

Filing WTC-Related Workers' Compensation Claims: A Step-By-Step Guide for City Employees Who Participated In WTC Rescue and Recovery Operations

The information below is provided to give City employees a basic understanding of how WTC-related Workers' Comp claims are handled by the NYC Law Department and the NY State Workers' Compensation Board. It is not exhaustive; City employees who file claims also should visit the NY State Workers Compensation Board website at www.wcb.state.ny.us for more comprehensive information.

Ways to Speed the Processing of Your Workers' Compensation Claim:

- File your claim directly with the New York City agency for which you worked during WTC rescue and recovery operations rather than with the NY State Workers' Compensation Board.
- Submit detailed medical evidence and any other information requested by the Board in a timely manner. If possible, submit medical evidence when you submit your claim.
- Appear for any independent medical exams required by the City on the dates scheduled.
- Attend any hearings scheduled at the Workers' Compensation Board.

Step #1

Register with the NY State Workers' Compensation Board using a WTC-12 form by September 11, 2014. This will preserve your right to file a WTC-related claim in the future even if you are not experiencing any health problems related to your rescue and recovery work at present.

Please Note: Submitting a WTC-12 form prior to September 11, 2014 is NOT the same as filing a WTC-related Workers' Comp claim. These are two different steps. To find out if you already have submitted a WTC-12 form, please call 877-632-4996 or visit www.wcb.state.ny.us.

Step #2

If you believe that you now are experiencing disabling health problems related to your participation in WTC rescue and recovery operations, file a Workers' Comp claim with the City agency that employed you during that time. Ask the human resources

department of the City agency for a “Notice of Injury” form. Be as specific as you can about what kind of health problem you are experiencing and when you first became sick. Providing this information will ensure that your claim is processed more quickly. Please submit medical records and, if possible, a letter from your doctor stating that your illness or injury is related to your work during the WTC rescue and recovery operations.

Step #3

Once you have filed a “Notice of Injury” form, your human resources department will send it to the NYC Law Department. You will likely receive a letter or some form of communication from the NYC Law Department notifying you that your claim has been received and either accepted or controverted (. Claims may be controverted because the Law Department contests some aspect of a claim or simply because there is not enough information to make a final determination regarding compensability. Remember, taxpayer dollars are used to pay claims and it is the responsibility of New York City government to ensure that these funds are spent appropriately.

This is only the first step in the process. A controverted claim requires further action by the Workers’ Compensation Board. Before a final determination can be made, a judge at the Workers’ Compensation Board will determine the answers to several important questions, which may include:

- Whether or not you participated in the WTC rescue and recovery operations as defined by the law while you were employed by New York City;
- Whether or not your particular health problem is disabling and the correct date of disablement; and
- Whether or not this health problem is WTC-related.

You may retain an attorney at no charge to represent you in these proceedings (the NY State Workers’ Compensation Board can provide you with referral). In the event that your claim is accepted and you receive compensation, the attorney’s fees will be deducted from the award.

Step #4:

You may receive a letter from the NY State Workers’ Compensation Board asking for medical evidence to support your claim if you have not already provided it.

Your doctor can submit this evidence on C4 forms that are provided by the NY State Workers Compensation Board on its website or in the form of a letter.

It is your doctor’s responsibility to submit written evidence in support of your claim. At a minimum, it should include the following information:

- the health problem for which you are seeking Workers' Compensation
- how this health problem is related to your participation in WTC rescue and recovery operations
- if you had this condition before September 11, 2001, how your participation in WTC rescue and recovery operations made the condition worse
- whether the condition prevents you from working

By providing as much evidence as possible from the outset, your doctor can hasten the processing of your claim. If your doctor fails to provide proper medical evidence, the process will be delayed.

Please Note: Even if your physician does submit all the information indicated above, this does not guarantee that your claim will be established.

Step #5:

Once you provide medical evidence in support of your claim, the NY State Workers' Compensation Board usually schedules a hearing before a judge at a location and time that are convenient for you. The hearing can be scheduled whether or not you have an attorney. Depending on the specifics of your case, there can be more than one hearing to help the judge determine the facts.

The NYC Law Department may request that you undergo a medical examination with a doctor selected by the Law Department to verify your medical condition. The examining doctor will file a medical report and send copies to you, the Board and the NYC Law Department. The judge will review this report along with the evidence that you have submitted. Disagreement can occur regarding any fact (see bullets in *Step #4*). The judge can rule on different aspects of your case before making a final ruling. You have the right to appeal these decisions and the final ruling.

Step #6:

If the medical report of the doctor who examines you doesn't agree with the evidence that you and your doctor have submitted, the judge will schedule a trial. In this event, both doctors may be required to testify and answer questions. After both sides have testified, the judge makes a ruling based on the evidence and testimony that have been presented. The judge can issue this ruling immediately or send it in writing to you and the NYC Law Department some time afterwards.

The rates of compensation are determined by the NYS Workers' Compensation Board. They cover the medical costs to treat your disabling condition and may include some replacement for lost wages based on a percentage of your income when you became disabled and other factors.

Step #7:

Both you and the NYC Law Department have the right to appeal the judge's ruling by filing an application for board review. A panel of three NY State Workers' Compensation commissioners reviews the same evidence as the judge before issuing an independent written decision.