

**LOCAL 1908**

**ATTORNEY'S OUTLINE FOR**

**APPEAL PROCESS**



- 1. Nevada Workers' Compensation Law for Firefighters**
- 2. Notice of Injury or Occupational Disease (Incident Report Form C-1)**
- 3. Claim for Compensation (Form C-4)**
- 4. Physicians Disability Statement (PDS)**
- 5. Medical Treatment**
- 6. Local 1908 assistance with denied Workers Compensation claims, how the appeal process works**
- 7. Temporary Total Disability (TTD)**
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- 11. ARTICLE 31 Long Term Disability**
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(1) Nevada Workers' Compensation Law for Firefighters

The governing laws that apply to all employees in Nevada with work-related injuries and occupational diseases are found in Nevada Revised Statutes (NRS) Chapters 616 A thru 616 D, and NRS Chapter 617. Those laws are supplemented with regulations contained in the Nevada Administrative Code (NAC), Chapters 616 A thru 616 D and NAC Chapter 617. Workers' compensation laws in Nevada may change every two years when the Nevada legislature meets.

Interpretations of the existing law may be published by the Nevada Supreme Court through case decisions. Therefore, please verify that the law or the application of the law has not changed from the time this booklet was written (12/2021). Secondly, please keep in mind that this booklet is intended as a general overview of workers' compensation law for firefighters. It is not intended as legal advice from Local 1908 to individuals with an existing or a potential workers' compensation claim.

Laws other than workers compensation statutes may also apply when a firefighter has a work injury, such as the Federal Family Medical Leave Act (FMLA), and the Americans with Disabilities Act (ADA). Depending on the employer and depending on the applicable bargaining agreement with the employer, a firefighter may also be entitled to additional retirement benefits for a career-ending work injury. Think of Nevada workers' compensation laws as minimum entitlements; firefighters with work injuries or occupational diseases should explore all sources for any greater benefits.

Firefighters in Nevada have several special workers' compensation laws (some are applicable to police officers as well) that address industrial insurance coverage for heart disease, lung disease, cancer, contagious diseases, tuberculosis, and hepatitis.

- (2) Notification of Accidental Injury or Occupational Illness (Form C-1): If an employee suffers an injury while on duty or they have been given a diagnosis or an occupational disease they must submit a C-1 form to their supervisor within seven (7) days of the accident or diagnosis. This form is the notification of injury and does not start the claim itself. The claim is started with the

C4 form.

- (3) Claim for Compensation (Form C-4): Whenever initial medical treatment is sought the employee must fill out the C-4 form, the top half is the employee, and the bottom half must be filled out by the provider. Clark County prefers that an injured employee seek initial treatment at the Wheeler Peak UMC quick care if possible. They have the forms on site and do a good job getting the relevant information on the form. If you do go somewhere else (emergency room another UMC quick Care or if you live out of town) and your physician does not have a copy of the C4 form, you can find one on the 1908 app or online by searching *State of Nevada C4 form*. A completed "Claim for Compensation" (Form C-4) must be filed within 90 days after an accident, or the initial submission of the C-1 form.
  
- (4) Physician Disability Statement form (PDS): After your first medical evaluation, usually at Wheeler Peak, you will be given a PDS form completed by the physician which indicated what your work status will be. The options are "Return to Regular Work", "Modified Duty" and "Off Work" and each will need to be filled out by the provider indicating the dates the restrictions expire or what the restrictions are. This is the form that the County uses to adjust your pay status for the work injury, and it is essential that you get one filled out after each physician visit.
  
- (5) Medical Treatment: If you require medical treatment for your on-the-job injury or OD, you will need to select a physician or health provider from a list supplied by your workers' compensation insurer. This typically takes place after claim acceptance and once your claim is accepted all medical costs related to the treatment for industrial injury or OD will be paid by your insurer. Remember, you must use a provider from the accepted list, CorVel has an accepted provider list and will not pay for any treatment outside of their network.
  
- (6) Local 1908 assistance with denied Workers Compensation claims, how the appeal process works

Local 1908 has a relationship with a workers compensation attorney and does consult with the attorney office for guidance as needed. If a member's claim is complicated or needs direct oversight from the attorney, the case will be referred to the attorney office for adjudication. The

union will pay the hourly rate for the attorney to work on the case until it has been accepted or until the attorney believes there is no benefit in continuing the case to a higher court. The member will be assigned a Workers compensation manager (WCM) to oversee the member's case. The WCM will be the first line of contact if the member has any questions pertaining to their worker compensation case. At no time will the member contact the Attorney without prior authorization from the WCM. If in the event the member contacts the Attorney without prior authorization the member shall forfeit all obligations for an Attorney through Local 1908.

**Appeal Process Hearings Division:** If you disagree with a written determination issued by the insurer or the insurer does not respond to your request, you may appeal to the Department of Administration, Hearings Division by following the instructions contained in your determination letter. You must include the denial letter with a statement as to why you are appealing the decision, a simple statement like "I disagree with the determination dated XXX" is sufficient. You must appeal the determination within 70 days from the date of the determination letter at 1050 E. William Street, Suite 400, Carson City, Nevada 89701, or 2200 S. Rancho Drive, Suite 210, Las Vegas, Nevada 89102. Please keep a copy of the letter as proof of the submission. If you drop off the appeal letter in person, ask for a time stamp on your copy as well. You will have an opportunity to explain your situation to a Hearings Officer and they will decide based on the facts you present and how they pertain to the applicable NRS statutes.

**Appeals Officer Hearings:** If you disagree with the determination of the Hearing Officer you may file to have your claim reviewed by an Appeals Officer. For this step in the process, you need to be represented by an attorney or you can present the case yourself. Your union cannot represent you at this level of hearing. You must file your appeal within 30 days from the date of the Hearing Officer Decision letter at 1050 E. William Street, Suite 450, Carson City, Nevada 89701, or 2200 S. Rancho Drive, Suite 220, Las Vegas, Nevada 89102. If you disagree with a decision of an Appeals Officer, you may file a petition for judicial review with the District Court. You must do so within 30 days of the Appeal Officer's decision. You may be represented by an attorney at your own expense or you may contact the NAIW for possible representation.

***For all cases which exceed the HO/AO level the Worker Compensation case will be reviewed by the executive board for approval to move forward as a union paid claim. If the executive***

***board does not approve to continue paying the attorney, the member has an option to hire their own attorney for continued representation.***

- (7) Temporary Total Disability (TTD): If your doctor has certified that you are unable to work for a period of at least 5 consecutive days, or 5 cumulative days in a 20-day period, or places restrictions on you that your employer does not accommodate, you may be entitled to TTD compensation. This portion of your compensation is covered by your collective bargaining agreement.
- (8) Temporary Partial Disability (TPD): If the wage you receive upon reemployment is less than the compensation for TTD to which you are entitled, the insurer may be required to pay you TPD compensation to make up the difference. TPD can only be paid for a maximum of 24 months. This portion of your compensation is covered by your collective bargaining agreement.
- (9) Permanent Partial Disability (PPD): When your medical provider determines that your condition is “stable and ratable” this becomes the trigger for your PPD rating appointment. Within 30 days, your insurer must arrange for an evaluation by a rating physician or chiropractor to determine the degree of your PPD. The amount of your PPD award depends on the date of injury, the results of the PPD evaluation and your age and wage.
- (10) Permanent Total Disability (PTD): If you are medically certified by a treating physician or chiropractor as permanently and totally disabled and have been granted a PTD status by your insurer, you are entitled to receive monthly benefits not to exceed 66 2/3% of your average monthly wage or 66 2/3% of the maximum monthly wage as determined by the state of Nevada. The amount of your PTD payments is subject to reduction if you previously received a PPD award.
- (11) ARTICLE 31 Long Term Disability (Collective Bargaining Agreement)
1. The County shall, by insurance or otherwise, provide protection against the hazards of death or permanent disability suffered in the line of duty during work hours.
    - a. The death benefit shall be equal to two (2) years of annual compensation, including the

annual base salary as provided in Appendix B of this Agreement, longevity, premium pay, holiday pay, and insurance and retirement contributions. This amount shall be paid in a lump sum payment to the employee's named beneficiary.

**b.** The disability benefit shall be sixty percent (60%) of the employee's annual salary (base pay, longevity, premium pay and holiday pay) reduced by income received by the employee, from regular or disability pension benefits and workers' compensation disability benefits. This disability benefit shall begin the day following an elimination period equivalent to the number of sick leave shifts the employee is compensated for upon separation. The employee shall receive this disability benefit in monthly installments until the age of sixty-five (65) unless the employee is subsequently employed in the same occupation held at the time of the application for benefits for this Article.

**2.** To qualify for the disability benefit, the following procedures shall be adhered to:

**a.** An employee must submit an application package to Clark County Human Resources within six (6) months from: 1) the time of injury, or 2) discovery through examination. The six (6) month period is defined as calendar days. This application package shall include the physician's report of disability, a list of doctors the employee has seen concerning the disability and a signed release of medical records enabling County personnel to obtain records from the listed doctors.

**b.** The County shall send, within ten (10) calendar days after receiving the application packet, a copy of the employee's release of medical records form to each doctor designated by the employee requesting copies of all medical records.

**c.** There shall be two (2) doctors independently selected, one by the employee and one by the County. The employee shall notify Clark County Human Resources within ten (10) calendar days from the date of application for Article 31 benefits of the doctor he/she has selected and has verified shall issue a report of his/her eligibility for long-term disability benefits.

**d.** The county shall send, within ten (10) calendar days after receiving all medical records, a complete packet to both doctors for review and evaluation.

**e.** If the reports from the two (2) doctors are in conflict, these two doctors shall select a third doctor to make an independent determination. This third doctor shall not receive the evaluative reports from the first two doctors. The employee's eligibility for long-term disability benefits provided by this Article shall be determined by two consistent medical reports. The decision

based on the two consistent medical reports is final and binding on the parties, and not subject to the arbitration procedure. Each doctor shall send copies of their final reports to the Union and to the County. The employee and County shall equally pay for all costs incurred in this process, including all medical

Examinations of the employee and time devoted to overall evaluation of the case.

**3. A.** If any two (2) of these doctors determine that an employee can return to his/her current position, he/she shall be required to do so, and not be eligible for Article 31 benefits under the application submitted for this injury.

**B.** If any two (2) of these doctors determine that an employee cannot perform the duties of his/her current position but can perform the duties of Administrative Fire Fighter, Administrative Fire Engineer, Fire Inspector, Fire Training Instructor, or Administrative Fire Captain, a position shall be offered to that employee by the Fire Chief, without reduction of salary or benefits for a two (2) year period. If the employee does not perform the duties under these conditions, the employee is not entitled to Article 31 benefits. If the employee accepts the position, after the two (2) year period the employee's salary and benefits shall be converted to the salary and benefits provided by this Agreement for the classification and work schedule he/she is working. Therefore, on the first day after the two (2) years in this position, the employee must be converted to 8 or 10- hour benefits. If any two (2) of these doctors determine that an employee cannot perform the duties of Administrative Fire Fighter, Administrative Fire Engineer, Fire Inspector, Fire Training Instructor or Administrative Fire Captain, the employee shall be entitled to the monetary benefits of Article 31. The County shall send, within ten (10) calendar days after receiving two (2) such doctor's reports, a letter summarizing the benefit award. Once Clark County Human Resources notifies an employee of the benefits payment options, the employee must separate from County employment within forty-five (45) calendar days if not already separated. If the employee fails to provide the County with the appropriate information within the time limitations as specified in this Article, the employee shall no longer be authorized vacation or sick leave compensation.

**4.** If mutually agreed before a deadline, either Clark County Human Resources or the Union may request, in writing, an extension of the time limitations specified in this Article. **5.** Employees who have applied for the Article 31 benefit prior to February 1, 2011, and were approved for the Article 31 benefit prior to or after the effective date of that agreement, but who have not yet



received such benefit as of February 1, 2011, are eligible to receive either the current benefit, or the prior benefit in place as of January 31, 2011, but not both. The choice of benefit is the employee's and shall be made in writing to the Human Resources Department within 15 calendar days from February 1, 2011. 6. Employees who apply for the Article 31 benefit after February 1, 2011 shall be eligible for the award described in this article.

(12)Vocational Rehabilitation Services: You may be eligible for vocational rehabilitation services if you are unable to return to the job due to a permanent physical impairment or permanent restrictions as a result of your injury or occupational disease.

(13)Retiree health insurance offered from your health trust (1908): You will need to speak with one of the employees at the Insurance trust office to go over your options to continue coverage through the Clark County Firefighters Union Local 1908 Security Fund.

