

Injuries Under Georgia Workers' Compensation - What Injuries Are And Are Not Covered?

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You know you are injured, but is your injury covered by Workers' Compensation?

Georgia's workers' compensation laws require that for compensation to be due, an injury to an employee must 1) "arise out of" and 2) "in the course of" employment. These are deceptively complicated requirements here in Georgia. There is no clear cut test for either of these requirements. Below are some of the major considerations:

"Arising out of employment"

Must be a causal connection between the condition of the work and the resulting injury

Injury must relate to the employment and not be independent if it

An accident arises out of employment when the accident arises because of the employment

"In the course of employment":

An accident must occur within the time period of employment

At a place where the employee reasonably may be in the performance of their duties

While the employee is fulfilling their duties

Is my at-work injury covered by workers' compensation?

Aggravation of preexisting conditions

Your employer is required to pay for an at-work aggravation of your preexisting conditions. However, they are only required to compensate you to the point where you have returned to the pre-aggravation condition. For example, if you are over the age of 40, your back is likely not as healthy as it was when you were in your 20s. You might have what doctors call "degenerative discs" in your spine. These discs can be injured more easily than healthy discs, but your employer would still need to compensate you should you injure your back at work.

Occupational Diseases

Your employer may be required to pay for an "injury" due to a disease which is a specific risk of your job. In some rare circumstances this can include a psychological or nervous injury due to long-term stress or other job-related factors. There can be complicated limitations to coverage for occupational diseases. If you wish to proceed with a claim based on a disease believed to be developed out of the course of your employment, it is highly advisable that you contact an attorney.

Practical jokes/horseplay injuries

An employer is not required to pay for an injury to a party engaging in horseplay or practically joking during working hours. However, an injury suffered by an innocent employee due to the horseplay of a fellow employee is covered.

On the job fights/assault

Generally, injuries during fights at work are not compensable where the fight is not related to your employment. Additionally, an injury resulting from an assault by a third party (non-employee) at work is not covered where the assault by a third party is for reasons personal to the employee. For example, the assault of a store clerk during a robbery would be compensable, but an assault by a fellow employee or third party arising from a dispute over who has the fastest car would not be compensable.

Psychological or emotional illnesses

Generally, psychological or emotional injuries are only covered to the extent that the condition arises from a physical injury. In other words, if an employee develops a psychological condition, like depression, based on a purely emotional situation it likely would not be covered. However, if the same condition resulted from an underlying physical injury, it would be covered. Additionally, if an emotional injury, like stress, manifests itself in a

physical way, those physical injuries (ex. headaches or blurred vision) may be covered by workers' compensation.

Is my off/after work injury covered by workers' compensation?

Off-work aggravation of work injuries

You employer is required to pay for many off-work aggravation of work injuries. However, an employer would not have to pay for an injury if it was found that the negligence of the injured employee in aggravating the condition had completely broken the connection to the previous injury.

After work activity injuries

If you are injured while not actually working, but participating in a work activity or recreation event (like a company picnic or softball game) the injury may be covered by workers' compensation. While no one fact controls, below are several factors that may be weighed to determine whether the injury is covered. Did the accident occur on the employer's premises? Was the event/team organized by the employer? Did the employer pay for the activity? Did the employer benefit from employee participation in the event?

Injuries going to and from work

For employees who work at a fixed location and do not travel as part of their job (unlike taxi cab drivers, truckers, pizza delivery persons), injuries sustained while going to or from work are not covered. However, there are some exceptions to this rule:

When an employer has furnished transportation to the employee

When the employee runs a beneficial errand for the employer while going to or leaving work (ex. an accident while dropping off mail for your employer on the way home)

When the employee is on call

When the employee is reimbursed for transportation costs

When the injury occurs in your employer's parking lot as you arrive or leave

Rest Breaks/Lunch Breaks

Injuries during scheduled lunch or rest breaks are generally not covered by workers' compensation. However, injuries during unscheduled rest breaks may be covered in some instances, depending on the employer's rules regarding breaks as well as what you were doing during that break.

During both lunch and rest breaks, if you are doing something in furtherance of your employer's business or by your employer's instruction, an injury during that time is likely covered by workers' compensation. Examples include running an errand for your boss during lunch or carrying tool from one part of a shop to another during a rest break. These actions transform the non-work period into covered time.

Business Related Travel

When traveling on business for your employer, most injuries are going to be covered regardless of when it occurs. However, there are exceptions to this rule.

Notifying your employer of an injury

Notice of the injury must be given either orally or in writing within 30 days after the accident or within 30 days after a death from an accident. There are however, some exceptions to this rule. When the employee has been prevented from giving notice by physical or mental incapacity. When the employee is prevented from giving notice by the employer's fraud or deceit. When the employer (or a supervisor or foreman) has knowledge of the accident.

Your employer must be told not only of an accident, but that you were injured from the accident. However, this notice does not need to come directly from an injured employee. It could come, for example, from an employee's spouse, child, or a fellow employee. The notice must be made to someone in management (like a supervisor or foreman), not just a fellow employee.

If an injury is not known until more than 30 days after the accident, the 30 day period does not begin to run until you first had reason to realize the injury was from the accident. In the case of a gradual injury (like a slowly developing back problem) that causes you to stop working, you must still give notice to the employer that you are stopping work because of the work-related injury.

About the Author

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