

**STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
(877) 632-4996**

Answers to Your Questions About Returning to Work

Most people who get workers' compensation benefits return to work. Here are answers to some questions you may have about going back to work after an on-the-job injury.

Q1: What are the benefits of returning to work?

A: A quick return to an active life may help you get better faster. Returning to work also may increase your income and benefits over time. A job also provides friendships on and off the job. But, your workers' compensation payments will never reach the amount of your full pay. You may not get pay raises or promotions while you are out of work.

Q2: What will happen to my workers' compensation payments if I return to work?

A: That depends on a few things, such as how much you earned before your injury. If your new pay rate is lower because of your disability, you could get part of your benefit to make up for your decreased wages. This is called a "reduced earnings" benefit.

Q3: Can I still get medical treatment for my work-related injury after I return to work?

A: Yes. You can also ask to be paid for applicable medical and travel costs to and from treatment.

Q4: Should I let anyone know when I return to work?

A: Yes. You or your attorney or representative should tell the Workers' Compensation Board and the insurance carrier or whoever is paying you benefits when you return to work. Also, let the Board and insurer know whenever your work status changes.

Q5: I have gone back to work, but sometimes lose time due to my work-related injury. Can I get paid for the days I miss?

A: Yes, you can receive workers' compensation benefits. If you are sometimes absent from work because of your work-related injury, this is called "Intermittent Lost Time." You must have medical evidence supporting your claim that an absence is due to a work-related injury. Please keep careful records of your lost time and your pay stubs.

Q6: When I go back to work, can I still claim workers' compensation for the time when I was hurt and could not work?

A: Yes. You have up to two years after your workplace injury to file a workers' compensation claim. This is true even if you have already returned to work.

Q7: Does my employer have to keep my job open for me while I am out due to my workplace injury?

A: The Workers' Compensation Law does not require your employer to keep your job open for you. But, most employers do take injured workers back. Keep in contact with your employer about your job status. The federal Family and Medical Leave Act (FMLA) requires some employers to provide up to 12 weeks of unpaid leave during a twelve-month period to an employee who cannot work because of a serious health condition. Contact the U.S. Department of Labor or your employer to learn more.

Q8: Now that I am able to work, can I collect Unemployment Insurance?

A: If you are ready, willing, and able to work, but your job is no longer open with your employer, you may be able to collect Unemployment Insurance. Contact the New York State Department of Labor to find out more about Unemployment Insurance benefits at 1-888-209-8124.

Q9: Can my employer fire me for filing a workers' compensation claim?

A: No. If you think you were fired or harassed because you filed a workers' compensation claim, contact the Workers' Compensation Board office nearest you and ask about filing a "discrimination" claim. You must file the complaint no later than two years after the date the action took place.

Q10: Can a new employer refuse to give me a job because I have a compensation case?

A: Employers are not allowed to ask you if you have had a workers' compensation claim. They cannot deny you a job for filing a past claim, either. The Workers' Compensation Board cannot share your workers' compensation case with another employer.

Q11: Can an employer deny me a job because I have a disability?

A: No. The Americans with Disabilities Act (ADA) bans discrimination against qualified job seekers with disabilities. The employer may even need to provide a "reasonable accommodation" to help a disabled person do the job. You should contact the U.S. Equal Employment Opportunity Commission (EEOC) if you think that you were unfairly denied a job because of a disability. The ADA covers employers with 15 or more employees. New York State's Human Rights law also prohibits disability discrimination and covers employers with four or more employees. You can call them at 1-888-392-3644.

Q12: I was told that I have a partial disability. What does that mean?

A: There are two main levels of disability in workers' compensation. One is total disability, when a worker cannot earn any wages and his or her daily activities are limited. The other is a partial disability. A worker with a partial disability has lost some ability to earn wages and do normal, daily activities. He or she may still be able to do some work, such as part-time work or lighter work than his or her former job.

Q13: What should I do if I have a partial disability?

A: If you have a partial disability, you must still look for and accept work you can do. Contact your employer to see if you can return to your job. Let your employer know if you need any changes so that you can do your job. Ask if you can be offered some other work to ease your return to work. If your wages are reduced as a result of your disability, you may be eligible for a "reduced earnings" benefit. You could lose your benefits if you fail to make a good faith effort to return to work. This is called "Voluntary Withdrawal from the Labor Market."

Q14: If I am unable to do my usual type of work because of my injury, does the Workers' Compensation Board offer help in finding work or training for persons with disabilities?

A: Yes. Contact the local Board district office near you and ask to speak with our vocational rehabilitation counselors or social workers.

Q15: What types of rehabilitation services are available?

A: Our staff will meet with you to find out what services can help you. You may be sent to a job placement or training agency. Other services include career or job counseling. We can help you fill out job applications, write resumes, and get ready for a job interview. We can also help you handle the hard questions, explain gaps in your resume, or request a job accommodation. Social workers can work with you to help you cope with your injury or disability. They can also help you prepare to return to work. They can connect you with other programs, such as child care, financial assistance, or services for persons with disabilities.

Q16: Will my benefits be reduced or ended if I take part in rehabilitation?

A: No. Taking part in a rehabilitation program will not hurt your case.

Q17: Are vocational services available to me outside of the workers' compensation program?

A: Yes. Two public agencies provide aid to workers with disabilities who are trying to return to work. The NYS Department of Labor operates One Stop Centers, where Disability Program Navigators help you get a job. For the office nearest you, call (888) 4NYS DOL (469-7365). · ACCES-VR (Adult Career and Continuing Education Services) is another good resource. To find the office nearest you, call (800) 222-JOBS (5627).

There are similar agencies in every state. To find the office nearest you, please contact (800) 877-1373 and ask to speak to the Manhattan Rehabilitation Bureau.

Q18: What is workers' compensation fraud?

A: An injured worker commits fraud when he or she lies or does not tell the whole truth about the facts in his or her case in order to receive workers' compensation benefits. This includes exaggerating the impact of your disability, or failing to report working while you receive benefits, including work "off-the-books." Fraud is a crime: your benefits may stop and you could go to jail.