



# Workers' Compensation

## *Understanding Your Rights If You Are Injured At Work*

### What should I do if I am injured at work?

- 1. Seek medical treatment as soon as possible.** Even if the injury appears to be minor, you should have it examined by a doctor of your choice. To receive workers' compensation benefits under state law, you must receive medical treatment. The doctor's statement, combined with your medical records, will help determine compensability under the law. *Tell the doctor treating you how you were injured. Be sure to inform the doctor that the injury or illness occurred in the course of your employment.*

Ask the school office for the “**Work Status Report/Medical Services**” form to take with you to your doctor for completion. Fax the completed form to the MMSD at (608)204-0346.

Ask the doctor/hospital to *submit all bills and medical reports* to MMSD's workers' compensation insurer: **Community Insurance Corporation, 18550 W. Capitol Drive, Brookfield, WI 53045.**

Submit the original receipts for prescription drugs and/or a log of your travel expenses (i.e., round trip mileage to all appointments for medical treatment) directly to the workers' compensation insurer. Keep copies of such documents for your own records.

- 2. Report the injury or illness to your principal or supervisor as soon as possible.** As a general rule, an injury should be reported *immediately*. If you wait until later, the claim might be doubted or scrutinized because it was not reported right away.

To report an injury, complete the MMSD form “**Employee First Report of Injury or Illness.**” This form is available at your school's office, and will ask you to provide detailed information about the time, location and description of injury or illness, as well as the names of any witnesses. Sign the form and fax it to the District's benefits office at (608)204-0346. Retain a copy for your own records.

### What happens after I see a doctor and submit my work injury report?

- 1. Claim Process Begins:** After you receive medical treatment and submit your work injury report, the workers' compensation insurer will investigate your claim to determine whether it believes your injury is compensable under workers' compensation law. *In order to have your claim approved, your injury or illness must meet two conditions: first, it must be determined that you sustained an injury or illness; second, your physician must believe “to a reasonable degree of medical certainty” that the injury or illness was caused while you were on the job.* The opinion of a doctor who did not treat you, observe you, or talk to you right after the injury may have

somewhat less credibility if challenged than would the opinion of a doctor who saw you within a very short time afterward. That is why it is so important to timely report injuries to both the employer and your medical providers. Also, medical reports and opinions need to be from a medical doctor (i.e., not a nurse, physician's assistant, OT, PT, etc.).

- 2. *Claim Investigation:*** As part of its investigation of your claim, the workers' compensation insurer may engage in the following activities:

Claimant Interview/Statement The insurer regularly calls claimants to obtain a recorded statement regarding the injury. As part of this statement, the insurer might ask about previous injuries you have sustained, recreational activities you are/were engaged in, and other facts. MTI advises all claimants to listen carefully to the questions asked and respond truthfully.

Medical Records Request The insurer frequently will request additional medical reports from your physicians. Under workers' compensation law, the insurer has the right to access medical records reasonably related to your injury. The insurer may also ask to see "all" medical records, even those not specifically related to the injury.

Nurse Case Manager (optional) The insurer recommends that you contact the Alaris 24/7 Nurse Care Line to provide you assistance with treatment options and medical referrals. Occasionally, the Nurse Case Manager may request to attend medical appointments with you. Be aware that the Nurse Case Manager works for the workers' compensation insurer, not for you. It is your option whether to contact and/or involve the Nurse Case Manager.

Independent Medical Exam The insurer occasionally directs the claimant to submit to an "Independent Medical Exam" (IME) to verify the extent of injury or causation. Wisconsin law requires claimants to comply with such a request and to see the doctor selected by the insurer for the IME. Keep in mind, the IME doctor is not "independent," but rather hired by the insurer in an attempt to limit the insurer's liability. Therefore, IME reports generally are favorable to the insurer, not to you, the Claimant. You retain the right to be treated by a doctor of your own choice, and it is your treating doctor's opinion and medical records that are given greatest weight in a compensability determination by an Administrative Law Judge.

Surveillance The insurer will occasionally engage in clandestine surveillance of an injured worker. The insurer may contract a videographer or private investigator to secretly videotape the claimant entering or exiting their home, attending medical appointments, or engaging in other normal activities. The intent of such surveillance is to capture the claimant engaging in some activity contraindicated by the alleged injury (e.g., an employee with a back injury who is videotaped lifting heavy objects). While such intrusive activities are infrequent, they do occur and employees should be aware of the possibility that they might come under observation.

- 3. *Claim Decision:*** Once the insurer completes its investigation, the claim is either approved or denied. The State Workers' Compensation Division expects that for most claims, the first

payment should be made within 14 days of your last work day. For more complicated claims, (e.g., those requiring more extensive investigation, medical records review, IME appointments, etc.), claims decisions may be delayed further. Injured employees should contact the District if they are experiencing lengthy delays (more than 14 days) in claim approval.

If the claim is approved, compensation will then be provided via the MMSD, and medical bills will be paid by the workers' compensation insurer.

## How am I compensated for a work-related illness or injury?

Wisconsin workers' compensation law provides injured workers with two-thirds of their weekly wage (up to a weekly maximum) during the period of healing. **However, MTI's advocacy has resulted in the employee receiving greater benefits: *the Employee Handbook* mandates that the employer pay 100% of wages for the first 180 days of injury.** Therefore, you should suffer no loss of income if your workers' compensation claim is approved and you are able to return to work within 180 days. Medical bills are submitted to and paid by the workers' compensation insurer, not your health insurer.

## What happens if my claim is denied?

1. ***If your claim is denied, contact MTI immediately.*** MTI staff will arrange for legal counsel to review your claim to determine its merits and whether an appeal should be filed. If MTI determines that the claim has merit, MTI staff and legal counsel will assist the claimant with an appeal of the denial to the State of Wisconsin Workers' Compensation Division. To appeal, a hearing application is filed along with supportive medical records, after which a hearing before an Administrative Law Judge (ALJ) is scheduled. After the hearing, the ALJ renders a written award which is then appealable to the Labor and Industrial Review Commission. Generally, it can take between six months and one year to appeal a denied workers' compensation claim. Therefore, it is crucial to provide timely and detailed information up-front in hopes of avoiding a protracted dispute.
2. ***Do not seek a workers' compensation attorney on your own.*** MTI provides legal counsel for such disputes at no additional cost to MTI members (legal costs are defrayed by membership dues). If you were to retain a workers' compensation attorney on your own, such attorneys generally receive 20% of the amount awarded should they prevail in an appeal.
3. ***Personal Sick Leave Benefits.*** The Employee Handbook, under MTI's involvement and advocacy, stipulates that employees are paid via accrued personal illness leave when a workers' compensation claim is being disputed. Should the claim eventually be decided in the employee's favor, any sick leave used for the injury is reinstated to the employee's PI account.

## What happens if my temporary disability becomes permanent?

Fortunately, most work-related injuries result in temporary periods of disability, with the employee returning to work once healed. However, some injuries can result in permanent disabilities or permanent partial disabilities. In such cases, injured employees can be entitled to additional compensation beyond the replacement of wages described above as compensation for the permanency of

the injury. Medical opinions will be key in determining the existence and extent of any permanency claim. MTI staff and legal counsel should be consulted with questions related to a permanent work injury.

### When can I return to work?

*It is the goal of workers' compensation to get injured employees back to work as soon as possible. The actual return-to-work date will be determined by your medical provider(s) and will be dependent on such things as whether you are in need of any work restrictions (such as a lifting restriction) during your healing period. The District may, in some cases, provide "light duty" assignments for those employees who are restricted from working in their regular position but may be able to return successfully to a "light duty" position that meets their medical restrictions. You should discuss any return-to-work plan with your treating physician and contact MTI if you have questions.*

### When should I contact MTI?

You may contact MTI any time you have questions relating to your claim. If your claim is denied, contact MTI immediately. **Phone and Fax: (608)257-0491; Address: 33 Nob Hill Road, Madison 53713.**

### Other Information

#### Coordinating with MMSD

It is necessary to stay in contact with the MMSD benefits office during a workers' compensation related absence and advise them of any absences or appointments related to your work injury. You can contact them at (608)663-1692.

#### Workers' Compensation insurer contact information

Community Insurance Corporation (CIC)

Aegis Corporation

18550 West Capitol Drive

Brookfield, WI 53405

Phone: (800)236-6885

#### Employee Handbook Information and MMSD Policy

Section 7, Page 79, of the Employee Handbook also provides information regarding workers' compensation. Board of Education Policy 8421 outlines similar information. See the District's website to read the Handbook language and BOE Policy in their entirety, and to access the workers' compensation forms.

# SECTION 7

## WORKER'S COMPENSATION

### 7.01 Worker's Compensation Coverage and Reporting Responsibilities

All employees shall be covered by Worker's Compensation Insurance.

Any employee who is injured on the job should:

1. Report the injury to the Benefits Division of the Department of Human Resources and his/ her supervisor/principal within twenty-four (24) hours after the occurrence of the injury or as soon as practicable by completing and submitting the "Employee First Report of Injury Form" (<https://hr.madison.k12.wi.us/files/hr/wc injury.docx>) and;
2. Seek medical attention, if needed. Injured employees are advised to seek medical treatment as soon as possible after the injury and should have their medical provider(s) complete and submit the "Work Status Report/Medical Services" (<https://hr.madison.k12.wi.us/files/hr/wc status.docx>) form to the District.

### 7.02 Benefits While on Worker's Compensation

If any employee is injured while in the performance of duties for the District, the District shall continue to provide Workers' Compensation insurance and the employee will be compensated in the following manner:

When an employee is in pay status, the employee shall be paid by the District at one hundred percent (100%) of the salary schedule rate he/she was paid prior to such injury, and the District shall retain all Workers' Compensation pay received from the carrier on the employee's behalf. Said pay shall continue for a period not to exceed one hundred and eighty (180) working days for any one (1) such injury or illness. During such period that the employee is receiving pay under the provisions of this Section, he/she shall continue to accrue sick leave credits (if applicable). No employee by reason of this Section shall receive pay for more than fifty-two (52) weeks in any calendar year, provided however, that employee's shall not be entitled to the provisions of this Section during periods when they are not scheduled to be paid by the District. The employee must provide a physician's report substantiating the injury and the District's return to work form must be completed and filed by the physician before the employee returns to work.

Challenge of Workers' Compensation Claim: If a worker's compensation claim is contested, the District continues to pay the employee's full salary during the period of disability up to a maximum of the number of work days following the date of the accident equal to the number of sick leave days then accumulated by such employee. If the contested claim is settled in favor of the employee, the provisions specified in the paragraph above are retroactively applicable and the number of sick leave days consumed is restored to the credit of the employee.

For additional information see: <https://board.madison.k12.wi.us/policies/8421>

(This page taken from 2016-17 Madison Metropolitan School District Employee Handbook – Page 79)



Book	Policies & Procedures
Section	08000 Personnel
Title	Accident Leave
Number	8421
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## MMSD Policies and Procedures: 8421

### **Accident Leave**

1. If a certified employee of the BOARD becomes entitled to worker's compensation pursuant to Chapter 102 of the Wisconsin Statutes, the BOARD continues to pay the employee's full salary during the period of disability, whether or not such period extends beyond the employee's term of employment, up to a maximum of 180 teaching days; however, such payment of full salary shall be reduced by an amount equal to the amounts paid to the employee as worker's compensation.
2. If a worker's compensation claim is contested, the BOARD continues to pay the employee's full salary during the period of disability up to a maximum of the number of teaching days following the date of the accident equal to the number of sick leave days then accumulated by such employee, providing the employee files a written request for such payment with the BOARD. When the contested claim is settled in favor of the employee, the provisions of the preceding paragraph are retroactively applicable and the number of sick leave days consumed is restored to the credit of the employee.

BOE 10/4/04

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