

In every type of legal claim, the law sets a deadline by which claims must be pursued. Referred to as the statute of limitations, the purpose of this deadline is to protect parties from having to defend themselves against claims where evidence may no longer be available. For claimants, understanding how this statute of limitations applies to their claim is critical because failing to file within the statute of limitations results in a total loss of their rights. Workers' compensation claims are also subject to a statute of limitations under North Carolina law, but understanding how it will apply in each case can be difficult. If you have questions about the statute of limitations in your case, a [workers' compensation attorney](#) can provide you with guidance.

The Statute of Limitations in North Carolina Workers' Compensation Claims

The statute of limitations for workers' compensation claims in North Carolina is two years. If you do not file your workers' compensation claim within two years, you will lose all of your rights to workers' comp benefits regardless of the strength of your claim. In other words, unless you file within two years, you will be unable to recover your medical expenses or lost income. This sounds straightforward but can become difficult depending on the nature of your claim.

Injuries Caused by Accidents at Work

The statute of limitations is the easiest to understand in injury claims that arise from accidents that occur while on the job. For example, a [construction worker](#) who suffers serious injuries in a scaffolding collapse would be entitled to workers' compensation benefits. In order to get their benefits, they must file their claim with the North Carolina Industrial Commission (NCIC) ***within two years of the date of the accident.***

If the scaffolding collapse occurred on July 15, 2022, the worker has until July 15, 2024, to file their claim. If they do not file by that date, they will lose all of their rights to workers' compensation benefits.

Work-Related Illnesses

Workers' comp claims based on work-related illnesses are more complicated. Whereas a single, easily identified event causes most injury claims, work-related illnesses are typically caused by years of exposure to toxic substances or other hazardous environmental conditions. As a result, there is no single identifiable event that caused the illness. For workers' comp claims based on work-related illnesses, workers must file their claims with the NCIC ***within two years of whichever is later***:

1. The date you were diagnosed with your illness; or
2. The date that you first became disabled as a result of your illness.

Here are a couple of examples to illustrate how the statute of limitations would apply:

- Mary worked in an office building that was discovered to contain asbestos. She was diagnosed with [mesothelioma](#) on January 25, 2020. Despite her diagnosis, she was able to keep working until May 26, 2021, when she had to retire in order to focus on her treatment. The statute of limitations would begin to run from May 26, 2021 and lapsed on May 26, 2023.
- Juan worked in a factory. Due to poor ventilation, he was exposed to [toxic fumes](#) on a daily basis for several years. Juan retired from his job on March 3, 2019. Shortly after retirement, he began experiencing a variety of health problems and respiratory illnesses. His condition quickly deteriorated and he was eventually diagnosed with lung cancer on October 17, 2020. In Juan's case, the statute of limitations would run from the date of his diagnosis.

All of that said, some illnesses can be caused by isolated events. In those cases, workers should assume that the statute of limitations operates the same as it does with regard to injuries caused by accidents. Workers' compensation claims based on illnesses can be very complex. To make sure your rights are protected, we strongly urge workers to contact an experienced workers' compensation attorney as soon as you think you may have a claim.

"Specific Traumatic Incident" Injuries and Conditions

Some injuries and conditions are not the result of accidents. Instead, they are the result of long-term wear and tear on the body. Repetitive use injuries (RUIs) such as back or knee injuries are an example of these types of injuries. A worker may suddenly suffer a back or knee injury while performing a routine task that leaves them unable to work. Because the worker was not injured in an accident, North Carolina law will look to a "specific traumatic incident" for the purposes of applying the statute of limitations.

Don't Confuse Your Obligation to Report with the Statute of Limitations

North Carolina law requires employees to report their injury or illness to their employer as soon as possible but no later than 30 days. Failure to report your injury or illness to your employer could jeopardize your benefits, even if you file your claim within the statute of limitations.

More importantly, do not assume that reporting your injury or illness to your employer satisfies your obligations under the statute of limitations. These are two independent deadlines.

Don't Assume That Your Claim Is Being Handled

In most cases, the workers' compensation claim process proceeds with little involvement from the worker. They report their injury or illness and then their employer files the necessary paperwork with the NCIC. However, you should not assume that this is happening. Claims can fall through the cracks. Employers sometimes mistakenly believe that they decide who is entitled to benefits. If you don't know what is happening with your claim or your employer is dragging their feet, do not hesitate to reach out to a workers' compensation attorney.

Talk to a Workers' Compensation Attorney at Martin & Jones Today

Most workers can't afford to wait two years to get their benefits. If you are unable to work due to an injury or illness you suffered on the job, we can help you get your workers' comp benefits as quickly as possible. Call us today at 800-662-1234 or [contact us online](#) to schedule a free consultation to discuss your options and how we can help.