/two-person corporations where the owners own all stock (a share or more each) and hold all corporate offices and have no employees.
- Business owners can always include themselves on a policy.

Independent Contractors

- Workers under an employer's direct control are considered employees for workers' compensation purposes, regardless of their tax status.
- There is a perception that workers who are independent contractors for tax purposes do not need workers' compensation insurance coverage; that is often false because a worker's tax status is not the sole determinant of whether workers' compensation insurance is required. In addition, specific rules were established under the law for the construction and trucking industries regarding who is an employee and who is an independent contractor.

Data Collection Methodology

WCB Claims Information System (CIS) manages the scheduling of hearings for claimants. CIS was the source of this information.

Statistical and Analytic Issues - None

Limitations of Data Use - None