



INJURED IN THE LINE OF DUTY

A Guide to the
New York State
Volunteer Firefighter
Benefits Law
and Volunteer
Ambulance Worker
Benefits Law



**Workers'
Compensation
Board**





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Compensation
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Injured In The Line Of Duty

A Guide to the New York State
Volunteer Firefighter Benefits Law
and Volunteer Ambulance Worker Benefits Law

NOVEMBER 2017



Mission Statement

The New York State Workers' Compensation Board protects the rights of employees and employers by ensuring the proper delivery of benefits to those who are injured or ill, and by promoting compliance with the law.

Workers' compensation fraud is a Class E felony, punishable by up to four years imprisonment and a \$5,000 individual/\$10,000 corporate fine. Subsequent conviction is a Class D felony.

The Workers' Compensation Board does not discriminate on the basis of race, color, national origin, sex, religion, age, disability or sexual orientation in employment or the provision of service.

This pamphlet is a general and simplified presentation of workers' compensation provisions and procedures. It is not a substitute for the law or legal advice.

Privacy Statement

New York State Workers' Compensation Board case records are private documents. Under workers' compensation law, only the parties to a claim may receive information from that claim's case file. Beyond the claimant and the claimant's attorney or representative, the following parties may see information:

- employer and employer's attorney.
- employer's workers' compensation insurer and its attorney.

The insurer may share information with the health care provider hired to do a medical examination. The health care provider will share medical information with the insurer when billing for services.

Claim information may also be shared with anyone who obtains a court order authorizing access. This information may also be shared with government entities if they are processing a claim for benefits or investigating fraud. No one may disclose information to anyone who is not authorized to see it.

Written permission may be provided to allow someone access to your claim information by filing either:

- an original Claimant's Authorization to disclose Workers' Compensation Records (Form OC-110A) — available from wcb.ny.gov, or by calling (877) 632-4996, or
- an original notarized letter or form authorizing a particular person or entity to see your claim information.

Written permission may be submitted at any time. It is always helpful to share a copy of the notarized letter with the person authorized to see your records. Some people authorize their spouse or child to access their records when initially filing for benefits.

Prospective employers may not ask about a prospective employee's workers' compensation claims before hiring him or her, or in connection with assessing fitness or capability of employment.



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The **VAW-3**, **VF-3**, and **OC-110a** forms can be detached from the center of this document.



Who is Covered

All New York State **volunteer firefighters** are entitled to benefits under the law. If you are an active volunteer member of a fire company of a county, city, town, village or fire district and are injured in the line of duty, you have workers' compensation coverage available to you.

Most New York State **volunteer ambulance workers** are entitled to benefits under the law. If you are an active volunteer member of an ambulance company and are injured in the line of duty, you have workers' compensation coverage available to you. Volunteer ambulance companies that are not under contract with a county, city, town, village or other political subdivision, or that do not wish to become special improvement districts of towns, may provide optional coverage to their workers.

You also have benefits available to you if:

- You are a firefighter or ambulance worker who volunteered to participate in the rescue, recovery and cleanup of the World Trade Center (WTC) between 9/11/2001 and 9/12/2002 and incurred lost wages and/or health related problems due your volunteer work at the following locations: Ground Zero, Fresh Kills Landfill, the barges, the piers, or the morgues.
- You are a spouse or dependent of a volunteer firefighter or volunteer ambulance worker who passed away in the line of duty or due to an existing injury or illness caused by firefighting or ambulance worker duties.

Benefit Eligibility

Volunteer Firefighters' and Volunteer Ambulance Workers' Benefits Laws provide medical care and cash benefits for volunteer members who are injured or become ill in the line of duty.

Your local political subdivision pays for insurance to cover these benefits, and cannot require you to contribute to the cost of coverage.

You are eligible for benefits when your volunteer company responds as a unit, whether the injury occurred while serving the home district or providing aid to another area.

Whenever a volunteer member offers individual service volunteered to another company in New York State, but outside the area regularly served by the member's company or district, and after such services are accepted by the officer in command at the scene, the responsibility for benefits resulting from an injury in the line of duty will fall to the company (and its political subdivision) that accepted the voluntary service.





Volunteer Firefighters Activities Considered to be in the Line of Duty

- Participation at a fire or alarm, hazardous material incident, or other emergency that triggers response by the fire company or its units.
- Travel to, from, and during fires or other calls the company responds to; travel in connection with other authorized activities.
- Emergency service volunteered to another company in New York State outside the area regularly served by the member's company or district, and after such services are accepted by the officer in command at the scene. The responsibility for benefits resulting from an injury in the line of duty will fall to the fire company (and its political subdivision) that accepted the voluntary service.
- Some duties in the firehouse, such as construction, repair, maintenance, and inspection.
- Inspection of property for fire hazards or other dangerous conditions.
- Attendance at fire instructions or fire school; instruction at training.
- Fire prevention activities.
- Participation in a supervised physical fitness class.
- Participation in authorized drills, parades, funerals, inspections/reviews, tournaments, contests, or public exhibitions for firefighters.
- Attendance at a convention or conference as an authorized delegate
- Work on or testing of fire apparatus/equipment, fire alarm systems, and fire cisterns.
- Fire company meetings.
- Pumping water or other substances from a basement or building.
- Inspection of fire fighting vehicles and apparatus prior to delivery under a contract or purchase, or performing duties related to the delivery.
- Response to a call for general ambulance service by a member of an authorized emergency rescue and first aid squad.
- Fund-raising activities (noncompetitive events).

Volunteer Ambulance Workers Activities Considered to be in the Line of Duty

- Travel to, work at, and travel from an accident, alarm of accident or other duty the ambulance company has responded to; travel in connection with other authorized activities.
- Emergency service volunteered to another ambulance company in New York State outside the area regularly served by the member's company or district, and after such services are accepted by the officer in command at the scene. The responsibility for benefits resulting from an injury in the line of duty will fall to the ambulance company (and its political subdivision) that accepted the voluntary service.
- Personal assistance provided to another ambulance company.
- Performance of duties at the ambulance facility or elsewhere, directly related to the prevention of accidents or disasters or the delivery of emergency health care.
- Instruction in ambulance duties, either as teacher or student; attendance at a training school or course of instruction for ambulance workers.
- Work in connection with the construction, testing, inspection, repair or maintenance of the ambulance facility and the facility fixtures, furnishings and equipment, as well as the vehicles, apparatus and equipment used by the ambulance department, company, or unit.
- Attendance at, or participation in, any noncompetitive training program.
- Attendance at, or participation in, authorized drills, parades, funerals, inspections or reviews.
- Attendance or work at the ambulance department or company meetings, or any organized unit of the department or company, at the ambulance facility or other regular or special headquarters of the department, company, or unit.
- Practice for, or participation as a contestant or an official in, any competitive tournament, contest, or public exhibition conducted for ambulance workers intended to promote the efficiency of the ambulance department, company, or unit.
- Inspection of ambulance vehicles and ambulance apparatus prior to delivery under a contract or purchase, or performing duties related to the delivery.
- Attendance at a convention or conference of ambulance workers or officers as the authorized delegate or representative of the ambulance department, company, or unit.
- Work in connection with a fund-raising activity of the ambulance company, not including competitive events where volunteer ambulance workers are competitors.

Volunteer Firefighters & Volunteer Ambulance Workers Activities Not Considered to be in the Line of Duty

- Participation, including practice, in any recreational or social activity, other than noncompetitive fund-raising activities.
- Work performed in service of a private employer, public corporation, or special district.
- Work performed while on a leave of absence, a suspension from duty, or work that the volunteer was ordered not to perform.
- Competitive events where volunteer members compete, such as baseball, basketball, football, bowling, tugs of war, boxing, wrestling, contests between bands or drum corps, or other competitive events that involve physical exertion on the part of the competitors.
- Paid service, either compensation or a gratuity, for performing work or an activity covered under the law. If the work or activity is paid and not performed on a volunteer basis, it is not considered in the line of duty. The following items are not considered compensation or a gratuity: reimbursed expenses for meals, lodging, necessary travel or a mileage allowance; and acceptance of transportation, food, drink, shelter, clothing and similar items while on duty.



Medical Care

All medical care for your injury or illness is paid for by your political subdivision's insurer. This care is covered whether or not you lose time from work.

Health care providers must be authorized by the Board. You can find a list of authorized health care providers on the Board's website at wcb.ny.gov or by calling (800) 781-2362. You can receive care from any of these providers or from your own doctor if he or she is authorized.

The providers will send the bills directly to the insurer and the Board. You are not to pay any bills unless the Board denies your claim.

You may be reimbursed for travel expenses incurred when traveling for treatment, as well as for medical expenses such as prescriptions, assistive devices or other medical necessities prescribed by your health care provider. Make sure that you obtain receipts for necessary travel and medical expenses, and submit them to your workers' compensation insurer on a *Claimant's Record of Medical and Travel Expenses and Request for Reimbursement (Form C-257)*.

If specific medical services are disputed, the insurer must pay any undisputed portion. It must also explain in writing why the services were not paid, and request any information needed to pay them. Your doctors may ask you to sign a *Notice that You May Be Responsible for Medical Costs in the Event of Failure to Prosecute, or if Compensation Claim is Disallowed, or if Agreement Pursuant to WCL §32 is Approved (Form A-9)*. This states that you will pay the bills if the Board disallows the claim, or if you drop the claim before it is accepted.

Medical Care (cont'd)

Medical Treatment Guidelines

The Workers' Compensation Board has Medical Treatment Guidelines that health care providers are required to use when treating certain injuries.

These guidelines allow the health care provider to perform much of your treatment without needing to ask the insurer for authorization. However, your health care provider may still need to ask for authorization before performing certain tests or procedures.

If you or your health care provider receives a notice that a treatment authorization has been denied, you should read the notice carefully. You or your health care provider may be able to request a review of the denial, where you will have the opportunity to present evidence to the Board. The Board will then determine whether the treatment should be authorized.

Preferred Provider Organizations

The workers' compensation insurance carrier or local political subdivision may use a network of providers, known as a Preferred Provider Organization (PPO), to care for its members. You must be notified of this by the insurer. If the insurer uses a PPO:

- You are required to seek initial treatment with a provider affiliated with the PPO.
- If you are not happy with the preferred provider after your initial treatment, you may select any authorized provider outside the PPO 30 days after the initial treatment.
- The workers' compensation insurance carrier or local political subdivision may require a second opinion from another Preferred Provider Organization.



Diagnostic Tests

The workers' compensation insurance carrier or local political subdivision will send you a *Notice That Claimant Must Arrange for Diagnostic Tests & Examinations through a Network Provider (Form DT-1)* if you are required to use a specific network provider for diagnostic tests. You should inform your health care provider(s) that the insurer has this requirement.

The insurer cannot demand that you use a network provider for a diagnostic test in a medical emergency, or if the network does not have a provider or facility within a reasonable distance from your home or employment.

Pharmacy Charges

You can use any pharmacy, unless the insurer or local political subdivision uses an independent pharmacy, pharmacy network, or Pharmacy Benefit Manager (PBM). You should let the pharmacist know that you have a workers' compensation case. Many pharmacists will bill the insurer directly; however, the pharmacy can ask for payment of the prescription up front. If you pay for the prescription, the pharmacy can only charge the amount specified by law. You will be fully reimbursed, even if you pay in advance, and you are not responsible for co-pays. To be reimbursed, you must submit to the Board and your insurer *Claimant's Record of Medical and Travel Expenses and Request for Reimbursement (Form C-257)* with receipts.

If the insurer or local political subdivision uses an independent pharmacy, pharmacy network, or PBM, the pharmacy/pharmacies should be within a reasonable distance from your home or employment, or offer mail order service. The insurer or local political subdivision must notify you, in writing, which local pharmacies you can use along with their locations and addresses. It must also tell you how to fill and refill prescriptions through the mail, internet, telephone, or other means.

When there is a medical emergency and it is not reasonably possible to obtain the medications you need immediately from the pharmacies in the chosen network, you can purchase them elsewhere.

Cash Benefits

You are eligible for benefits when your volunteer company responds as a unit, whether the injury occurred while serving the home area or providing aid to another municipality.

- Total disability, schedule loss of use and death benefits are fixed.
- Weekly cash benefits for other types of injuries are determined based on your wage earning capacity.
- Every volunteer member is considered to have an earning capacity. The Board considers the work that you could reasonably be expected to obtain based on your age, education, training and experience to determine a reasonable wage earning capacity.

Benefits are payable from the first day of disability, with no waiting period. The amount of the weekly cash benefit will depend on whether the disability is temporary or permanent, and the loss of the volunteer's earning capacity, which is his or her disability.



Disability Classifications

TEMPORARY OR PERMANENT PARTIAL DISABILITY

The weekly cash benefits for all volunteer ambulance workers and volunteer firefighters found to have a temporary or permanent partial disability, who are injured or became ill on or after July 1, 1992.

Loss of Earning Capacity	Weekly Benefit
75% or greater	\$400
Between 50 and 75%	\$268
Between 25 and 50%	\$30
Less than 25%	No cash benefit

For the most up-to-date information regarding weekly cash benefits please visit the Workers' Compensation Board's website at wcb.ny.gov.

Your health care provider will give you an opinion on the extent of your disability. Cash benefits are directly related to these disability classifications:

Permanent Total Disability: Your earning capacity is permanently and totally lost. The benefit rate is \$600 per week for benefit periods after January 1, 2017, regardless of the date of accident. For benefit periods between January 1, 1999, and December 31, 2016, the weekly benefit is \$400.

Temporary Total Disability: Your earning capacity is totally lost but only on a temporary basis. The maximum you will receive is \$400 per week determined by your date of accident.

Temporary Partial Disability: Your earning capacity is partially lost, but only on a temporary basis.

Permanent Partial Disability: Part of your earning capacity has been permanently lost.

Schedule Loss: This is a special category of permanent partial disability, and involves loss of eyesight or hearing, loss of a part of the body or its use. Compensation is paid for a certain number of weeks, according to a schedule set by law. For instance, 25 percent loss of use of an arm is equal to 78 weeks (1/4 of 312 weeks) of benefits.

Disfigurement: Serious and permanent disfigurement to the face, head, or neck may entitle you to compensation up to a maximum of \$20,000.

Death Benefits

If a volunteer firefighter or volunteer ambulance worker dies from an injury that's eligible for compensation, the surviving spouse is entitled to continuing **weekly cash benefits**. Dependent children under age 18 (or under age 25 if enrolled in an accredited educational institution) or other dependents defined by law, are also entitled to weekly cash benefits. In no instance, may the weekly benefit amount exceed the legal maximum, regardless of the number of dependents.

SURVIVING SPOUSE AND DEPENDENT CHILDREN CASH BENEFITS

Marital Status / Dependent Status	Cash Benefits
Not remarried / no dependent children	\$887 weekly cash benefit
Not remarried / with dependent children	Smaller weekly cash benefit. Children also entitled to weekly cash benefits.
Remarried / no dependent children	\$92,219 lump sum benefit
Remarried / with dependent children	Surviving spouse receives a smaller lump sum benefit. Children continue to receive weekly cash benefits.

Funeral expense: The funeral expenses for volunteer members are payable up to a maximum amount of \$6,700. However, if a volunteer firefighter dies from injuries received in the line of duty as the direct result of firefighting, the \$6,700 maximum is not applicable.

Lump sum benefit: A lump sum benefit of \$56,000 is paid to the surviving spouse, or to the estate if there is no surviving spouse. The funeral expense and lump sum benefits are in addition to all other benefits provided.

In the event of death or disability due to disease or malfunction of the heart or coronary arteries, the claim must be decided within 90 days from the time the Board receives the claim.



Rehabilitation and Social Work

Rehabilitation programs offer special services designed to eliminate a disability, if possible. They also reduce or alleviate a disability to the greatest degree possible; help you return to work when possible; or provide you with aid to live and work at your maximum capability. The Board's Rehabilitation staff includes counselors, social workers, a consultant physiatrist (physical medicine and rehabilitation specialist), and claims examiners to coordinate and follow up on medical and vocational rehabilitation services. Rehabilitation is voluntary, except in limited circumstances. You should contact the Rehabilitation unit at the Board to determine if you are required to participate.

There are four general types of services

- 1. Vocational rehabilitation programs** help people whose disability keeps them from returning to their former jobs. These services may provide guidance to help determine the best way to return to work.
- 2. Selective placement programs** help people who are left with a permanent disability and who need a job that will fit their abilities.
- 3. Medical rehabilitation programs** include exercise and muscle conditioning, under the supervision of a physician, to restore a person to their maximum capabilities. Only physicians may recommend a medical rehabilitation program.
- 4. Social services**, which are provided by social workers, are designed to assist with family or financial problems that interfere with rehabilitation.

If you participate in one of the rehabilitation programs, you will continue to receive cash benefits based on the extent of your disability. If you return to work and still have a loss of earning capacity, you may be entitled to compensation benefits.

How to File a Claim

You must complete either the *Volunteer Ambulance Worker's Claim for Benefits (Form VAW-3)* or the *Volunteer Firefighter's Claim for Benefits (Form VF-3)*. There are four ways you can submit your claim. See the chart below for detailed instructions.

FILING A CLAIM FOR BENEFITS FORM (VAW-3 or VAW-3)

Visit wcb.ny.gov and select **File a Claim**. Then select either:

- Injured in the Line of Duty - Volunteer Firefighters (for the *Form VF-3*), or
- Injured in the Line of Duty - Volunteer Ambulance Workers (for the *Form VAW-3*)

Download and complete the PDF form.

A paper *Form VF-3* or *Form VAW-3* is available from employers and Workers' Compensation Board offices.

1. Mail a completed form to:

NYS Workers' Compensation Board
PO Box 5205
Binghamton, NY 13902-5205

2. Email a completed form as an attachment to:

wcbclaimsfilings@wcb.ny.gov

The Subject Line should contain the claimant name and form name (*VF-3* or *VAW-3*). If you have a WCB case number please include that, as well.

3. Fax a completed form to: (877) 533-0337

Do not use a coversheet. If you have a WCB case number, please include it on each sheet.

4. Upload a completed form to the WCB Web:

<https://wcbdoc.xrxf.com/login.aspx>

Visit wcb.ny.gov/content/main/WebUploadProcedure.pdf for detailed instructions.



You must notify one of the following within 90 days of the injury:

- Clerk of the board of supervisors of the county
- Town or village clerk
- Secretary of the fire or ambulance district or company
- Comptroller or chief financial officer of the city

To provide notice, you may send a written notification or letter, which must have your signature. You may use *Notice to Political Subdivision of Volunteer Firefighter's Injury or Death (Form VF-1)* or *Notice to Political Subdivision or Unaffiliated Ambulance Service of Volunteer Ambulance Worker's Injury or Death (Form VAW-1)* for the notification.

A claim can be submitted, regardless of who is at fault. However, you will lose your right to benefits if the injury resulted solely from alcohol or drug intoxication, or from the intent to injure yourself or someone else.

Note: The municipality must notify its insurer that you have been injured. Claims must be filed within two years of an accident or two years from the date a death occurs.

Disputed Claims

Insurers will often accept a claim and promptly begin paying benefits. However, an insurer can dispute a claim. To contest a claim, an insurer must file a notice of controversy with the Board within 18 days after the disability begins or within 10 days of learning of the accident, whichever is later. It must give the reasons why the claim is not being paid.

Hearings and Appeals

If there is a dispute in your claim, Board claims examiners and conciliators first attempt to resolve the issue. If they can't, the Board will hold hearings in front of a workers' compensation law judge. The judge may take testimony and reviews your medical records and wages. The judge then decides the issue, and sets the amount of any award.

Either side may appeal the judge's decision. This must be done in writing within 30 days of the decision. Three Board members review appealed cases. They may agree, change part of a decision, or reject it. They may also return the case for more hearings. Insurers don't have to pay lost wage benefits while the case is being reviewed by the three Board members. An insurer can accept part of a case and appeal another. In that instance, it must pay the accepted part of the award while the case is reviewed. The insurer must pay your wages and medical bills if your award is upheld by those Board members, even if it appeals the case further.

Either side may appeal that decision to the full membership of the Workers' Compensation Board of Commissioners. If the full Board takes the case, it will either agree, change, or overturn the decision.

Appeals from Board decisions may be taken within 30 days to the Appellate Division, Third Department, and Supreme Court of the State of New York.

The Board may reopen a closed case, subject to time limitations, upon application of any party. The application must state the basis of the request.

You have the right to legal representation. Your attorney or licensed representative cannot ask you for a fee, or accept a fee from you. The legal fee is determined by the Board and deducted from your compensation award.



NYS WORKERS' COMPENSATION BOARD CONTACTS

Customer Service	General_Information@wcb.ny.gov
	(877) 632-4996
Advocate for Injured Workers	advinjkwr@wcb.ny.gov
	(877) 632-4996
Office of the Medical Director	WCBMedicalDirectorsOffice@wcb.ny.gov
	(800) 781-2362
Fraud Referral Hotline	Inspector.General@ig.ny.gov
	(800) 367-4448

To find the nearest location call (877) 632-4996 or visit the Board's website at wcb.ny.gov

Please send all claims-related mail to:

NYS Workers' Compensation Board
PO Box 5205
Binghamton, NY 13902-5205