

The WCA Ombudsman Program (§52-5-1.4 NMSA)

The ombudsmen of the New Mexico Workers' Compensation Administration (WCA) are people who provide information and assistance to injured workers and anyone else who needs help understanding a workers' compensation claim.

WCA ombudsmen are specialists in the workers' compensation claims process, who can explain how the system works and provide information on your rights and responsibilities under the workers' compensation law.

“Ombudsman” is a word from Europe. It means a government official who investigates problems and helps resolve them, without taking one side or another.

If you are having any problem with a workers' compensation claim, you can call the ombudsman program **unless you have a lawyer**. Usually it is best to speak to an ombudsman on the telephone. This service is free. ***If you come in person it is best to make an appointment so that you are sure an ombudsman is available to help you.***

The ombudsmen can help to resolve some kinds of disputes, especially if the dispute is mostly a problem of communication. The ombudsmen may be able to tell you what you can do, or they may contact the other party and attempt to resolve your problem. Many disputes are really communication problems and an ombudsman can help to resolve them with a few phone calls.

In the past, a worker who needed help with a workers' compensation claim usually had to hire a lawyer. Since the WCA started the ombudsman program, hiring a lawyer is still necessary sometimes, but not as often.

Ombudsman calls are confidential

The ombudsmen will contact another party about your case only if you give permission. The ombudsman will not discuss your call with any outside parties unless you give permission.

The ombudsman will ask for your name and other information. But if you want to ask questions without giving your name, you can.

The WCA treats injured state employees the same as any other workers and treats representatives from the state Risk Management Division the same as any other claims representatives.

If the ombudsman cannot help you resolve your dispute, your next step may be to file a complaint with the WCA. The ombudsman can provide the forms for you and help you fill them out.

Before you call an ombudsman

The ombudsman will be able to help you much faster if you have some information available when you call. Go to the “Worker Checklist” below and write down the information you have.

Worker checklist for contacting an ombudsman

DO YOU HAVE AN ATTORNEY FOR YOUR CLAIM?

If **yes**, the WCA ombudsman cannot help you. According to the Workers' Compensation Law an ombudsman can only help people who are not represented. Please contact your attorney for help.

IF YOU DO NOT HAVE AN ATTORNEY

Before you call an ombudsman to help you with a claim, write down the information on this form so that the ombudsman can answer your questions and help you faster.

1. Your name		
2. Date of your accident		
3. Your social security number		
4. Your claim number		
5. Part of body injured		
6. Nature/Type of injury		
7. Employer's (company) name		
8. Name of your manager or supervisor		
9. Name of employer's workers' compensation insurer		
10. Name of adjuster (claims representative) handling your claim		
11. Has the doctor taken you off work because of your injury?	YES	NO
12. If so, what dates were you off work?		
13. Has the doctor released you to return to work?	YES	NO
14. If so, have you returned to work?	YES	NO
15. Have you been told by the doctor that you have reached maximum medical improvement?	YES	NO
16. If so, what date?		
17. Have you been given an impairment rating?	YES	NO

Ombudsman or lawyer?

When should you call an ombudsman, and when should you look for a lawyer to represent you?

Reasons to call an ombudsman:

The ombudsman will give you information that might explain your issue and give you guidance as to the simplest way to solve your problem.

If you have a problem that can be solved simply, without any formal legal process, the ombudsman will help you to do that.

The ombudsman services are free of charge.

If you hire a lawyer, the ombudsman will not be allowed to talk to you.

Reasons to contact a lawyer:

If a lawyer takes your case, the lawyer will interpret the law in the way that is most advantageous for you, and will work on your behalf.

A lawyer can negotiate on your behalf with the insurer or self-insurance program.

If you believe you have a legal right to benefits you are not receiving (medical or indemnity or both) or other serious dispute with your claims representative, a lawyer can act as your representative in resolving the issues.

The lawyer is not allowed to take any money from you until your claim is resolved, except a small amount to cover expenses such as copying and mailing costs.

Ombudsmen provide help to anyone

The ombudsmen of the WCA are available to receive calls and answer questions from any party in a workers' compensation matter. They can also answer general questions about workers' compensation claims. While most calls are from injured workers, they also help employers and other parties involved in workers' compensation matters.

The ombudsmen can pass information on to other bureaus of the WCA. Some types of information that could be reported to other bureaus for appropriate action:

- A business that you believe doesn't have workers' compensation coverage even though it is required to;
- An employer or insurance company that you believe may be engaging in unfair practices regarding workers' compensation claims or injured workers;
- A worker who you believe may be committing fraud by claiming workers' compensation benefits to which he is not entitled.

If you need help with any question about workers' compensation and do not know which bureau to call, call the ombudsmen first at the office closest to where you live, or the WCA HELPLine at 1-866-WORKOMP / 1-866-967-5667.