

WORKERS'
COMPENSATION
CLAIM FILING
DEADLINES

a State-by-State Review

Compendium of Law



SUMMER 2018

State-By-State Workers' Compensation Claim Filing Deadlines

INTRODUCTION

For those working in multiple jurisdictions, it is often difficult to discern whether an employee's claim is timely or not. Protecting your company and preventing what would otherwise be time-barred claims is an essential part of working in multiple jurisdictions. This compendium is made to provide a quick reference for those time deadlines on a state-by-state basis using USLAW's knowledge and resources. It is our hope that this is a valuable reference tool for anyone handling workers' compensation matters on a national stage.

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STATE-BY-STATE WORKERS' COMPENSATION CLAIM FILING DEADLINES

State	Statute(s)	Deadline for Injury & Occupational Disease Claims	Deadline for Death Claim	Exceptions
Alabama	Ala. Code § 25-5-80 Ala. Code § 25-5-117	2 years after injury 2 years after date of last exposure	2 years after death	-If payment of compensation, as distinguished from medical or vocational payments, have been made, the claim may be filed within 2 years of the last payment. -If the injured person is mentally or physically incapacitated, the claim may be filed within 2 years of the date when the incapacity ceases.
Alaska	Alaska Stat. § 23.30.105	2 years after employee has knowledge of nature of injury and its relation to employment, but no more than 4 years after injury	1 year after death	-If payment of compensation has been made, a claim may be filed within 2 years of the last payment. -If latent defects caused the disability, the injured employee's right to claim shall be determined by the board. -If the injured person is mentally incompetent and lacking a guardian, the provisions apply from the date of a representative's appointment. -If the injured person is a minor lacking a guardian, the provisions apply from the date of a guardian's appointment or the date the injured person becomes of age.

State	Statute(s)	Deadline for Injury & Occupational Disease Claims	Deadline for Death Claim	Exceptions
Arizona	Ariz. Rev. Stat. § 23-1061	1 year after injury becomes manifest or claimant knows or should know of the injury	1 year after death	<p>-If claimant is insane or legally incompetent or incapacitated at the time of the injury, the claim may be filed within 1 year of the end of the insanity, legal incompetence, or incapacity.</p> <p>-If insanity, legal incompetence, or incapacity occurs after the 1-year period is commenced, the period shall pause and shall resume upon the end of the insanity, legal incompetence, or incapacity.</p> <p>-Claims are not time barred if payment of compensation has occurred pursuant § 23-1044, 23-1045, or 23-1046, unless the payments were provided for by § 23-1046, subsection A, paragraph 1 or § 23-1065, subsection A.</p> <p>-Claims are not time barred if the employee or other party entitled to file the claim has delayed in doing so because of justifiable reliance on a material representation by the commission, employer, or insurance carrier.</p>

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Arkansas	Ark. Code Ann. § 11-9-702	2 years after injury 2 years after date of last exposure OR 1 year after disablement from silicosis or asbestosis if disablement occurred within 3 years of last exposure OR 2 years after medical diagnosis of condition caused by exposure to radiation	2 years after death	-If failure to file a claim was induced by fraud, the claim may be filed within 1 year from the discovery of the fraud. -If claimant is mentally incompetent or a minor and lacks a guardian or similar representative, the claim may be filed within 2 years of the appointment of a guardian or similar representative or when the minor becomes of age.
California	Cal. Lab. Code § 5405, § 5406	1 year after injury or 1 year after expiration of any period covered by payment or the last date on which benefits were furnished	-If death occurs within 1 year of injury: 1 year after death. -If death occurs more than 1 year from injury: 1 year after date of last furnishing of benefits. -If death occurs more than 1 year after injury and benefits have been furnished: 1 year after death.	n/a
Colorado	Colo. Rev. Stat. § 8-43-103(2) (2018)	2 years after injury If disability is caused by exposure to radiation, uranium, asbestosis, silicosis, or anthracosis, claim must be filed within 5 years of commencement of disability or death	2 years after death	-If compensation has been paid, this limitation shall not apply. -If it is established to the satisfaction of the director within 3 years after the injury or death that a reasonable excuse exists for the failure to file, this limitation shall

State	Statute(s)	Deadline for Injury & Occupational Disease Claims	Deadline for Death Claim	Exceptions
(Colorado cont'd)				<p>not apply. This exception applies only if the “employer's rights have not been prejudiced thereby.”</p> <p>-If the employer has been given notice of the injury and fails to report the injury, the statute of limitations shall not begin to run until the report is filed.</p> <p>-If the worker establishes a reasonable excuse for the failure to file—applies only if the “employer's rights have not been prejudiced thereby.” See COLO. REV. STAT. § 8-43-103(2) (2018)</p>
Connecticut	C.G.S.A. § 31-294c	<p>1 year after accident</p> <p>3 years after first manifestation of disease symptoms</p>	1 year after death or within 2 years of the accident/first manifestation of disease symptoms if death occurred during that 2-year period, whichever is later.	-Claim will not be barred if within the statutory period, a voluntary agreement has been submitted or there has been a hearing or written request for a hearing.
Delaware	19 Del. C. § 2361(a)	<p>2 years after accident</p> <p>1 year after employee first acquired knowledge that the disease was/could have been caused by employment</p>	<p>2 years after death from injury</p> <p>1 year after filer knew or should have known death to be related to occupational disease caused by employment</p>	-If compensation payments have been made under an agreement approved by Board or by an award of the Board, limitations period will not take effect until 5 years after the last payment.

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District of Columbia	D.C. Code Ann. §32-1514	1 year after employee is reasonably aware of relationship between injury and employment	1 year after beneficiary is aware or should be aware that death was caused by injury related to employment	<p>-If compensation has been made, 1 year since last payment.</p> <p>-If employee is mentally incompetent or a minor, statutory period will not run until a guardian or representative is appointed, or the minor becomes of age.</p>
Florida	Fla. Stat. §440.19	2 years after employee knew or should have known that the injury arose out of employment	2 years after beneficiary knew or should have known that the death arose out of employment	<p>-Payment of benefits or the furnishing of remedial treatment shall toll the limitations period for 1 year from the date of such payment.</p> <p>-If employee is mentally incompetent or a minor, limitations period will not run until a guardian or representative is appointed, or the minor becomes of age.</p>
Georgia	O.C.G.A. § 34-9-82 O.C.G.A. § 34-9-104	1 year after injury For disease, 1 year after discovery or should have been discovered with "reasonable diligence"	1 year after death	<p>-If payment of weekly benefits has been made, the claim may be filed within 2 years of the last payment.</p> <p>-If remedial treatment has been furnished, the claim may be filed within 1 year of the last remedial treatment.</p> <p>-No time limit applies to claimant who is mentally incompetent or a minor if that person lacks a guardian. § 34-9-86</p>

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Hawaii	Haw. Rev. Stat. § 386-82	2 years after the effects of the injury manifest and within 5 years of the accident For injuries relating to exposure to arsenic, asbestos, benzol, beryllium, zirconium, cadmium, chrome, lead, fluorine, other carcinogens, or radiation, 2 years after knowledge that injury was caused by employment	n/a	-No time limit applies to claimant who is mentally incompetent or a minor if that person lacks a guardian. § 386-84
Idaho	I.C. § 72-701	1 year after date of accident	1 year after death	No time limit applies to claimant who is mentally incompetent or a minor if that person lacks a guardian. § 72-705
Illinois	820 ILCS 305/6(d)	3 years after date of accident 25 years after the last day of employment in environment of hazardous radiological activity or asbestos	3 years after death related to radiation or asbestos	If compensation has been paid, claim may be filed within 2 years of last payment.
Indiana	Ind. Code § 22-3-3-3	2 years after date of injury For injuries caused by radiation, 2 years after employee knew or should have known that employment caused the injury For occupational disease, 2 years after date of disablement	2 years after date of injury For death caused by radiation, 2 years after claimant knew or should have known that employment caused the death For death caused by occupational disease, 2 years after death	No limitations period applies to claimant who is mentally incompetent or a minor if that person lacks a guardian. § 22-3-3-30

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Iowa	I.C.A. § 85.26	2 years of date of injury (point where claimant, as a reasonable person, would know of condition and causal relationship to employment), which is tolled by discovery rule (date employee knew or should have known that the injury was serious enough to have a permanent adverse impact on employment or employability).	n/a	-If any indemnity payments have been made, claim may be filed within 3 years of last payment.
Kansas	K.S.A. §44-534(b)	3 years after accident	n/a	-If compensation has been paid, claim may be filed within 2 years of last payment.
Kentucky	Ky. Rev. Stat. § 342.185 Ky. Rev. Stat. § 342.316	2 years after date of injury For cumulative trauma injury, 2 years from date physician told employee that injury is work-related but no more than 5 years after last exposure. For HIV, 5 years after injurious exposure. For occupational disease, 3 years after last exposure or 3 years after manifestation of symptoms, whichever is later, but no later than 5 years after last	2 years after date of death	-If benefit payment has been made, claim may be filed within 2 years of last payment.

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(Kentucky cont'd)		<p>exposure.</p> <p>For radiation, asbestos, or carcinogens specified in KRS § 61.315(11)(b), within 20 years of last exposure.</p>		
Louisiana	La. Rev. Stat. Ann. §23:1209	<p>1 year after accident</p> <p>If injury doesn't develop immediately, 1 year after it manifests</p>	1 year after death	-If payments have been made, claim may be filed within 1 year of last payment, except in cases of benefits payable pursuant to L.R.S. 23:1221(3) claims may be filed within 3 years.
Maine	39 M.R.S.A. § 306	2 years after injury or the date the employer files a required first report under § 303, whichever is later	1 year after death or 2 years after injury, whichever is later, but no later than 6 years from date of last payment	<p>-If benefits are paid, claim may be filed within 6 years of last payment.</p> <p>-If employee is physically or mentally incapacitated, the limitations period is tolled until the end of the incapacity.</p> <p>-If employee fails to file because of a mistake of fact as to the cause or nature of the injury, claim may be filed within a "reasonable time"</p>
Maryland	Md. Code Ann., Lab. & Empl. §9-709, 710, 711	<p>2 years after accident</p> <p>For occupational disease, 2 years after disablement</p> <p>For pulmonary dust disease, 3 years after disablement or actual knowledge</p>	<p>18 months after death</p> <p>For death related to occupational disease, 2 years after death</p> <p>For death related to pulmonary dust disease, 3 years after death or actual knowledge</p>	<p>-If employer fails to file an Employer's First Report, limitations period is tolled. § 9-708(b)</p> <p>-Employer may be estopped from raising limitations as a defense if employer mislead the employee about filing requirements. § 9-709</p>

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Massachusetts	M.G.L.A. 152 § 41	4 years after employee became aware of causal relationship between employment and injury	4 years after death	-Payment of compensation shall toll this limitations period.
Michigan	M.C.L.A. §§418.381	2 years after injury	2 years after death	-If employee is physically or mentally incapacitated, claim may be made within 2 years of end of incapacitation.
Minnesota	M.S.A. § 176.151	3 years after employer makes written report, but no more than 6 years after accident For radiation and occupational disease, 3 years after employee has knowledge of the causal relationship between work and the disability	n/a	-If employee is incapacitated, claim may be filed within 3 years of end of incapacity.
Mississippi	Miss. Code Ann. § 71-3-35	2 years after injury	2 years after death	-If employee is mentally incompetent or a minor and lacks a guardian or representative, limitations period is not applicable until the appointment of a guardian or the minor becomes of age.
Missouri	V.A.M.S. § 287.430	2 years after injury For occupational disease, 2 years after disease is readily apparent; diagnosis by a physician qualifies as readily apparent	2 years after death	-If payment has been made, claim may be filed within 2 years of the last payment made pursuant to injury or death. -If employer failed to file a report under 287.380, claims may be filed within 3 years of the injury or death.

State	Statute(s)	Deadline for Injury & Occupational Disease Claims	Deadline for Death Claim	Exceptions
Montana	M.C.A. 39-71-601	12 months after accident For occupational disease, 1 year after date claimant reasonably knew condition was work-related	For occupational disease-related death, 1 year after beneficiary knew or should have known death was related to occupational disease	-Insurer may waive the time requirement up to an additional 24 months upon a reasonable showing by the claimant of a lack of knowledge of disability, latent injury, or equitable estoppel. -If employee is mentally incompetent, or a minor, and without a guardian, limitation period is tolled until guardian is appointed or minor reaches 18 years of age. § 39-71-602
Nebraska	Neb. Rev. Stat. § 48-137	2 years after accident	2 years after death	-If payments have been made, claim may be filed within 2 years after last payment. -If employee suffers from a legal disability, claim may be filed within 2 years of the end of the legal disability.
Nevada	Nev. Rev. Stat. § 617.460(2)	None specifically for injury cases. Notice requirements serve as limits on ability to submit a claim. For occupational disease, 1 year after the date of disability and within 1 year after claimant knew or should have known of the relationship between the disease and employment.	None specifically for injury-related death cases. Notice requirements serve as limits on ability to submit a claim. For occupational disease-related deaths, 1 year after the date of death and within 1 year after claimant knew of the relationship between the disease and employment.	n/a

State	Statute(s)	Deadline for Injury & Occupational Disease Claims	Deadline for Death Claim	Exceptions
New Hampshire	N.H. Rev. Stat. § 281-A:21-a	3 years after employee knew or should have known of nature of the injury and its possible relationship to the employment	3 years after beneficiary knew or should have known of nature of the injury and its possible relationship to the employment	n/a
New Jersey	N.J.S.A. 34:15-51 N.J.S.A. 34:15-34	2 years after accident 2 years after date employee knew the nature of the disability and its relation to the employment	n/a	-If compensation has been paid, claim may be filed within 2 years after the employer's failure to make payment, except repair or replacement of prosthetic devices shall not be construed to extend the time for filing.
New Mexico	N.M.S.A. §52-1-31.	1 year after the failure or refusal of employer or insurer to pay compensation	1 year after death	-Limitations period may be tolled while the claimant remains employed by employer, but no more than 1 year.
New York	NY CLS Work Comp § 28	2 years after injury 2 years after disablement and after claimant knew or should have known that the disease is or was due to the nature of employment.	2 years after death	-No case in which advance payment is made shall be barred by the failure of the employee or his dependents to file a claim, and the board may at any time order a hearing on any such case in the same manner as though a claim for compensation had been filed.
North Carolina	N.C.G.S.A. § 97-24 N.C.G.S.A. § 97-58	2 years after accident For occupational disease, 2 years after disability or disablement	2 years after death For radiation-related death, 2 years after date upon which employee first	-If payment has been made, claim may be filed within 2 years of last payment.

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(North Carolina cont'd)		For radiation injury, 2 years after date upon which employee first suffered incapacity from exposure to radiation and knew or should have known that the disease was caused by employment	suffered incapacity from exposure to radiation and knew or should have known that the disease was caused by employment	
North Dakota	N.D.C.C. § 65-05-01	1 year after date a reasonable person knew or should have known that the employee suffered a work-related injury and has lost wages or received medical treatment	2 years after death	n/a
Ohio	R.C. § 4123.84 R.C. § 4123.85	1 year after injury For occupational disease, 2 years after disability due to the disease began, or within such longer period as does not exceed 6 months after the diagnosis of the occupational disease by a licensed physician	1 year after death For occupational disease-related death, 2 years after death	Every employer must forward a report, detailing their information and the information regarding the injury, to the Bureau of Workers' Compensation within a week of acquiring knowledge of the injury or diagnosis or death from the occupational disease. Each day that the employer fails to file this report constitutes an additional day for filing of the claim under the requisite statute of limitations, provided the failure to file the report will not extend the statute of limitations for more than two additional years.

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Oklahoma	85A Okl. St. Ann. § 69	<p>1 year after date of injury</p> <p>For occupational disease, 2 years after the last injurious exposure.</p> <p>For silicosis or asbestosis, 1 year after the time of disablement, and the disablement shall occur within 3 years from the date of the last injurious exposure.</p> <p>For radiation, 2 years after the date the condition is made known to employee following examination and diagnosis by medical doctor.</p>	2 years after death	- For claims where indemnity and/or medical benefits have been paid, <i>See</i> 85A Okl. St. Ann. § 69(B)(1) "In cases in which any compensation, including disability or medical, has been paid on account of injury, a claim for additional compensation shall be barred unless filed with the Commission within one (1) year from the date of the last payment of disability compensation or two (2) years from the date of the injury, whichever is greater."
Oregon	O.R.S. § 656.807	<p>For injury, must give notice to employer within 90 days of accident</p> <p>For occupational disease, 1 year after worker first discovered or should have discovered the occupational disease or 1 year after the worker becomes disabled or is informed by a physician about the disease, whichever is later</p>	For occupational disease-related deaths, 1 year after beneficiary discovered or should have discovered the death was caused by occupational disease	n/a
Pennsylvania	77 P.S. § 602	3 years after injury	3 years after death	-Sections 108 and 301 of the Pennsylvania Workers' Compensation Act have 300-week and 600-

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(Pennsylvania cont'd)				week limitations that come into play for occupational disease and firefighter claims.
Rhode Island	R.I. Gen. Laws §28-35-57	2 years after occurrence or manifestation of injury or incapacity	2 years after death	<p>-If employee is physically or mentally incapacitated, claim may be filed within 2 years after death or removal of physical or mental incapacity.</p> <p>-For a latent or undiscovered physical or mental impairment due to injury or disease, the time for filing shall not run until the claimant knew or should have known of the impairment and its relationship to the employment or after the disablement, whichever is later.</p> <p>-If weekly compensation benefits have been paid and employer failed to file the required notices, time limitation is waived.</p>
South Carolina	S.C. Code Ann. § 42-15-40	<p>2 years after accident</p> <p>For occupational disease, 2 years after employee has been diagnosed definitively and has been notified of the diagnosis</p> <p>For repetitive trauma, 2 years after employee knew or should have known his injury is</p>	2 years after death	n/a

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(South Carolina cont'd)		compensable but no more than 7 years after the last exposure		
South Dakota	SDCL § 62-7-35 SDCL §§ 62-8-11	2 years after the insurer notifies the claimant and the department in writing that it intends to deny coverage in whole or in part For occupational disease, 2 years after claimant becomes disabled from such disease	2 years after the insurer notifies the claimant and the department in writing that it intends to deny coverage in whole or in part For occupational disease-related death, 2 years after death	-If benefits have been paid, claim may be filed within 3 years of last payment. § 62-7-35.1
Tennessee	T.C.A. § 50-6-203(b)	1 year after accident	1 year after death	-If payments have been made, claim may be filed within 1 year of last payment or treatment. -If employee is physically or mentally incapacitated, claim may be filed within 1 year of end of incapacity.
Texas	V.T.C.A., Labor Code § 409.003	1 year after injury If occupational disease, 1 year after employee knew or should have known that the disease was work-related	1 year after death	n/a
Utah	U.C.A. § 34A-2-407 U.C.A. § 34A-2-903	Must report injury to employer or Commission within 180 days of injury	1 year after death, and death must occur within 6 years of date of first disability or injury	n/a
Vermont	21 V.S.A. § 656	6 months after date that the relationship between the injury or disease and employment is	6 months after date of death, unless claimant had made a	-If employee is incompetent or a minor and lacks a guardian,

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(Vermont cont'd)		reasonably discoverable and apparent	claim for compensation prior to death	the limitations period shall not run.
Virginia	<p>V.A. Code Ann. § 65.2-601</p> <p>V.A. Code Ann. § 65.2-406(A)</p>	<p>2 years after accident</p> <p>For coal miners' pneumoconiosis, 3 years after diagnosis is communicated or 5 years after last injurious exposure, whichever comes first</p> <p>For byssinosis, 2 years after diagnosis is communicated or 7 years after last injurious exposure, whichever comes first.</p> <p>For asbestosis, 2 years after diagnosis is communicated.</p> <p>For HIV, 2 years after a positive test for HIV.</p> <p>For diseases directly attributable to the 9/11 rescue and relief efforts at the Pentagon, 2 years after diagnosis is communicated.</p> <p>For all other occupational diseases, two years after diagnosis is communicated or 5 years after last injurious exposure, whichever comes first.</p>	<p>2 years after death from injury</p> <p>For disease-related death, 3 years after death</p>	n/a

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Washington	R.C.W.A. 51.28.050 R.C.W.A. 51.28.055	1 year after injury For occupational disease, 2 years after worker receives notice from physician or nurse practitioner of the existence of the disease and that a claim for disability may be filed. For hearing loss, 2 years after last injurious exposure.	1 year after beneficiaries' rights accrue	n/a
West Virginia	W. Va. Code § 23-4-15	6 months after injury For occupational pneumoconiosis, 3 years after last day of last continuous period of 60 days during which employee was exposed to the hazards, or 3 years after a diagnosis was communicated. For other occupational disease, 3 years after last exposure or 3 years after diagnosis was communicated or the employee should have reasonably known	6 months after death For pneumoconiosis-related death, 2 years after death For occupational disease-related death, 1 year after death	n/a
Wisconsin	Wis. Stat. §102.17(4)	12 years after injury For occupational disease, there is no filing deadline.	12 years after death	-If compensation, other than for treatment or burial expenses, has been paid, claim may be filed within 12 years of last payment. In the case of traumatic injury, within 6 years of last payment.

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(Wisconsin cont'd)				<p>-If beneficiary will not reach 18 years of age by the end of the limitations period, the period may be extended 1 year after beneficiary turns 18.</p> <p>-If in any part of the last year of the limitations period, the employee or beneficiary is insane or on active duty with the U.S. armed forces, the period of limitation shall be extended to 2 years after the limitation would otherwise expire</p>
Wyoming	W.S. § 27-14-503	<p>1 year after injury or 1 year after injury is discovered by employee</p> <p>For injury which occurs over a substantial period of time, 1 year after diagnosis is communicated or 3 years after the last injurious exposure.</p> <p>For ionizing radiation, 1 year after diagnosis is communicated.</p>	For ionizing radiation-related death, 1 year after death if diagnosis was not communicated prior to death.	-If employee or beneficiary is mentally incompetent or a minor, no limitations period shall run so long as employee or beneficiary lacks a guardian.