

**This brochure presents information that will assist you, the employee to:**

- **report all injuries.**
- **understand your responsibilities as the worker in obtaining benefits.**
- **understand your employers' responsibilities as the insured party.**
- **locate sources of information to support your claim to replace your lost income.**

**Workers' Compensation** is a state mandated program that *partially* replaces wages and pays related medical expenses if you prove that you were injured on the job or develop a work related illness.

### **Types of Compensable Injuries**

Healthcare workers have suffered various injuries and illnesses such as back and neck strains, needlestick injuries, latex allergy, asthma, dermatitis, chemical exposures, and multichemical sensitivity.

In order to receive Workers Compensation benefits these health conditions must be caused or aggravated directly or indirectly, by the workplace and/or conditions of employment.

If you experience a job related injury or illness, **report the incident to your employer immediately.** Your employer begins the claims process which includes notification of the First Report of Injury to the Massachusetts Department of Industrial Accidents (DIA) and the Workers' Compensation insurance carrier. The insurance carrier issues you a claim number. You need to give this number to your doctor or healthcare provider so your claim is correctly billed for the necessary care and treatment. You must inform the doctor or healthcare provider that you are seeking treatment for a work-related injury or illness. If they accept you as a patient, they are agreeing to bill the insurance carrier. The insurance company is responsible for the entire bill. You are not required to pay co-payments.

Occupational illnesses and injuries present unique problems related to treatment, record keeping and confidential issues. You may need to consult with a physician or healthcare provider who is specializing in or trained in occupational medicine or occupational health nursing.

Upon submission of a workers' compensation claim to your employer, to ensure that your claim is processed, request that all official filings be made with the Commonwealth of Massachusetts.

A consultation with and representation by an **attorney** specializing in Workers Compensation law should be considered when any or all of the following criteria exist:

- you anticipate losing time from work and will lose wages.
- you feel that your interests are not being served by your employer.
- your employer becomes adversarial to your needs for your health, your financial condition, your medical care, or your job security.

The initial consultation is free. You should ask about this when you make the appointment. If benefits are awarded by a judge, the insurer pays the attorney's fees. In the event of a lump sum settlement, your attorney will receive a fee of 15 or 20%.

**A Workers' Compensation Claim** is addressed on an individual basis. There are multiple steps in this very complicated process. The steps are known as conciliation, voluntary arbitration, conference, hearing and appeal.

**Note: The judge who presides at your hearing will use medical records to determine the legitimacy of the claim.**

The Massachusetts Department of Industrial Accidents (DIA) has a public information person available to answer questions and upon request will provide a booklet entitled, "Your Guide to the Massachusetts Workers' Compensation System - For Injured Workers".

(DIA) web site <http://www.mass.gov/dia/>

(DIA) *Regional Offices*

Boston ..... 617-727-4900

Fall River ..... 508-676-3406

Lawrence..... 978-683-6420

Worcester ..... 508-753-2072

Springfield.... 413-784-1133

### **Benefit Summary**

- The insurer must either pay benefits or send a notice of denial, with explanation, within 14 days of receiving First Report of Injury.
- If you qualify for benefits, the insurer may pay up to 180 days without accepting responsibility. This is called "**Pay Without Prejudice**". The insurer may stop or reduce payments by giving seven days notice.
- If they pay past the 180 days, the insurer needs permission from you or a judge to stop or reduce benefits.
- If denied benefits, **it is your right to appeal the decision.**

**Workers Compensation Benefits are limited to the payment of:**

- medical bills paid *that are directly related to the claim.*
- lost wages paid in varying amounts depending on your disability.
- vocational rehabilitation services, if you are unable to return to work, and approved by the DIA.

**Responsibilities of the Injured Worker** include:

- reporting your injury/exposure/illness as soon as possible
- obtaining a copy of the First Report of Injury filed for your injury from your employer
- obtaining a claim number.
- informing healthcare providers that you are seeking treatment for a work related illness or injury.
- obtaining, from your employer, all MSDS related to your job if your illness is related to chemical/environmental exposures.

**An Occupational (work-related) Injury** is any injury which results from a work accident or from a single instantaneous exposure in the work environment. Musculo-skeletal injuries often happen over time and should be reported as soon as you become aware of pain or discomfort.

**An Occupational (work-related) Illness** is any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which maybe caused by inhalation, absorption, ingestion, direct contact or repeated trauma.

**Recognize an injury or illness** may be considered occupational if it is attributed to an occurrence, event, or process within the work environment.

### **Report, Report, Report**

**Report injuries, illness or exposures** to workplace hazards or symptoms related to the work environment immediately. The report should be made to your supervisor and the person responsible for employee health and safety in your facility.

The First Report of Injury must be filed with the Department of Industrial Accidents by your employer within 7 business days of your fifth calendar day of disability or inability to work. You must obtain a copy of the First Report of Injury form.

The insurance carrier who pays your bills is identified on this form.

### **Document, Document, Document**

**Develop a Personal Record.** That includes: Dates, events, symptoms, incident reports, health care provider exams, workplace records and personal logs.

**Keep a copy of all written reports for your records.**

### **OSHA General Duty Clause 5(A)(1)**

Employers (in the private sector) must comply with Occupational Safety and Health Act Standards issued under the Occupational Safety and Health Act of 1970. Section 5(A)(1) states employers must furnish employees, employment and a place of employment free from recognized hazards that are causing, or are likely to cause death, or serious harm to employees.

OSHA does not cover workers in the public sector in Massachusetts. Public sector workers are protected by MA. Right to Know laws and have Whistleblower Protection when reporting hazardous conditions to the Attorney General's office.

## Reporting Hazardous Conditions to OSHA

As an employee, it is your right to report uncorrected work place hazards to OSHA. Another resource to report to is your union. OSHA will investigate claims of unsafe conditions and require that they be corrected. The employer may be assessed penalties for failure to protect employees.

## OSHA Requirements

OSHA requires employers to provide Material Safety Data Sheets (MSDS) for every chemical used in the workplace. Employers are also required to make the MSDS available to all workers during each shift. Copies of MSDS are to be provided by the employer at no charge.

## Americans with Disabilities Act (ADA) of 1990

The ADA defines a person with a disability as anyone with “a physical or mental impairment that substantially limits one or more of the major life activities, a record of such impairment, or being regarded as having such an impairment”.

Discrimination against the handicapped is prohibited in all aspects of the employment process including applicant testing, hiring assignments, evaluation, disciplinary training, promotion, medical examinations, layoff, termination, compensation, leaves-of-absence. Reasonable accommodations are required unless it would impose undue hardship on the employer or result in a safety hazard to others.

## Resources

### Nursing Resources:

#### Massachusetts Nurses Association (MNA)

340 Turnpike Street, Canton, MA 02021-2711  
781-821-4625 800-882-2056  
www.massnurses.org

#### American Association of Occupational Health Nurses

800-241-8014 www.aaohn.org

### Legal Resources:

#### Disability Law Center

www.dlc-ma.org  
For more information,  
call 617-723-8455  
email: mail@dlc-ma.org

### Federal Resources:

#### Occupational Safety & Health Administration (OSHA)

617-565-9860 www.osha.gov  
TTY: 877-889-5627

#### Nat'l. Inst. of Occupational Safety & Health (NIOSH)

800-232-4636 www.cdc.gov/niosh  
TTY: 888-232-6348

#### Environmental Protection Agency (EPA)

617-918-1111 www.epa.gov

#### Agency for Toxic Substance and Disease Registry (ATSDR)

617-918-1490  
www.atsdr.cdc.gov TTY: 888-232-6348

#### Social Security Administration

800-772-1213 www.socialsecurity.gov

### Massachusetts Resources:

#### Department of Industrial Accidents (DIA)

www.mass.gov/dia/  
*Regional Offices*  
Boston ..... 617-727-4900  
Fall River ..... 508-676-3406  
Lawrence..... 978-683-6420  
Worcester ..... 508-753-2072  
Springfield..... 413-784-1133

#### Division of Occupational Safety:

617-626-6975 www.mass.gov/dos

#### Massachusetts Committee on Occupational Safety & Health (MassCOSH)

617-825-7233 www.masscosh.org

#### Western MassCOSH

413-731-0760  
*The following booklet may be helpful to assist in answering some of your questions.*  
**Hurt on the Job**  
Available from Western MassCOSH

### National Resources:

#### National Institute of Environmental Health Sciences

919-541-3345 www.niehs.nih.gov

#### Massachusetts Association for the Chemically Injured

978-681-5117  
www.angelfire.com/ma3/maci

# MNA<sup>SM</sup>

## Workers' Compensation

*For Nurses and other Health Care Workers*



*Workers' compensation is a no fault system. The burden is on you to prove that your disability is work related.*

**MNA<sup>SM</sup>**  
MASSACHUSETTS NURSES ASSOCIATION



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