

Virginia Workers' Compensation Commission

An industry leader in workers' compensation



What is workers' compensation?



Workers Compensation

Workers' Compensation is a mandatory insurance requirement under Virginia law, which requires every employer who regularly employs more than two workers, part-time or full-time, to carry workers' compensation insurance coverage. This coverage may provide benefits to workers who are injured on the job or develop an occupational disease during their employment.

The Virginia Workers' Compensation Commission acts as the court system and administers the Virginia Workers' Compensation Act. The Commission does not pay benefits.



What is covered?



Occupational Disease

A **disease** arising out of and in the course of employment, but not an ordinary disease of life to which the general public is exposed outside of the employment.

It is not a condition of the neck, back, or spinal column.



Ordinary Disease of Life

A **disease that the general public is exposed** to outside of the employment may be covered as an occupational disease...

If you can show that:

- it did not come from sources outside of work

- it arose out of and in the course of employment

- and was caused by conditions specific to the employment.

There is a higher burden of proof- clear and convincing evidence.



Injury by Accident

- Must result in an “injury”
 - Medical question = structural or mechanical change in body
- Specific event/Happen at a reasonably definite time
- Occur at work or during a work function
 - Time and place
 - Also called “in course of your employment”
- Be caused by a specific work activity
 - “arising out of” the employment
 - Actual risk of the employment



Just for Public Safety Officers

Generally- Law Enforcement, Correctional Officers, Firefighters



Injury by Accident due to Weather

If weather conditions constitute a particular risk of employment, and you can show that your injury arose out of and in the course of employment, absent any misconduct, the injury by accident will be compensable.



For Firefighters, Police and Sheriff

Presumptions



Presumption: Hypertension or Heart Disease

If you have worked five years or more as a firefighter, police officer, or sheriff...

Hypertension or heart disease

Will be presumed to be occupational diseases suffered in the line of duty if you have suffered some sort of impairment or wage loss as a result of the disease.



For Firefighters, Law Enforcement and Correctional Officers

Presumptions



Presumption: Covid-19

COVID-19

shall be presumed to be an occupational disease suffered in the line of duty, if you some sort of impairment or wage loss as a result of the disease between July 1, 2020 and December 31, 2021, AND...



Presumption: Covid-19

COVID-19 ALSO

it was...

- diagnosed by a licensed physician after
- a by a presumptive positive test or a lab confirmed test, and
- you had signs and symptoms of COVID-19 that required medical treatment.



Presumption: Infectious disease

If you have a **documented** occupational exposure to blood or body fluids

Hepatitis, meningococcal meningitis, tuberculosis or HIV

shall be presumed to be occupational diseases, suffered in the line of duty if you have suffered some sort of impairment or wage loss as a result of the disease..



Just for Firefighters

Presumptions



Presumption: Hypertension or Heart Disease

Respiratory Diseases

Will be presumed to be occupational diseases suffered in the line of duty if you have suffered some sort of impairment or wage loss as a result of the disease.



Presumption: Cancers

If you have worked five years or more as a firefighter...

Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, testicular, bladder or thyroid cancer.

Will be presumed to be occupational diseases suffered in the line of duty if you have suffered some sort of impairment or wage loss as a result of the disease .

The presumption only applies for colon, brain, or testicular cancer, if it was diagnosed after July 1, 2020 and for bladder and thyroid cancer, if it was diagnosed after July 1, 2023.



PRESUMPTION BUTS

Exceptions



PRESUMPTION - BUT #1

If you were asked to get a pre-employment physical, you had to have gotten the pre-employment physical

- (i) Before making any claim that will rely on the presumption,
- (ii) performed by a physicians of the employer's choice,
- (iii) included the lab work required by the employer, and
- (iv) found you free of whatever respiratory diseases, hypertension, cancer or heart disease at the time of the examination.



PRESUMPTION BUT # 2

All of these presumptions can be **rebutted** (meaning that it will no longer be presumed to arise out of and in the course of employment) if evidence shows that the disease is not caused by employment and that there is a non-work related cause.



What can you get?

Benefits



Benefits Potentially Available- Medical Benefits

Medical treatment that is reasonable, necessary, authorized and causally-related, such as...

- Doctor's visits
- Hospitalization
- Physical therapy
 - Medical tests
 - Prescriptions
 - Prosthetics
 - Mileage



Benefits Potentially Available- Lost wages

BENEFITS AVAILABLE FOR A COMBINED TOTAL OF **500 WEEKS**

Temporary total disability (TTD)-wage loss replacement while completely out of work due to the injury.

Temporary partial disability (TPD)-wage loss replacement while working light duty or earning less money due to the injury

Permanent Partial disability (PPD) compensation for loss of use of a body part, amputation, disfigurement/bodily scarring, loss of hearing, loss of vision or lung disease

Death Benefits -payment/reimbursement of funeral/transportation expenses or wage loss replacement for surviving spouse, children, or certain other dependents.



Benefits Potentially Available- Lost Wages

BENEFITS AVAILABLE FOR REMAINDER OF LIFE

Permanent Total disability (PPD)- wage replacement when an individual loses both hands, arms, feet, legs, eyes, or any two extremities in the same accident or compensable consequence of the accident to the extent that they cannot use those extremities in gainful employment, or is paralyzed or disabled from a severe brain injury.



How Are Benefits Determined?

Everything based on your Average Weekly Wage (AWW)

This is usually calculated by adding your wages for the 52 weeks before your injury or diagnosis, divided by 52.

For example: if you earned \$57,200 in the 52 weeks before your injury, your average weekly wage would be \$1,100.00.



Compensation rate

The amount of compensation to which the injured worker is entitled by an award from the Commission for **temporary total, permanent total, and permanent partial disability** benefits.

2/3 of the average weekly wage

(multiply your average weekly wage by .66667)

\$1100 x .66667 = \$733.33- compensation rate



But what if you are working...

Temporary Partial Disability

If you are working, but earning less than your average weekly wage...

the compensation rate is calculated by taking the difference between your pre-injury average weekly wage and the current weekly wage you are earning at the new job, and multiplying that amount by .66667.

If you are earning \$500 per week after the injury, then your temporary partial disability rate would be

$\$1100 - \$500 = \$600 \times .66667 = \400.00 per week.



VWC Calculator App

The Commission has an online calculator you can use to assist in calculating the lost wage and permanent partial disability benefits owed.

<https://calculators.workcomp.virginia.gov/calculators/index.html>

Welcome to the VWC Calculator Application

Choose one of the calculators below to get started.

Basic Calculator

Multiple Period Calculator

Lump Sum Calculator

Interest Calculator

COLA Calculator



FYI- Looking for a job ...

Job Search Requirements

If you are not under an award AND

You have light duty work restrictions, AND

You are not working or are working, but asking for an increase in your benefits,

You are required to look for a job.



FYI-Looking for a job ...

Marketing Guidelines

- Register with Virginia Employment Commission
- Look for at least 5 jobs per week where you have a reasonable belief that there is a job you can do within your restrictions
- If appropriate, check with your Employer
- Keep a record of your searches.



Vocational Rehabilitation

If you are under an award, and have an ability to work, you can ask for help finding a job. Even if you do not ask, the Employer can assign a vocational counselor to help you find a job.



Death Benefits

- Burial expenses up to \$10,000
- Transportation expenses up to \$1,000
- Benefits to a spouse and/or dependent children under the age of 18 and under 23 years old if enrolled in an accredited educational institution.

Dependents can include spouse, children (including step-children, legally adopted children and acknowledged illegitimate children, but not married children) and parents in destitute circumstances (including stepparents and parents by adoption)



COLA

For temporary total, permanent total, or death benefits

You are entitled to a cost of living (COLA) increase beginning October 1st of each year as long as:

1. your date of injury was before July 1 of that year, and
2. your compensation rate and Social Security Disability Benefits are less than 80% of your pre-injury earnings.

Cost of living increases must be specifically requested by the injured worker.



Post Traumatic Stress Disorder

A separate way to claim for Firefighters and Law Enforcement



Law Enforcement and Firefighters: PTSD

Statute enacted in 2020

PTSD is compensable if:

1. A mental health professional
2. Diagnoses you with PTSD,
3. Resulting from a qualifying event,
4. That occurred in the line of duty.



Law Enforcement and Firefighters : PTSD

- Qualifying event** means an event that occurred after July 1, 2020, AND
- a. resulted in serious bodily injury or death, OR
 - b. involved a minor who was been injured, killed, abused or exploited, OR
 - c. involved an immediate threat to your life or the life of someone else, OR
 - d. involved mass casualties, OR
 - e. occurred while responding to crime scenes for investigation.



Law Enforcement and Firefighters : PTSD

OTHER REQUIREMENTS

The firefighter complied with OSHA standards;

The qualifying event was a substantial factor in causing the PTSD;

Another event or source of stress was not the primary cause of the PTSD; and

The PTSD did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the firefighter.



Law Enforcement and Firefighters: PTSD- BENEFITS

Benefits include medical treatment, temporary total and temporary partial benefits.

* Benefits only last for 52 weeks from the date of diagnosis.

TTD or TPD plus retirement benefits, Social Security benefits, and long term or short disability benefits cannot exceed the average weekly wage.

Benefits, whether medical or lost wages, have to be awarded within four years of the date of the qualifying event.



How to get benefits



Report it

Injury by Accident

30 Days

Occupational Disease

60 days



File a Claim Form with the Commission

Filing a Claim is the responsibility of the injured worker.

Even if the employer has paid lost wages or provided medical care, it is still the employee's responsibility to file a claim with the Commission. If no claim is filed with the Commission or no award entered, the employer may stop paying medical expenses or wage loss at any time.



File a Claim

Claim Form Virginia Workers' Compensation Commission
Access your claim online: webfile.workcomp.virginia.gov

Jurisdiction Claim Number (JCN) _____ Claim Administrator Number _____

| Injured Worker Information | | | Employer Information | | |
|--|--|---|-----------------------|-------|-------------------------------------|
| Name | | | Name of Company | | |
| Address | | | Address | | |
| City | State | Zip Code | City | State | Zip Code |
| Primary Phone | Gross Weekly Earnings | Employer's Phone | | | |
| Injury | | | | | |
| Date of Injury* | Where Injury Occurred (City or County) | | Parts of Body Injured | | |
| How Injury Occurred | | | | | |
| *If claiming an occupational disease (use separate claim form for Coal Workers' Pneumoconiosis): | | | | | |
| Name of Occupational Disease | Date last worked for employer | Date doctor stated the disease was caused by work | | | |
| Request for Benefits | | | | | |
| I need assistance obtaining the following benefits. If the benefits are denied, this form will serve as a hearing request. | | | | | |
| <input type="checkbox"/> Lifetime Medical Award (coverage for related medical expenses). | | | | | |
| <input type="checkbox"/> Wage Loss Replacement (Temporary Total Disability - Completely out of work): | | | | | |
| From: _____ To: _____ | | <input type="checkbox"/> continuing | From: _____ To: _____ | | <input type="checkbox"/> continuing |
| <input type="checkbox"/> Wage Loss Replacement (Temporary Partial Disability - Partially out of work/light duty): | | | | | |
| From: _____ To: _____ | | <input type="checkbox"/> continuing | From: _____ To: _____ | | <input type="checkbox"/> continuing |
| <input type="checkbox"/> Compensation for Permanent Loss (Permanent Partial Disability): | | | | | |
| <input type="checkbox"/> Loss of use of a body part <input type="checkbox"/> Disfigurement/Scarring <input type="checkbox"/> Amputation <input type="checkbox"/> Hearing/Vision loss <input type="checkbox"/> Lung disease | | | | | |
| <input type="checkbox"/> Payment/reimbursement for the following expenses (attach medical records, itemized bills, receipts, or mileage log): | | | | | |
| <input type="checkbox"/> Medical bills <input type="checkbox"/> Mileage/Transportation <input type="checkbox"/> Prescriptions | | | | | |
| <input type="checkbox"/> Death benefits to dependents and/or funeral expenses. | | | | | |
| <input type="checkbox"/> Other: _____ | | | | | |
| Signature | | | | | |
| I hereby file this claim to protect my right to benefits under the Virginia Workers' Compensation Act for the injury or disease described above. | | | | | |
| SIGNATURE (Required) | | PRINT | | DATE | |

An original claim for benefits shall be in writing, signed and should set forth:

- 1. Employee's name and address;
- 2. Employer's name and address;
- 3. Date of accident or date of communication of occupational disease;
- 4. Nature of injury or occupational disease;
- 5. Benefits sought: temporary total, temporary partial, permanent total, permanent partial or medical benefits;
- 6. Periods of disability, if appropriate.



Time Limits to File the Claim- Injury

Generally, an employee must file a claim with the Workers' Compensation Commission within **two years from the date of the accident.**

There are many exceptions to this timeframe.



Time Limits to File the Original Claim- Occ. Disease

Generally, claims for an occupational disease must be filed within **two years from the date of diagnosis and discovering that the disease is work related, or five years from the date the employee was last exposed** to the work condition causing the disease, whichever is sooner.

There are exceptions to this timeframe.



Time Limits to File- Firefighters and Cancer

Claims for cancer covered by the presumption must be filed within **two years from the date the doctor tells the employee the disease is work related, or ten years from the date the employee was last exposed** to the work condition causing the disease, whichever is sooner.

The claim **shall be barred once the employee is 65 years of age** or older, regardless of date of diagnosis, communication, or last injurious exposure.



Change in Condition Claims

If after returning to work, things change and you again start to lose time from work, or you need additional medical treatment related to the work injury that is being denied, you must file a claim within **two years of the date for which you were last paid compensation under an award**. (This is generally known as a “change in condition” application).

As always, there may be exceptions.

Be aware that, the Commission **can only award benefits up to 90 days before the change in condition is filed**.



Claim Form

Access your claim online: webfile.workcomp.virginia.gov

Virginia Workers' Compensation Commission



Jurisdiction Claim Number (JCN)

Claim Administrator Number

| Injured Worker Information | | | Employer Information | | |
|--|--|---|-----------------------|-------------------------------------|----------|
| Name | | | Name of Company | | |
| Address | | | Address | | |
| City | State | Zip Code | City | State | Zip Code |
| Primary Phone | Gross Weekly Earnings | Employer's Phone | | | |
| Injury | | | | | |
| Date of Injury* | Where Injury Occurred (City or County) | | Parts of Body Injured | | |
| How Injury Occurred | | | | | |
| *If claiming an occupational disease (use separate claim form for Coal Workers' Pneumoconiosis): | | | | | |
| Name of Occupational Disease | Date last worked for employer | Date doctor stated the disease was caused by work | | | |
| Request for Benefits | | | | | |
| I need assistance obtaining the following benefits. If the benefits are denied, this form will serve as a hearing request. | | | | | |
| <input type="checkbox"/> Lifetime Medical Award (coverage for related medical expenses). | | | | | |
| <input type="checkbox"/> Wage Loss Replacement (Temporary Total Disability - Completely out of work): | | | | | |
| From: _____ To: _____ | | <input type="checkbox"/> continuing | | From: _____ To: _____ | |
| | | | | <input type="checkbox"/> continuing | |
| <input type="checkbox"/> Wage Loss Replacement (Temporary Partial Disability - Partially out of work/light duty): | | | | | |
| From: _____ To: _____ | | <input type="checkbox"/> continuing | | From: _____ To: _____ | |
| | | | | <input type="checkbox"/> continuing | |
| <input type="checkbox"/> Compensation for Permanent Loss (Permanent Partial Disability): | | | | | |
| <input type="checkbox"/> Loss of use of a body part <input type="checkbox"/> Disfigurement/Scarring <input type="checkbox"/> Amputation <input type="checkbox"/> Hearing/Vision loss <input type="checkbox"/> Lung disease | | | | | |
| <input type="checkbox"/> Payment/reimbursement for the following expenses (attach medical records, itemized bills, receipts, or mileage log): | | | | | |
| <input type="checkbox"/> Medical bills <input type="checkbox"/> Mileage/Transportation <input type="checkbox"/> Prescriptions | | | | | |
| <input type="checkbox"/> Death benefits to dependents and/or funeral expenses. | | | | | |
| <input type="checkbox"/> Other: _____ | | | | | |

Signature

I hereby file this claim to protect my right to benefits under the Virginia Workers' Compensation Act for the injury or disease described above.

SIGNATURE (Required)

PRINT

DATE

File a Change in Condition with the Commission

A change in condition claim must be in writing and state the change in condition relied upon. A copy of the claim should be sent to the employer.



Keep Up

It is the injured workers' job to
keep up with the claim.



Burden of Proof

It is the injured workers' job to prove that the benefits claimed are causally related to the work injury or occupational disease.



Questions ?



What are the roles of the different parties involved in workers' compensation claims, ie. LODA, VRS and WCC...who pays what and how is it administered?





Virginia Workers Compensation Commission

The Virginia Workers' Compensation Commission works as a court system, administering the workers' compensation laws of the Commonwealth of Virginia. The Commission is not an advocate for injured workers and does not make payments on claims. The Commission can:

- Inform the injured worker of their rights and responsibilities under the Virginia Workers' Compensation Act
- Explain the process for filing a claim
- Informally resolve benefit disputes through Alternative Dispute Resolution (ADR)
- Serve as a resource by providing educational information about various workers' compensation processes



Virginia Retirement Systems

Administers life insurance, severance, retirement, military leave benefits, and death in service benefits (which is a lump-sum payment of the balance in your member contribution account)

VRS also handles purchase of prior service credits, long term care benefits, VRS Disability Retirement, Virginia Local Disability Program, and Virginia Sickness and Disability Program.

If you have questions about VRS, or disability retirement, contact your human resource office or call VRS toll-free at 888-827-3847.

<https://www.varetire.org/>



LODA

The Virginia Line of Duty Act (LODA), provides benefits to eligible family members of eligible employees killed in the line of duty and to eligible employees disabled in the line of duty and their eligible family members.

VRS administers all eligibility determinations for LODA benefits and also issues benefit payments. 1-888-827-3847 (request LODA Support), loda@varetire.org

The Virginia Department of Human Resource Management (DHRM) administers the LODA Health Benefits Plans. 888-642-4414, loda@dhrm.virginia.gov



Additional Questions?

If you have specific questions about an injury or disease, you should contact an attorney. If you do not have an attorney and have questions, you can contact the Ombuds Department at 833-448-1681 or ombuds@workcomp.virginia.gov.