



INJURED IN THE LINE OF DUTY

A Volunteer
Firefighter's
and Ambulance
Worker's Guide
to New York
State Benefits



**Workers'
Compensation
Board**

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. To learn more about the Workers' Compensation Board, visit wcb.ny.gov



WCB.NY.GOV

(877) 632-4996



**Workers'
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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.

Injured In The Line Of Duty

A Volunteer Firefighter's
and Ambulance Worker's
Guide to New York State Benefits

JUNE 2016

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 insurance carrier 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 (Form OC-110A) to disclose Workers' Compensation Records — 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 that document 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.

How to File a Claim

You must complete a **Claim for Benefits** (Form VAW-3, ambulance workers, or Form VF-3, firefighters) from the Board or from the fire or ambulance district (or company). These forms are available on the Board's website at wcb.ny.gov. You must notify one of the following individuals using a signed **Notice of Injury** (Form VAW-1, ambulance workers, or Form VF-1, firefighters) 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

Mail your completed form to the Board at:

PO Box 5205, Binghamton, NY, 13902-5205

Claims must be filed within two years of an accident or two years from the date a death occurs. You will be notified by mail if a hearing is necessary for your claim.



What Benefits are Available for Volunteer Firefighters and Ambulance Workers

Volunteer Firefighters' and Volunteer Ambulance Workers' Benefits Laws provide cash benefits and/or medical care for volunteer members who are injured or become ill in the line of duty. To recognize the unselfish service of the work that you do, laws designed to protect volunteers like you who are injured, or who become ill in the line of duty, were enacted in 1957 and 1989, respectively.

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

Weekly cash benefits and medical care are paid by your subdivision's insurer, in accordance with the applicable law. The Workers' Compensation Board is a New York State agency that administers these laws. If disputes arise, the Board adjudicates them through a quasi-judicial proceeding.

In a benefits case, no one party is determined to be at fault. The amount you receive is not decreased by your carelessness, nor increased by your company's fault. You will lose your right to benefits if the Board determines your injury was due solely to intoxication from alcohol or drugs, or intention to injure yourself, or someone else.



Volunteer Firefighters

What is Considered “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
- Some duties in the firehouse, such as construction, repair, maintenance and inspection
- Inspection of property for fire hazards or other dangerous conditions
- Fire prevention activities
- Attendance at fire instructions or fire school; instruction at training
- 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
- Meetings of the fire company
- 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
- Participation in a supervised physical fitness class
- Fund-raising activities (noncompetitive events)

Volunteer Ambulance Workers

What is Considered “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
- Personal assistance rendered 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 or being instructed in ambulance duties; attendance at a training school or course of instruction for ambulance workers
- Attendance at, or participation in, any noncompetitive training program
- Attendance at, or participation in, authorized drills, parades, funerals, inspections or reviews
- Work in connection with the construction, testing, inspection, repair or maintenance of the ambulance facility and the fixtures, furnishings and equipment thereof, and the vehicles, apparatus and equipment used by the ambulance department, company or unit
- Attendance or work at meetings of the ambulance department or company, or any organized unit thereof, 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

What is Not Considered “In the Line of Duty”

- Participation, including practice, in any recreational or social activity, other than noncompetitive fund-raising activities
- Work rendered in service of a private employer, public corporation or special district
- Work rendered 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, donkey baseball, donkey basketball, boxing, wrestling, contests between bands or drum corps, or other competitive events that involve physical exertion on the part of the competitors



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. It is also paid in addition to any benefits for missed wages.

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 disallows your claim. To have your travel to and from a health care provider's office reimbursed, you must file 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.

Preferred Provider Organizations

The insurer may use a network of providers, known as a Preferred Provider Organization (PPO), to care for its members. You are required to use this PPO and must be notified of this by the insurer. You may select an authorized provider outside the PPO if, after 30 days of treatment, you are not satisfied with your care.

Diagnostic Networks

The insurer may require you to use its facility network for diagnostic tests. The insurer will send you a notice if it requires you to use such a network. 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. It cannot demand that you use a network that 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 uses a particular network. 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. 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 a co-payment (co-pay).

If the insurer requires you to use its network pharmacy, the insurer must provide information about how to use it. Network pharmacies are paid directly. You are not responsible for any charges. The insurer cannot demand that you use a network pharmacy in a medical emergency if it is not reasonably possible. You are not required to use a network pharmacy if it does not offer mail order services or is not located a reasonable distance from your home or employment.



Cash Benefits

Benefits are payable to you when your volunteer company responds as a unit, whether the injury occurred while serving the home or providing aid to another area. Total disability, schedule loss of use or death benefits are fixed according to the statute. Weekly benefits for other types of injuries are determined based on your wage earning capacity.

Earning capacity is your capability to perform (on a five-day or six-day basis) the work normally done in your regular employment at the time of injury, or other work that could be considered a reasonable substitute if there is no employment. 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. Necessary medical care is provided without regard to length of the disability.

Death Benefits

If a volunteer firefighter or volunteer ambulance worker dies from a compensable injury, the surviving spouse is entitled to continuing **weekly cash benefits**, depending on the date of death. Surviving children under age 18, or under age 25 if enrolled in an accredited educational institution (or other dependents as defined by law), are also entitled to weekly cash benefits. In the description of the benefits below, these children are referred to as “dependent children.” In no instance may the weekly benefit amount exceed the legal maximum, regardless of the number of dependents.

Surviving spouses who **have not remarried** and have **no dependent children** are entitled to weekly benefits

Firefighters	Ambulance Workers
\$887 per week if death occurred on or after July 1, 1992	\$887 per week if death occurred on or after July 1, 1992

Surviving spouses **with dependent children** are entitled to smaller weekly cash benefits. These children are also entitled to weekly cash benefits.

Weekly benefits for surviving spouses who **remarry** and have **no dependent children** are replaced by a lump sum benefit

Firefighters	Ambulance Workers
\$92,219 if death occurred on or after July 1, 1992.	\$92,219 if death occurred on or after July 1, 1992.

Weekly benefits for surviving **spouses who remarry** and have **dependent children** are replaced by smaller lump sum benefits. These children continue to receive weekly cash benefits.

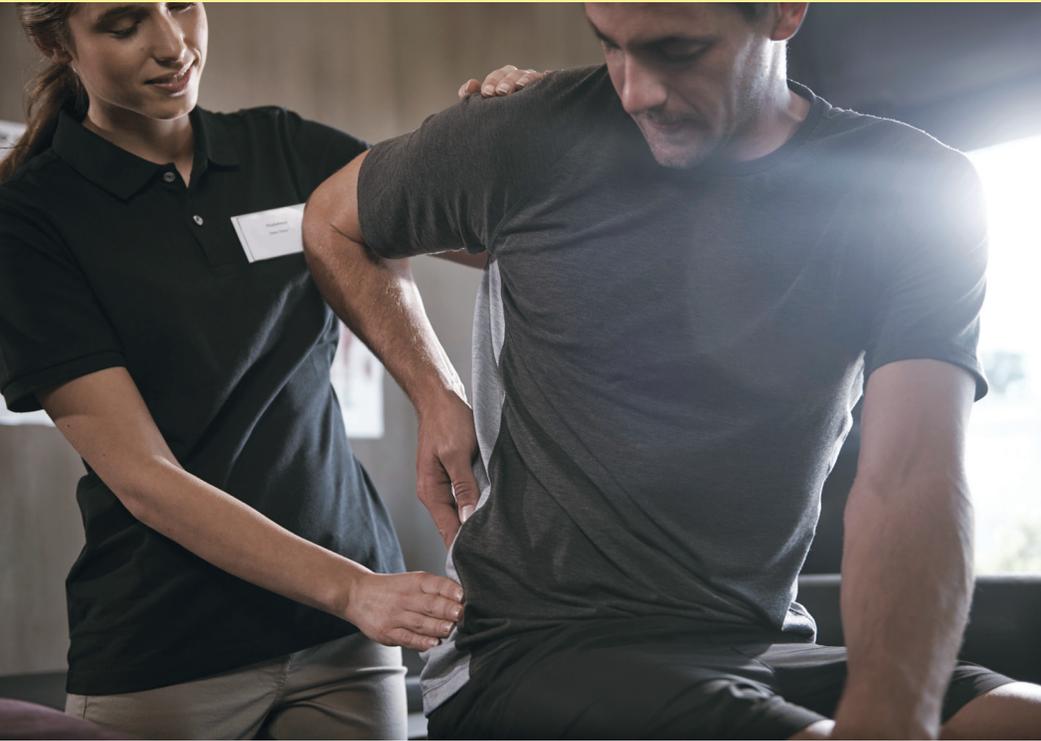


Funeral expenses for volunteer members are payable up to a maximum amount of \$6,700. However, if a volunteer firefighter dies from injuries received in the line of duty as the direct result of firefighting, the \$6,700 maximum is not applicable.

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

If a beneficiary claiming death benefits as a dependent or spouse of a volunteer member dies before a determination in the beneficiary’s favor is made on the claim, all weekly benefits due from the date of death of the volunteer member up to the date of death of the eligible beneficiary will be paid to the executor or administrator of the beneficiary’s estate.

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.



Waiver Agreements

You can reach a settlement agreement with the insurer for the benefits you will receive. In exchange, you will waive your right to future benefits. Waiver agreements are entirely voluntary and are not effective until approved by the Board. The Board will approve an agreement unless it is unconscionable, unfair or improper as a matter of law; is the result of an intentional misrepresentation of material fact; or, if within 10 days of submitting the agreement, one of the interested parties asks the Board to disapprove the agreement.

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 maximum usefulness. Only physicians may recommend a medical rehabilitation program.
4. Social Services, which are provided by a staff of 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 the disability. If you return to work but cannot earn the same wages because of an injury, you may be entitled to compensation benefits at a reduced rate.



Disability Classifications

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

Permanent Total Disability: Your earning capacity is permanently and totally lost.

Temporary Total Disability: Your earning capacity is totally lost but only on a temporary basis.

Temporary Partial Disability: Your earning capacity is partially lost, but only on a temporary basis. If the loss of earning capacity is 75 percent or greater, you receive the maximum amount of \$400 per week determined by the date of accident.

If the loss of earning capacity is between 50 and 75 percent, the benefit rate is \$268 per week.

If the earning capacity loss is between 25 and 50 percent, the benefit rate is \$30 per week. If the earning capacity loss is less than 25 percent, no cash benefits are paid.

Permanent Partial Disability: Part of your earning capacity has been permanently lost. Benefits are payable at the same rates as Temporary Partial Disability, except for Schedule Loss.

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 at 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 ($\frac{1}{4}$ of 312 weeks).

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

Hearings and Appeals

Insurers will often accept a claim and promptly begin paying benefits. However, an insurer can dispute a claim for various reasons. It may not agree that you were injured, it may not believe the injury occurred while it provided insurance, or any number of other situations. Board claims examiners and conciliators first attempt to resolve issues. If they can't, the Board will hold hearings in front of a workers' compensation law judge. The judge takes 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 Board of workers' compensation members. 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, Supreme Court of the State of New York.

You always have the right to an attorney or licensed representative, who may not ask for or accept a fee. The legal fee is determined by the Board and deducted from a compensation award.

Risk Awareness

Opioid Pain Medications

If you are prescribed opioid pain medications such as OxyContin, Percocet and Vicodin, among others, you should know that these medications have serious side effects, can reduce your ability to function and are highly addictive.

Continued use of opioid pain medication causes changes in the brain and results in the need for higher dosages to obtain the same level of pain relief (*called tolerance*). Additionally, continued use of opioids can cause increased sensitivity to pain, and may even make the pain worse.

Some common side effects of opioid use include: drowsiness, severe sedation, dizziness, nausea, vomiting, constipation, confusion and memory loss. Severe side effects can include difficulty breathing, overdose and death. Uncomfortable withdrawal symptoms may occur when opioids are reduced or stopped suddenly (*called dependence*). Normal day-to-day functioning may become difficult. Cravings for opioids may be uncontrollable, which can lead to use of other drugs and behaviors harmful to oneself or others (*called addiction*). If there are concerns that opioids are harming you or your loved one, don't hesitate to get help.

Where to get help

- Primary care physician: Patients (and/or family members) should first discuss concerns with their physician. He or she can recommend the right specialist.
- **New York State Office of Alcoholism and Substance Abuse Services (OASAS)** HOPELine: Call or text the toll-free number at **(877) 8-HOPENY** or **(877) 846-7369**. Help is available 24 hours a day, 365 days a year. All calls are anonymous and confidential.
- For more information, visit the OASAS website at oasas.ny.gov/treatment

Workers' compensation insurance will pay for treatment if it is recommended by a judge or approved by your workers' compensation insurance carrier.

Frequently Asked Questions

Q. Must I wait for medical care?

A. No, but physicians must request authorization for procedures that cost more than \$1,000 each. This \$1,000 pertains to each procedure, not the total cost of care. Insurers must respond to the request within 30 days. Authorization is not necessary in case of an emergency.

Q. May a doctor treat me if the insurer does not answer a request for approval?

A. Yes. Insurers have 30 days to reply to an authorization request. If the insurer does not reply in 30 days, the provider may perform the services. Diagnostic tests must be obtained from a network provider, if the carrier requires claimants to use its network.

Q. Must I have lost time in regular employment for a disability to be covered?

A. Not necessarily. The disability is compensable if there is loss of earning capacity, or loss of use or partial use of a bodily member, eye or hearing.

Q. If I receive remuneration or a gratuity for performing a duty or activity covered under the law, can I still sustain a compensable injury in the line of duty?

A. No. The following items are not remuneration 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.

Q. Does a notice of injury have to be provided in writing?

A. Yes. You or your representative must sign the notice. However, the Board may excuse the failure to give written notice on any of the following grounds: notice could not have been given for sufficient reason; a member of a body in charge of, or any officer of, the ambulance or fire company/district had knowledge within 90 days of the injury or death; the political subdivision, ambulance company or

Frequently Asked Questions (cont.)

insurance carrier was not prejudiced by a delay in giving such notice; the cause of disablement or death was not known to be the result of service performed in the line of duty as a volunteer member in sufficient time to comply with the notice requirement.

Q. Will I be reimbursed for purchasing necessary medicine or prescribed drugs?

A. To be reimbursed, you must submit to the Board and your insurance carrier Claimant's Record of Medical and Travel Expenses and Request for Reimbursement (Form C-257) with receipts.

Q. What happens when an insurer contests a claim?

A. 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. A law judge will resolve the issue at a pre-hearing conference or a hearing.

Q. Can a closed case be reopened?

A. Yes. 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. The Board can reopen a case that has been completely settled by a Section 32 Waiver Agreement if all the parties agree to reopen it.

Q. Can I render emergency service with another district or company?

A. Yes. If you offer individual service to another company in New York State outside the area regularly served by your 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 or ambulance company (and its political subdivision) that accepted your voluntary service.

Q. What is the penalty for making false claims for benefits?

A. Making false claims for benefits is workers' compensation fraud, a class E felony. It is punishable by up to four years imprisonment and a \$5,000 individual or \$10,000 corporate fine.



NYS WORKERS' COMPENSATION BOARD CONTACTS

Customer Service
including Disability
Benefits

General_Information@wcb.ny.gov

(877) 632-4996

Advocate for
Injured Workers

advinjwkr@wcb.ny.gov

(800) 580-6665

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