



# KNOW YOUR RIGHTS: WORKERS' COMPENSATION BENEFITS

The New York State Workers' Compensation System provides eligible workers with benefits and medical coverage for workplace injuries or illnesses, including illnesses such as COVID-19. If you believe you contracted COVID-19 through exposure at work, you may be entitled to Workers' Compensation.

## How Much Time Do I Have to File a Claim?

1. You must notify your employer of your COVID-19 diagnosis or exposure as soon as you become aware of it. You must provide this notice in writing to your employer within 30 days. If more than 30 days has passed since your exposure or diagnosis, you should file as soon as possible. **NYSNA has created an easy-to-use form to notify your employer directly, [bit.ly/covidwc](https://bit.ly/covidwc).**
2. You generally have up to two years from the date of exposure to formally file a Workers' Compensation claim with the Workers' Compensation Board. However, it is best to file right away to avoid any delays.

## How Do I File a Claim?

1. In addition to notifying your employer directly using NYSNA's online form [bit.ly/covidwc](https://bit.ly/covidwc), **you should also file an incident report at work** through your employer's reporting system. Contact your NYSNA Rep for more information on the process where you work.
2. NYSNA members can also file a claim directly with the Workers' Compensation Board by filling out an Employee Claim (C-3 form) electronically, [bit.ly/workerscompclaim](https://bit.ly/workerscompclaim)
3. You may also hire an attorney to assist you in filling out the C-3 form and initiating the case, but this is not mandatory. NYSNA has a list of attorneys who may be able to assist you, [bit.ly/wcattorneylist](https://bit.ly/wcattorneylist)

## Don't Be Denied:

Many hospitals use third-party administrators like CorVel to review and process workers' compensation claims.

We have received disturbing reports that some employers and their third-party administrators are discouraging nurses from filing claims, or telling them they are not eligible. **It's important to know that the New York Workers' Compensation Board ultimately determines who is eligible for a claim,** not your employer, their third-party administrator, or their insurance carrier.

If you are being discouraged from filing a claim, you should file directly with the Workers' Compensation Board. If your employer's insurance carrier denies your claim, see below for more details on dealing with a denial.

## What Documents Do I Need for My Case?

1. In order to pursue a Workers' Compensation claim, you must provide written evidence of your illness. This could simply be a doctor's letter indicating that you have tested positive for COVID-19 or have symptoms consistent with COVID-19 and that you were exposed to COVID-19 at the workplace. A positive COVID-19 test result is extremely helpful, although not necessary.
2. If you believe you contracted COVID-19 at your workplace, you should contact a doctor right away. You should tell the doctor that you believe you were exposed at work, and make sure to keep a copy of their report for your own records.
3. It is very helpful if your doctor can confirm that you were exposed to the virus at work, and/or how the nature of your working conditions put you at greater risk of exposure to the virus.
4. Although you may initially consult any doctor, you will ultimately need to see a doctor authorized to treat workers' compensation patients (telehealth visits are permitted). They will file the medical reports needed to pursue your case. Ask your doctor if they are authorized to treat workers compensation patients.
5. If your doctor is not certified by the Workers' Compensation Board, one option is to contact an authorized occupational health clinic. To find a clinic near you visit: [bit.ly/compl clinics](https://bit.ly/compl clinics). To see the complete list of authorized healthcare providers: [bit.ly/compproviders](https://bit.ly/compproviders).

## What Happens after I File My Claim?

1. After your case is filed, the employer's insurance carrier will review the case (within 18 days) and contact you. If they accept the case, you may be entitled to receive lost time benefits (if your lost time from work exceeds 7 days).
2. If the carrier contests or denies your claim, it does not mean that your case is over. Your case will go before a Workers' Compensation judge to decide if your claim is compensable, often by taking testimony from both you and your employer, as well as your doctor. At this point, you should consider working with a lawyer familiar with the Workers' Compensation system.

## What Benefits Am I Eligible For?

You may be entitled to:

- Lost time benefits if you are unable to work due to the illness - the benefits are capped by the law at 2/3 of your average weekly wage;
- Payment of your medical expenses for your work-related illness. This may include items such as hospital bills, doctor's bills, and medication.
- Benefits to an employee's decedents in case of death, including funeral expenses.

# CAN MY EMPLOYER RETALIATE AGAINST ME FOR FILING A CLAIM?

Retaliation by an employer against an employee for filing a Workers' Compensation case is illegal. Examples of retaliation may include changes in your job duties, changes in pay, or termination.

**If you feel you have been discriminated against for filing a Workers' Compensation claim, you can file a Section 120 complaint**, the section of New York workers' compensation law which prohibits employers from discriminating against employees for pursuing a workers' compensation claim. You can file a complaint online: [bit.ly/compdiscrimination](https://bit.ly/compdiscrimination)

**The Advocate for Injured Workers** may also be able to assist. They accept complaints concerning matters related to Workers' Compensation, investigate and attempt to resolve them. In addition, the Advocate provides information to injured workers to enable them to protect their rights in the Workers' Compensation system. Find out more: [bit.ly/wcbadvocate](https://bit.ly/wcbadvocate)

## DO I NEED A LAWYER?

You do not need a lawyer to file a Workers' Compensation case, but you may hire one prior to or after filing your claim. Having a lawyer handle your claim can be beneficial in terms of maximizing benefits that you are entitled to, assisting you in finding doctors for proper treatment, and helping you with any issues you may have with the insurance carrier handling your claim.

Attorneys' fees are deducted from a claimant's award, as determined by the Workers' Compensation Board, and are strictly contingent on your receiving benefits for lost time from work. **A claimant cannot pay an attorney directly for their services.**

**Please note that this document should not be considered legal advice. You may also be entitled to other benefits besides workers' compensation, including disability benefits, benefits under your collective bargaining agreement, and benefits under New York State and federal law. Anyone applying for disability and workers' compensation should make sure to indicate on their disability application that their COVID-19 illness is work-related so as not to prejudice their pending workers' compensation claim.**