

WORK COMP INSIGHTS

When an Employee Refuses Workers' Compensation Treatment

Based on the geographic location of your business, many state workers' compensation statutes limit and mandate certain employer actions when a worker is injured. Depending on the state, there are specific timelines to follow and forms to complete. But what about when a worker is injured and refuses to accept treatment or file a claim? What are your responsibilities? While the exact legal answer depends on your situation and state laws, consider the following to limit your liability.

When You Notice

If you notice that an employee has been injured, even if the employee has not mentioned it, gently bring it up and discuss the circumstances of the injury with the employee to determine whether the injury is job-related. Many state workers' compensation statutes obligate employers to report injuries as soon as they have knowledge of them. Delay in reporting the injury could result in much more costly claims. Completing the paperwork to report injuries is not an admission of your liability—on the contrary, it could protect you.

In the Case of Refusal

When you do discuss the injury with the employee, explain that reporting job-related injuries entitles injured workers to certain benefits while recovering from the injury. If the employee does not wish to file a claim for the injury, file the employer's portion of the report with a statement of refusal to pursue a claim signed by the employee. It is crucial that you document this

conversation to protect your organization from being penalized in the future.

Employees that do initially report injuries but then refuse treatment under the physician or facility that your organization furnishes should sign a similar form confirming this refusal.

The actions you are required to take when a worker refuses treatment of a workplace injury vary depending on your state. In any case, it is crucial that you document each step to limit your liability.

Benefits for Employees that Refuse Treatment

State workers' comp statutes vary, but in most cases, workers' compensation benefits are suspended for employees that refuse to comply with any reasonable request for examination or refuse to accept medical service or physical rehabilitation which the employer elects to furnish. Benefits may not be payable for this period of refusal of treatment—check with your workers' comp carrier.

What to Do Now

It is important that you prepare for an eventual employee refusal to submit a claim or refusal to accept treatment for a workplace injury. All employers should have a legal representative draft a form for refusal of treatment that complies with state requirements so it is immediately available when needed. Discuss with supervisors the importance of documenting and reporting all injuries, whether or not the worker chooses to report them.

Workers' compensation insurance is obligatory in most states. Contact the insurance professionals at BCG Advisors, Inc. for more information.