

NEW YORK STATE INSURANCE FUND

**NYSIF**<sup>®</sup>

# A Claims Guide for the Employer



[nysif.com](http://nysif.com)

*Workers' Compensation & Disability Benefits Specialist since 1914*

**Then...Now...Always**™

Andrew M. Cuomo  
Governor

Kenneth R. Theobalds  
Chairman

Eric Madoff  
Executive Director & CEO

**Workers’ Compensation Claims**

Fundamentals of Efficient Claims Service. . . . . 1

What You Should Know Safety/Accident Prevention/Rehabilitation. . . . . 2

Reporting Accidents. . . . . 3

Record of Accidents. . . . . 4

Recognizing Possible Fraud. . . . . 5

Medical Care. . . . . 6

Wage Statements. . . . . 7

Payment of Compensation. . . . . 8

Reimbursement of Wages Advanced by an Employer  
     During Disability. . . . . 9

Contested Workers’ Compensation Cases. . . . . 10

Hearings . . . . . 10

Notice of Return to Work – Change in Employment Status. . . . . 11

Employment of Minors. . . . . 12

Discrimination Proceedings – Section 120 (Workers’  
     Compensation Law). . . . . 13

Discrimination Proceedings – Section 241  
     (Disability Benefits Law). . . . . 13

Workers’ Compensation Forms. . . . . 14

**Disability Benefits Claims**

Disability Benefits. . . . . 15

Notice and Proof of Disability – Reporting of Claims. . . . . 15

Eligibility for Benefits. . . . . 16

If You Employ Domestic Workers. . . . . 16

Payment of Disability Benefits. . . . . 17

Enriched Disability Benefits. . . . . 17

Restrictions on Paying Disability Benefits. . . . . 18

Offsets Against Benefits. . . . . 19

Reimbursement of Benefits Advanced by an Employer. . . . . 19

Contested Disability Benefits Claims. . . . . 20

Disability Benefits for the Disabled Unemployed. . . . . 21

Disability Benefits Forms. . . . . 21

WCB Offices. . . . . 22

NYSIF Business Offices. . . . . 23

## **Fundamentals of Efficient Claims Service**

NYSIF Claims staff provides policyholders and claimants courteous, knowledgeable and timely service that includes:

- 1.** Prompt compensation and medical payments in legitimate claims.
- 2.** Early, thorough investigation and determination of questionable cases.

The employer's immediate and complete cooperation with our claims case managers and investigators is crucially important. **Timely cooperation from the employer affects the determination of benefits, the speed with which claimants receive appropriate medical care and, ultimately, claim duration and cost.**

## **Workers' Compensation Law 18/10 Rule**

**Important: The Workers' Compensation Board (WCB) imposes penalties for violations of the following provisions.**

- 1.** The first compensation payment is due no later than 18 days after disability begins or 10 days after the employer's knowledge of the accident, whichever date is later;
- 2.** In cases where the right to compensation is controverted, notice must be filed on or before the 18th day of disability or within 10 days after the employer's knowledge of the accident, whichever date is later.

**Failure to file a timely notice of controversy may force acceptance of an otherwise questionable claim.**

Although this guide should answer most questions, visit [nysif.com](http://nysif.com) to contact your claims case manager, or contact your local NYSIF business office listed at the end of this guide, for further assistance.

## **What You Should Know**

Workers' compensation benefits are paid for job-related accidents and occupational diseases resulting in disability. Causally-related medical treatment is paid by the insurance carrier.

Disability benefits are paid for off-the-job injury, sickness and for disabilities arising from pregnancy. Disability benefits insurance does not pay for medical treatment.

## **Safety - An Accident Prevented Is A Claim Unborn**

One of our main objectives is promoting interest in safety and risk management by NYSIF policyholders. Effective safety programs depend on the employer's commitment and cooperation. Visit [nysif.com](http://nysif.com) for free Injury and Illness Prevention resources. If you need help with your accident prevention program, call your NYSIF business office to request loss prevention services by one of our trained safety specialists.

## **Rehabilitation**

Rehabilitation can have a positive personal, social and economic impact, and reduce claims cost. NYSIF's responsibility as the insurer, and yours as the employer, is to ensure that injured employees receive necessary physical and vocational rehabilitation to reduce their degree of disability and restore their earnings potential. NYSIF medical care representatives are registered nurses who work to achieve the most beneficial medical outcome for claimants.

## Electronic Reporting for NYSIF Policyholders

Use NYSIF eFROI® at [nysif.com/reportinjury](https://nysif.com/reportinjury) to notify NYSIF of all reportable accidents to satisfy your legal and recordkeeping obligations.

### Reportable Accidents

Employers must complete a First Report of Injury (FROI) for a reportable accident within 18 days of the accident or 10 days from the employer's knowledge of all work-related injuries or illnesses that result in any of the following:

1. Loss of time from regular duties of one day beyond the working day or shift in which the accident occurred, or
2. Medical treatment beyond ordinary first aid; or
3. More than two treatments by a person rendering first aid.

Fatal accidents, and all accidents that may cause permanent loss of use of a finger, toe or limb, loss of hearing or eyesight, or permanent, visible facial, head or neck scars, **must** always be reported.

Failure to file a timely report may result in fines of up to \$1,000 and penalties of up to \$2,500 by the WCB.

The WCB requires employers to distribute a **Claimant Information Packet** to injured employees for all claims. This packet is available at [nysif.com/forms](https://nysif.com/forms).

### First-Aid Option

NYSIF policyholders may pay for treatment for non-reportable injuries. In cases when the employer pays directly for treatment or promptly reimburses NYSIF for paid treatment, the injury or illness does not affect the employer's experience modification used to determine rates. Employers still must complete Form C-2F for recordkeeping purposes without filing the report. **If a non-reportable accident later develops into one that requires medical treatment or causes loss of time from work, FROI should be filed immediately.**

## Record of Accidents

An employee injured at work should notify a supervisor about the accident and how it occurred as soon as possible, and submit written notice to the employer no later than 30 days from the date of accident. Employers must retain records of all accidents for at least 18 years.

Use NYSIF eFROI® to fill out FROI-00 online and submit the form electronically to NYSIF for immediate compliance on a reportable accident. Fully answer all questions. NYSIF files the information with the WCB on behalf of our policyholders. NYSIF eFROI® retains an electronic file that policyholders can print, save or retrieve for the required recordkeeping period of 18 years.

If electronic filing is not an option, you must complete and submit Form C-2F to NYSIF, for all reportable claims. Contact NYSIF if you need assistance filing electronically.

## Reporting Questionable Claims

**Exercise caution in reporting doubtful or questionable claims. Statements made when reporting claims have been held to be binding by the WCB.** In questionable cases, use phrases such as, "It is alleged that," or "The employee claims that," when reporting the claim. If the claim is suspicious, or when unsure if Workers' Compensation Law applies to the accident, notify NYSIF immediately by telephone or email.

## Refer All Communication About a Claim to NYSIF

Refer all oral or written communication from any doctor, attorney, claimant or other person immediately to your assigned NYSIF case manager. Go to Contact Us at [nysif.com](http://nysif.com) to find your case manager. Include the NYSIF claim number with all communication. If you do not have the claim number, contact Customer Service, **888-875-5790**, to obtain the claim number.

## If You Suspect Fraud

So-called “red flags” found in connection with suspicious claims are not of equal importance or weight, nor do they in and of themselves prove anything. If you find clusters of red flags, the claim should be carefully examined to determine if the claimant has lied about any material fact regarding the claim.

## Common Red Flags

**Employment History** – Injury reported after a serious problem on the job, such as disciplinary action, demotion, being passed over for promotion, or notified of a layoff. Worker is a new hire, or has a prior history of multiple personal injury or workers’ compensation claims.

**Personal History** – Injury reported soon after purchase of private disability insurance. Worker engages in high-risk leisure activities. Worker has financial difficulties or domestic problems at time of injury.

**Accident Circumstances** – Accident occurs early Monday or on return from vacation or was not immediately reported. Accident description is inconsistent or not believable. Accident is not witnessed or witnesses’ descriptions contradict injured worker’s account. Injury is inconsistent with activity at the time of injury.

**Claimant Behavior** – Claimant is difficult to contact during working hours, uses answering machine to screen calls, or post office box as a residential address.

## Division of Confidential Investigations

NYSIF’s Division of Confidential Investigations (DCI) investigates cases of suspected fraud against NYSIF – including policyholder, provider and claimant fraud.

**If you suspect fraud, call toll free (877) WCNYSIF (926-9743), report fraud online at [nysif.com/reportfraud](https://nysif.com/reportfraud) or write to DCI at PO Box 3395, Church Street Station, NY, NY 10007. All fraud reporting is confidential.**

## Medical Care

For information about **Provider Networks (medical and pharmacy benefits)** see [nysif.com](http://nysif.com). To locate a medical network provider go to [www.talispoint.com/cvty/wcnyg](http://www.talispoint.com/cvty/wcnyg) or request a local provider listing at **1-800-842-2917**. To locate a participating network pharmacy go to [www.wcrxpharmacylocator.com/](http://www.wcrxpharmacylocator.com/) or call CVS Caremark at 866-493-1640.

**Employee use of the provider network is strictly voluntary.** Employers must give the employee **Form C-3.1**, "Notice of Right to Select a Workers' Compensation Board Authorized Healthcare Provider," at the time of a reported injury or illness. This is part of the **Claimant Information Packet** available at [nysif.com/forms](http://nysif.com/forms).

Employees retain the right to choose any physician, podiatrist, chiropractor or psychologist authorized by the WCB for the treatment of any work-related injury or illness and may change providers at any time without jeopardizing their claim for workers' compensation benefits. See [www.wcb.ny.gov/content/main/hcpp/hcpp.jsp](http://www.wcb.ny.gov/content/main/hcpp/hcpp.jsp) for a list of WCB authorized doctors.

## Authorization & Billing

**Forward all requests for authorization and all medical bills received by the employer immediately to NYSIF. This allows prompt payment of proper medical liability, or objections to unreasonable charges within prescribed time limitations.**

## Forms C-4 & C-5

All attending physicians, except eye doctors, must file **Form C-4** as a 48-hour preliminary report. Form C-4.2 must be filed within 15 days after the initial report and thereafter during continuing treatment without further request when a follow-up visit is necessary, not to exceed 90 days between reports. **Form C-5** is used in eye cases. **To assist NYSIF in meeting its legal obligations and assure economic relief to injured workers, employers should insist on prompt medical reports. Transmit medical reports immediately to your local NYSIF office or assigned case manager (see Page 23 or nysif.com Contact Us). Include the NYSIF claim number with all communication.**



## Form C-240, Wage Statements

The weekly rate of compensation is based on the average weekly wage earned by the employee in the employment in which the injury occurred during the 52 weeks prior to the accident. The employer must use **Form C-240** to provide a full record of the injured person's earnings for the 52 weeks prior to the accident. Return two copies immediately to the requesting NYSIF office (see Page 23), or assigned case manager.

Show **gross earnings** without tax, social security or other deductions on all payroll forms. Any extra remuneration received by the employee, such as bonuses, gratuities, lodging, meals, etc., should be recorded in the space provided. **It is especially important that wage statements always show the number of days worked during each of the weeks itemized.**

- If the injured worker has not worked a substantial part of the 52 weeks prior to the accident, use the earnings of a similar worker in the same governing class for the full period to report the injured worker's earnings. Also submit a record of the injured worker's actual earnings for the period of employment.
- If the injured worker was on a seasonal or irregular basis, and there are no similar workers of the same class who worked a full or substantial part of the 52 weeks prior to the accident, note that on Form C-240. In this case, NYSIF computes the average daily wage of the injured worker based on the actual earnings of the injured worker during the same period.
- If the employee was under 25 at the time of injury and the employee's wages would be expected to increase under normal conditions, usually in the same industry, the law requires this to be factored into the average weekly wage in cases of permanent disability. In such cases, the employer must complete **Form WEC-62** to estimate the employee's wage expectancy.

## Concurrent Employment

The average weekly wage of an injured employee who is concurrently engaged in more than one employment at the time of injury is based on the wages earned from all concurrent employments covered under the Workers' Compensation Law. The employer in whose employment the employee was injured, or the employer's workers' compensation carrier, pays any additional benefits resulting from the concurrent employments.

## Compensation Payments

Benefits are not paid for the first seven calendar days of a work-related disability unless the disability extends beyond 14 days. In that case, benefits are payable for the first week of disability and continue every two weeks during loss of time from work as long as there is medical proof of disability.

Maximum weekly benefits payable under the Workers' Compensation Law are two-thirds of the New York State average weekly wage for accidents or deaths on or after 7/1/10, re-indexed to the state average weekly wage annually thereafter on 7/1. For current maximum weekly benefits go to <http://www.wcb.ny.gov/content/main/onthejob/wcBenefits.jsp>

The minimum weekly rate is \$150 for all claims on and after 5/1/13.

## Caps on Permanent Partial Disability Benefits (PPDs)

PPD caps are based on loss of wage earning capacity (LWEC) for accidents and dates of disablement on or after 3/31/07. **Employers must promptly complete and return NYSIF's "Employee Job Description and Functional/Exertion Analysis" to the case manager to help assess the employee's LWEC.** The employee's medical impairment, functional capabilities and non-medical/vocational factors such as education, training, skills, age and literacy determine LWEC.

Weekly benefits for PPD caps are based on % LWEC as follows:

<b>% Loss of Wage Earning Capacity</b>	<b>Maximum Benefit Weeks</b>	<b>Number of Years</b>
1% - 15%	225	4.33
16% - 30%	250	4.81
31% - 40%	275	5.29
41% - 50%	300	5.77
51% - 60%	350	6.23
61% - 70%	375	7.21
71% - 75%	400	7.69
76% - 80%	425	8.17
81% - 85%	450	8.65
86% - 90%	475	9.13
91% - 95%	500	9.62
96% - 99%	525	10.10

## **Schedule Loss of Use**

An injury resulting in serious permanent facial, head or neck disfigurement or scarring, or one which causes permanent impairment of a digit or extremity, or loss of vision or hearing, entitles the injured employee to compensation based on a schedule established by law in accordance with the extent of impairment, without regard to actual time lost from work.

## **Form C-107, Reimbursement of Wages Advanced by an Employer During Disability**

If an employer has paid wages to an employee during any period of alleged work-related disability, the law permits reimbursement to the employer from any unpaid compensation due the employee.

**To file a claim for reimbursement employers must file Form C-107, “Employer’s Request for Reimbursement,” before an award of compensation is made by the WCB.** This form should be completed in duplicate and returned to your local NYSIF business office or assigned claims case manager (nysif.com Contact Us).

If the employer does not request or desire reimbursement, the employee is entitled to regular compensation benefits in addition to wages received.

## Controverted Cases

### Form DB-470, Claims for Reimbursement

When a claim for workers' compensation is controverted on the grounds that an employee's disability or illness is not caused by an accident that arose out of and in the course of employment or by an occupational disease, the employee may be entitled to benefits under the New York State Disability Benefits Law pending the outcome of the workers' compensation claim.

**The employer or disability benefits insurance carrier must file claims for reimbursement on Form DB-470 with the WCB and the workers' compensation carrier before an award of workers' compensation benefits is made.** All payments of disability benefits in these cases constitute a lien upon the proceeds of any award that may subsequently be made upon determination of the disputed workers' compensation claim.

### Forms FROI-04 and SROI-04

**The WCB replaced Form C-7, "Notice That Right to Compensation Is Controverted," with two electronic forms, FROI-04 and SROI-04.**

**FROI-04, First Report of Injury 04-Denial,** is filed by the carrier when the carrier wants to controvert a claim.

**SROI-04, Subsequent Report of Injury 04-Denial,** is filed by the carrier to controvert a claim if FROI-00 is the first form filed on the claim.

NYSIF provides the employer's disability benefits carrier with the FROI-04 or SROI-04 denial upon controverting the claim. Upon receipt, the disability benefits carrier must begin payment of disability benefits if other conditions of eligibility are satisfied.

## Hearings

The WCB holds hearings on controverted claims or claims with disputed issues. If requested by NYSIF or directed by a WCB judge to testify, it is in the employer's best interest to appear at the hearing.

## **Form C-11, Change in Employment Status**

**Form C-11**, "Employer's Report of Injured Employee's Employment Status Resulting from Injury," must be completed by the employer as soon as the employment status of an injured employee changes from that reported on Form FROI-00 or a previously-submitted C-11. For workers' compensation injuries, change in employment status includes:

- 1.** Return to work.
- 2.** Discontinuance of work.
- 3.** Decrease of regular hours of work.
- 4.** Reduction of wages.

This form can be filled out electronically on NYSIF's website and printed. Send one copy directly to the WCB, one copy to your local NYSIF office or assigned claims case manager (nysif.com Contact Us), and keep one copy for your records.

## **Employment of Minors**

Under Section 14-a of the Workers' Compensation Law, employers pay double the amount otherwise payable in compensation, death or other benefits and awards if the injured employee is a minor working in violation of any provision of the Labor Law at the time of the accident, or any provision subsequently adopted by the Board of Standards and Appeals.

The employer alone is liable for increased compensation, increased death benefits, or awards to the Commissioner of Taxation and Finance provided for by this section. Any provision of any insurance policy that would relieve an employer from such increased liability is voided.

## Employment of Minors

A certificate of age issued by the superintendent of schools or by an employment certifying officer is evidence only of the age of the person certified. It is still necessary to refer to the provisions of the Labor Law and rules of the Board of Standards and Appeals to determine what types of employment are permissible for minors and under what circumstances they may be legally employed.

An employer cannot seek relief regardless of his or her good faith, deceit on the part of the injured minor, or by showing the injury did not result from immaturity or inexperience.

The foregoing provisions have been strictly interpreted by the WCB and the courts. Penalties may amount to many thousands of dollars depending on the extent of the injury.

**All employers who employ minors are urged to read “Laws Governing Employment of Minors” at the New York State Department of Labor website. [www.labor.ny.gov/workerprotection/laborstandards/workprot/minors.shtm](http://www.labor.ny.gov/workerprotection/laborstandards/workprot/minors.shtm)**

## Discrimination Proceedings

Section 120 of the Workers' Compensation Law and Section 241 of the Disability Benefits Law concern allegations of employment discrimination against employees regarding claims for benefits under the law.

### Section 120 (Workers' Compensation Law)

Section 120 of the Workers' Compensation Law prohibits firing, or discriminating against, any employee who claims or attempts to claim compensation from an employer, or who testifies or will testify in a claim proceeding, if no valid reason exists for such action by the employer. The employee has two years to file a complaint alleging any such discrimination.

### Section 241 (Disability Benefits Law)

The provisions as set forth in Section 120 are fully applicable to Section 241 of the Disability Benefits Law.

If the WCB finds a violation of either section, the employer is liable for:

1. A penalty of \$100 to \$500;
2. Restoration of an employee to employment, and
3. Compensation for any loss of wages arising out of such discrimination.

**All liabilities are solely the responsibility of the employer and not the insurance carrier.** All penalties are paid to the state treasury. Any provision of any insurance policy that would relieve an employer from such increased liability is voided.

An employer found in violation of this section, and the aggrieved employee, have 30 days from receipt of final determination to verify compliance with the WCB. Failure by the employer to verify compliance within 30 days may result in an award of compensation to the employee, except when the employer has filed a timely application for review under Section 23 of this law.

## Workers' Compensation Forms

Prompt filing is essential.

### Forms to Be Filed by the Employer

- \* FROI-00 First Report of Injury-00 (see Page 4)
- \* C-11 Employer's Report of Injured Employee's Change in Employment Status Resulting From Injury (see Page 11)
- \* C-107 Employer's Request for Reimbursement (see Page 9)
- \* C-240 Employer's Statement of Wage Earnings (see Page 7)

### Forms to Be Filed by the Claimant

- \* C-3 Employee's Claim for Compensation
- \* C-3S Employee's Claim for Compensation (Spanish)
- \* C-3.1 Notice of Right to Select a Workers' Compensation Board Authorized Healthcare Provider (see Page 6)
- \* C-3.3 Limited Release of Health Information (HIPPA)
- \* C-257 Claimant's Record of Medical and Travel Expenses

### Forms to Be Filed by the Health Care Providers

- \* C-4 & C-4.1 Doctor's Initial Report (see Page 6)
- \* C-4.2 Doctor's Progress Report
- \* C-4.3 Doctor's Report of MMI/Permanent Impairment
- \* C-5 Eye Surgeon's Report (see Page 6)

\* Available at [nysif.com](http://nysif.com); other listed forms available at [www.wcb.ny.gov](http://www.wcb.ny.gov)



## Disability Benefits

The law requires most employers with one or more employees in New York State to be covered by disability benefits insurance. Disability benefits insurance pays eligible wage earners disabled by off-the-job injury or illness, including disabilities arising from pregnancies, temporary cash benefits only. Medical care is the responsibility of the claimant.

The following pages offer general disability benefits claim information. **Instructions dealing with claim reporting and forms are specific to NYSIF.**

### Form DB-271, Statement of Rights

Employers must provide employees Form DB-271, “Statement of Rights,” when they are absent due to a non-work-related disability for more than seven consecutive days. Employees must receive Form DB-271 from their employer within five business days after the employer is notified by the employee that the employee was diagnosed as disabled from work by a physician. Form DB-271 in English and Spanish is appended to Form DB-450, “Notice and Proof of Claim for Disability Benefits.”

### Form DB-450, Reporting of Claims

To file a claim for disability benefits, an employee must receive **Form DB-450, “Notice and Proof of Claim for Disability Benefits,”** from the employer within five business days after the employer is notified by the employee that the employee was diagnosed as disabled from work by a physician. Once diagnosed, employees should file Form DB-450 with their employer or NYSIF within 30 days. NYSIF provides the DB-450 for policyholders to download at [nysif.com/forms](https://nysif.com/forms).

This form consists of two parts mandated by the WCB and one part required by the insurance carrier. Part A of the DB-450 claim application must be filled out by the claimant (disabled employee), Part B by the claimant’s healthcare provider (physician) and Part C by the claimant’s employer. The completed form is then filed with the employer’s disability insurance carrier.

To avoid penalties and ensure timely payment of benefits to claimants, **it is imperative that the employer complete Part C, the Employer’s Statement, and return it to NYSIF on same day that the employee returns Form DB-450 to the employer.** Mail or fax all disability benefits claim forms to NYSIF’s Albany office (Page 23). **Do not send copies to the WCB.**

## **Eligibility for Benefits**

Disability benefits eligibility occurs when a non-occupational disability begins during employment with a covered employer for whom the employee has worked full-time at least four consecutive weeks, or part-time at least 25 days immediately preceding disability.

Every such employee continues to be eligible for a period of four weeks after such employment terminates and, if less than four weeks has elapsed, is covered on the first day of employment with a new covered employer.

In addition, any person receiving unemployment insurance benefits at the time of new employment with a covered employer is covered on the first day of employment.

## **If You Employ Domestic Workers**

Under New York State Disability Benefits Law, employers who employ one or more domestic workers for at least 30 days must provide disability benefits insurance for their workers. In private homes, domestic employees who work at least 40 hours a week for the same employer must be covered. If the household employs at least one qualified domestic worker, all part-time domestic workers in the household must be covered.

## Payment of Disability Benefits

**Benefits are never paid for the first week of disability.** Disability benefits are payable to an eligible employee beginning with the eighth consecutive day of disability.

Under the law, the first payment of benefits is due on the 14th day of disability and must be issued directly to the employee within four business days thereafter or within four business days after the filing of a required proof of claim, whichever is later.

Payments are due every two weeks thereafter for a continuing disability, but may not exceed 26 weeks during any 52 consecutive weeks, regardless of the number of periods of disability during this period.

The weekly benefit rate for New York statutory disability benefits insurance is one half of the employee's average weekly wage, but statutory benefits may not be greater than \$170 per week. The average weekly wage is determined by dividing the employee's total gross wages for the eight weeks immediately preceding and including the last day worked prior to disability, by the number of those weeks in which the employee worked at least one day. Other methods of computation are occasionally used to establish an equitable rate, particularly if the employee was not employed by the last covered employer throughout the eight-week period.

## NYSIF Enriched Disability Benefits

Employers who want a more substantial disability insurance benefit for their out-of-work employees can opt for NYSIF enriched disability benefits insurance of up to five times the maximum statutory benefit at low rates for qualified employers.

## Restrictions on Paying Disability Benefits

**These restrictions are listed for informational purposes only. Under no circumstances should the employer intercept a claim.**

Disability benefits are not payable:

1. For any period of disability during which the employee is not under the care of a duly-licensed physician, podiatrist, dentist, chiropractor, psychologist or duly-certified nurse midwife.
2. For any willfully self-inflicted injury or sickness, or for a disability incurred in the perpetration by the employee of an illegal act.
3. For any day in which the employee performs any work for remuneration or profit.
4. For any day for which the employee is entitled to receive from the employer, or from a fund to which the employer has contributed, an amount equal to or greater than the benefits prescribed by the Disability Benefits Law.
5. For any period during which the employee normally would have been disqualified from receiving unemployment insurance.
6. For disability due to act of war.
7. For any disability beginning before the employee is eligible for benefits.
8. For any period during which the employee receives unemployment insurance from any governmental source.
9. For any period during which the employee is entitled to receive workers' compensation or other statutory disability benefits, except for workers' compensation benefits payable for a permanent partial disability previously incurred.

In all cases where an employee files Form DB-450, it should be transmitted to NYSIF together with Part C, the Employer's Statement, for processing. **Any facts that may affect the determination of a claim should be indicated in the Employer's Statement.**

## **Offsets Against Benefits**

The normal weekly benefit rate payable under the Disability Benefits Law is reduced by the amounts that the employee may receive for the same disability, or be entitled to, under the following programs:

- 1.** Any benefit paid or payable from any annuity or pension plan of an employer, if the employer has contributed to the cost of such annuity or pension.
- 2.** Any permanent disability benefit or annuity paid or payable from a government program, except a veteran's disability program.

## **Reimbursement of Benefits Advanced by an Employer During Disability**

If an employer makes advanced payment of benefits to an employee during any period of disability for which the employee is entitled to disability benefits, the employer is entitled to reimbursement by the insurance carrier from benefits due to the employee for the existing disability.

**To be eligible for reimbursement, the employer must file a claim for reimbursement with the carrier prior to commencement of payments by the carrier.** A request for reimbursement may be made with the Employer's Statement on Form DB-450.

The law provides no disability benefits payments for any day for which full wages are paid. If an employer makes advanced payments to a disabled employee, the employer should make clear to the employee that such payments, in whole or in part, are advanced benefits, and specify the amount that constitutes the benefits advanced.

Employers may not be reimbursed for leave benefits such as vacation and paid time off.

## **Contested Disability Benefits Claims**

The insurance carrier is required to inform the employee why an employee's claim for disability benefits is rejected, in whole or in part, by mailing **Form DB-451**, "Notice of Rejection of Claim for Disability Benefits," to the employee.

The carrier must mail a notice of rejection to the employee within 45 days of receipt of proof of disability. Employees may file an appeal within 26 weeks by completing the reverse side of Form DB-451, "Claimant's Request for Review," stating the grounds for appeal. The employee should mail two copies of the form to the WCB, Disability Benefits Bureau, 328 State Street, Schenectady, New York 12305-2318. The employee should keep a copy.

When an employee files a "Request for Review" of a carrier's rejection, the WCB sets a hearing date and designates an administrative law judge to determine the case. Either party may present evidence and be represented by counsel at any hearing.

## **Contested Workers' Compensation Claims**

An eligible employee may be entitled to disability benefits while a pending claim for workers' compensation benefits is being controverted.

**Although an employer may know that a claim for workers' compensation is pending for the same disability, the employer should complete Part C, the Employer's Statement, immediately upon receipt of Form DB-450 from the employee, or upon request by NYSIF.**

The relation between disability benefits and contested workers' compensation claims is described on Page 10 of this guide.

## Form DB-300, Benefits for the Disabled Unemployed

A special fund administered by the WCB provides benefits for disabling injury or sickness if the employee is not eligible to receive benefits from any other source. Generally, special fund benefits are payable only to unemployed workers whose disability commences more than four weeks following termination of employment and who are receiving unemployment benefits.

An employee who claims special fund benefits must file **Form DB-300** with the WCB. If benefits are payable, they are issued directly by the WCB. The carrier is not responsible for benefits. Employers should immediately comply with any request by the WCB to supply employment data regarding the employee.



## Disability Benefits Forms

Prompt filing is essential.

### Forms to Be Used by the Employer

- \* DB-271 Statement of Rights (see Page 17)
- \* DB-450 Employer's Statement - Part 3 (see Page 18)

### Forms to Be Filed by the Disabled Employee

- \* DB-450 Notice and Proof of Claim for Disability Benefits by Employed Claimant (see Page 15)
- \* DB-300 Notice and Proof of Claim for Disability Benefits by Unemployed Claimant (see Page 21)

### Forms to Be Filed by the Insurance Carrier

- DB-451 Notice of Rejection of Claim for Disability Benefits (see Page 20)
- DB-470 Preliminary/Final Claim for Reimbursement of Benefits Paid under the New York Disability Benefits Law (see Page 10)

\* Available through [nysif.com](http://nysif.com); other listed forms available at [www.wcb.ny.gov](http://www.wcb.ny.gov)

## Workers' Compensation Board

877-632-4996

### **Albany**

100 Broadway-  
Menands  
Albany, NY 12241  
866-750-5157

### **Binghamton**

State Office Building  
44 Hawley Street  
Binghamton, NY 13901  
866-802-3604

### **Brooklyn**

111 Livingston Street  
Brooklyn, NY 11201  
800-877-1373

### **Buffalo**

107 Delaware Avenue  
Buffalo, NY 14202  
866-211-0645

### **Hauppauge**

220 Rabro Drive,  
Hauppauge, NY 11788  
866-681-5354

### **Hempstead**

175 Fulton Avenue  
Hempstead, NY 11550  
866-805-3630

### **Manhattan**

215 W. 125th Street  
New York, NY 10027  
800-877-1373

### **Peekskill**

41 North Division Street  
Peekskill, NY 10566  
866-746-0552

### **Queens**

168-46 91st Avenue  
Jamaica, NY 11432  
800-877-1373

### **Rochester**

130 West Main Street  
Rochester, NY 14614  
866-211-0644

### **Syracuse**

935 James Street  
Syracuse, NY 13203  
866-802-3730

### **Advocate for Business**

800-628-3331

### **Advocate for Injured Workers**

800-580-6665

### **Fraud Referral Hotline**

888-363-6001

### **Office of Appeals**

877-258-3441

### **Health Provider**

### **Administration**

800-781-2362

### **Bureau of Compliance**

866-298-7830

### **Disability Benefits**

800-353-3092



**NYSIF Offices**

**Workers' Compensation Claims & Service 888-875-5790**

**Albany**

1 Watervliet Avenue Ext.  
Albany, NY 12206-1649  
518-437-6400  
Augusto Bortoloni,  
Business Mgr.  
Christopher Rattazzi,  
Claims Mgr.

**Binghamton**

Glendale Technology Park  
Building 16  
2001 Perimeter Rd. East  
Endicott, NY 13760  
607-741-5000  
Tom Racko,  
Business Mgr.  
Joseph Pavlovich,  
Claims Mgr.

**Buffalo**

225 Oak Street  
Buffalo, NY 14203  
716-851-2000  
Ronald Reed,  
Business Mgr.  
Edward Fries,  
Claims Mgr.

**Nassau**

8 Corporate Center Dr.,  
2nd Fl.  
Melville, NY 11747-3166  
631-756-4000  
Cliff Meister,  
Business Mgr.  
Eric Parsons,  
Claims Mgr.

**Rochester**

100 Chestnut Street  
Rochester, NY 14604  
585-258-2000  
Lisa Ellsworth,  
Business Mgr.  
Lynn Baxter,  
Claims Mgr.

**Suffolk**

8 Corporate Center Dr.,  
3rd Fl.  
Melville, NY 11747-3129  
631-756-4300  
Catherin Carillo,  
Business Mgr.  
Andrew Schwartz,  
Claims Mgr.

**Syracuse**

1045 7th North Street  
Liverpool, NY 13088  
315-453-6500  
Patricia Albert,  
Business Mgr.  
Michelle VanCamp,  
Claims Mgr.

**White Plains**

105 Corporate Park Dr.,  
Suite 200  
White Plains NY 10604  
914-701-2120  
Carl Heitner,  
Business Mgr.  
Joseph DePierro,  
Claims Mgr.

**New York City**

199 Church Street  
New York, NY 10007

**Bronx/Queens**

212-587-7390  
Mike Rachek,  
Business Mgr.  
Martha Golden,  
Claims Mgr.

**Brooklyn/Staten Island**

212-587-9208  
Samindra Sil,  
Claims Mgr.

**Lower Manhattan**

212-587-5435  
Leslie Javorsky,  
Business Mgr.  
Louis Vassallo,  
Claims Mgr.

**Upper Manhattan**

212-312-0070  
John Zenkewich,  
Business Mgr.  
Ye Xu,  
Claims Mgr.

**Disability Benefits Claims & Service 866-697-4332**

(Specify **DB Claims**  
or **DB Underwriting**)  
1 Watervliet Ave. Ext.  
Albany, NY 12206-1629

**E-mail:**

DB-Claims email [box298@nysif.com](mailto:box298@nysif.com)  
DB-Underwriting email [box398@nysif.com](mailto:box398@nysif.com)

**Fax:**

DB-Claims **518-437-5201**  
DB-Underwriting **518-437-5278**

