

# What is the Fishermen's Fund?

Taken from Department of Labor web site: <http://labor.state.ak.us/wc/ffund.htm>

## Table of Contents

- What is the Fishermen's Fund?
- Qualifying for Benefits
- How to File and Avoid Delays
- Primary Insurance Considerations
- Approvals, Denials, Appeals
- What is Covered?
- To Whom Are Benefits Paid?
- Requesting More Benefits/Time
- Compelling Reasons Questionnaire (PDF)
- Appendix A—Alaska Statutes – Title 23 (not included here)
- Appendix B—Administrative Code – Chapter 55 (not included here)
- Appendix C—Vessel Owner/Crewman Agreement (PDF) (not included here)

## What is the Fishermen's Fund?

Established in 1951, the Fishermen's Fund provides for the treatment and care of Alaska licensed commercial fishermen who have been injured while fishing on shore or off shore in Alaska.

Benefits from the Fund are financed from revenue received from each resident and nonresident commercial fisherman's license and permit fee.

The Commissioner of Labor and Workforce Development oversees administration of the program with the assistance of the Fishermen's Fund Advisory and Appeals Council.

The council is composed of the Commissioner or his designee, who serves as chairman, and five members appointed by the Governor.

## Qualifying for Benefits

Crewmembers with injury or illness directly connected to operations as a commercial fisherman must hold valid commercial fishing licenses or limited entry permits before the time of injury or illness to qualify for benefits. Note: Eligibility of a limited entry permit holder is based on the embossed date of the permit, not the date on which it was paid or when payment was received.

Onset of injury or illness must be onshore in Alaska or on Alaska waters.  
Initial treatment must be received within 60 days after onset of injury or illness.  
An application must be submitted within one (1) year after initial treatment.  
Each treatment must be documented by a medical chart note and submitted.

# What is the Fishermen's Fund?

Taken from Department of Labor web site: <http://labor.state.ak.us/wc/ffund.htm>

## How to File and Avoid Delays

It is the fisherman's responsibility to see that a claim is filed. If the medical provider agrees to file a claim with your insurance company, the Fishermen's Fund, or a federal program such as Medicare, Veterans' Affairs, or the Indian Health Service, it remains the responsibility of the fisherman to see that the claim is complete and filed appropriately.

### Immediately following an injury or illness:

Tell the appropriate medical facility personnel that two reports must be completed:

- Fisherman's Report of Injury or Illness
- Physician's Report of Injury or Illness

The fisherman and physician must each fully complete their respective report. These two reports need be completed only once, by the fisherman upon his initial treatment, and by the initial treating physician. All items must be answered and comments provided. (The reports are printed back to back and included in the center of this booklet. They are also available from most doctors, hospitals, clinics, and some harbormaster offices in Alaska, as well as from the Fishermen's Fund.)

### Fishermen's Fund Fisherman's Report

Completing the Report:

- Attach copy of crewmember license or limited entry permit. A copy of the valid license or permit accompanying your application will expedite your claim as much as two to four months. (#10.)
- Note the vessel owner's Protection and Indemnity (P&I) deductible. (#12.)
- Note whether insured by health insurance or covered by a public program such as Medicare, Veterans Administration (VA), Indian Health Service (IHS). (#13.)
- Describe in detail injury or illness and how it was directly connected with commercial fishing. (#14.)
- Be specific as to the geographic location where injury or illness occurred, such as nearest landmark, miles or hours from a reference point. Give latitude and longitude if known. (#15.)
- Sign and date application. (#19.)
- Submit the reports immediately. The Fisherman's Report is considered the fisherman's application for Fund benefits.
- Include a permanent mailing address and advise of address changes. Benefits may be denied if you do not receive and respond to an inquiry.

Please respond completely and promptly. Failure to do any of the above can delay your claim.

# What is the Fishermen's Fund?

Taken from Department of Labor web site: <http://labor.state.ak.us/wc/ffund.htm>

## **When do the Fund's benefits kick in?**

The Fund is an emergency fund payer of last resort, which means that benefits are awarded only after full consideration of other coverage from private health or vessel insurance, and public programs, including Veterans' Affairs or Medicare. (Medicaid is an exception.)

## **Processor Activities and Processor/Tender Vessels**

A worker whose injury or illness is directly connected to a processing activity does not qualify for Fund benefits, but may be covered under Workers' Compensation.

A fisherman on a freezer or troller vessel who becomes injured or ill as a result of processing activities related to freezing the product would generally not be covered.

However, a fisherman injured or becoming ill on a tender vessel is usually covered unless the incident was directly connected to processing activities.

## **Withdrawing an Application**

Withdrawing an application requires a written request from the applicant fisherman and must be reviewed by the Fishermen's Fund Advisory and Appeals Council.

## **Primary Insurance Considerations**

If you have medical insurance, the Fund must have a written statement—Explanation of Benefits (EOB)—verifying you have filed a claim for each of your medical expenses with your health insurance carrier.

## **Vessel or Site P&I (Protection and Indemnity) Insurance**

If the fisherman applicant does not indicate the P&I deductible on the application, a Report of Vessel or Site Insurance will be requested to verify whether P&I coverage exists, and if so, the amount of the deductible and the name of the vessel owner's insurance carrier or adjuster. If the deductible is unknown, benefits will be limited to \$2,500.

If expenses exceed, or will be expected to exceed, the deductible under a vessel owner's P&I policy, the fisherman applicant must file with the vessel owner's insurance carrier. These expenses are usually covered under the P&I policy. Expenses not covered should be submitted to the Fishermen's Fund. Otherwise, eligible expenses paid from the Fund which exceed the P&I deductible will be recovered under 8 Alaska Administrative Code (AAC) 055.010 (e) and by exercising subrogation rights under 8 AAC 055.035.

The vessel owner's deductible payment to the insurance company is considered a contribution to the insurance liability covered under the policy and is not recoverable from the Fishermen's Fund.

A vessel owner who pays for transportation or medical expenses for the injured or ill fisherman may be reimbursed if an agreement exists verifying that the employer advanced the money or paid any medical treatment on their behalf. A crewmember may be reimbursed if there is verification that the employer deducted the payments directly from wages due the injured or ill fisherman. Reimbursement cannot be made without the above supporting information.

# What is the Fishermen's Fund?

Taken from Department of Labor web site: <http://labor.state.ak.us/wc/ffund.htm>

Alternatively, the injured or ill fisherman and the vessel owner may complete the Vessel Owner–Crewmember Agreement, both signing to attest their understanding that the expenses paid by the owner were paid as a loan to the crewmembers. The wording of the form may be revised to fit the circumstances. There is no assurance this agreement in any way complies with marine law. (Agreement in Appendix C)

## **Indian Health Service (IHS ) Beneficiaries**

- A fisherman who is eligible to receive direct care services from an IHS facility is expected to utilize these services when possible. In the event that an IHS recipient chooses not to use an IHS facility when it is available, the fisherman must justify to the Council his/her reason for not using the IHS facility.
- The Fund covers (pays for) services for IHS eligible individuals for items and services that are not covered by IHS; i.e., eyeglasses, chiropractic care, and dentures, if a legitimate claim is filed. However, direct care services that are covered by the IHS are not eligible for benefits from the Fund.
- If an IHS facility makes a referral to another facility that is not an IHS facility, the Fishermen's Fund is responsible for the first \$2,500. The Fund should be provided with a copy of the billing form to pay the claim.
- When a direct care provider is not available, the Fishermen's Fund will pay emergency or urgent care at a non-IHS facility. Limitations on a fisherman's time are taken into consideration when determining "not available."

## **Fishermen's Fund Physician's Report**

Completing the Report:

Questions 1-4 may be answered by attaching medical records and noting, "See attached chart notes."

Questions 5-14 require very little time to complete, and a clerical assistant may answer most of them.

Questions 6 and 7 must be answered by the initial treating physician, to confirm that the injury is directly connected with the commercial fishing operations of the fisherman applicant.

Chart notes or medical records are required, as an attachment to the Physician's Report, but do not substitute for it. The physician may use the "see attached" notation for numbers 2 & 4 on the Physician's Report if the form is signed and the fishing-related questions are answered.

The Physician's Report serves many purposes, such as providing the necessary information in a logical order and concise manner to expedite processing and approvals for payment.

When bills are received for the treatment of an injury or illness for which an application has not been filed, the fisherman and all medical providers will be sent a letter informing them no action can be taken until an application has been filed.

# What is the Fishermen's Fund?

Taken from Department of Labor web site: <http://labor.state.ak.us/wc/ffund.htm>

## **Council Review**

When the Fishermen's Fund administrator cannot immediately approve an application for benefits, it must go before the Fishermen's Fund Advisory and Appeals Council for review. The Council meets twice a year, usually in November and March.

Common reasons for delays that require the Council's review:

1. No response to an inquiry about items on an application.
2. Failure to seek treatment within 60 days of the onset of the injury or illness.
3. No evidence of a license at the time of injury or illness.
4. Injury or illness unrelated or not directly connected to operations of a commercial fisherman in Alaska.

## **Just Cause**

The Council may approve benefits when just cause is demonstrated for the delay in the following circumstances:

- Initial treatment is received more than 60 days after the onset of injury or illness.
- Complete responses to inquiries are not received within 90 days.
- An application was received more than 1 year after the initial treatment.

Just cause for the delay should be explained in writing.

## **Establishing Just Cause for:**

Not Seeking Treatment within 60 Days of Injury or illness

Not Filing within One (1) Year of Initial Treatment

Not Responding to an Inquiry within 90 Days.

Not Responding to an Inquiry for, or Receiving an Explanation of Benefits (EOB) within 180 Days

When a fisherman does not meet the timelines established above, and the Council has determined just cause for the delay exists, the Council may allow the administrator to approve benefits if:

- A written statement is received from a physician or fisherman which: states the late treatment or surgery was necessary to correct injuries or illnesses such as a hernia, carpal tunnel, or musculoskeletal condition; and notes the injury was directly connected to the commercial fishing activity described in the fisherman's application; and states that any delay in treatment was for the purpose of allowing the physician or fisherman to observe whether remedial treatments or time would correct the condition.

# What is the Fishermen's Fund?

Taken from Department of Labor web site: <http://labor.state.ak.us/wc/ffund.htm>

- A letter from the provider (i.e., hospital, medical clinic, etc.) or from an insurance company or public program noting the delay in filing or responding timely was their fault; or,
- Verbal or written evidence from the fisherman applicant that the late filing or response was due to their medical condition, fishing responsibilities, or an emergency requiring the fisherman's attention.

## **Approvals, Denials, Appeals**

Applications must be sent to the administrator.

When a decision indicates, "Your claim cannot be approved by the administrator," it does not mean the fisherman is denied benefits. Often further information is required to enable approval by the administrator, or by law the application requires approval by the Council.

### **Reconsideration or Appeal**

In the event the administrator cannot approve an application, all parties will be notified in writing of the reason. The application will be reviewed and a final determination made at the next meeting of the Fishermen's Fund Advisory and Appeals Council. Parties will be notified of the time and place of the meeting and may submit written information supporting the application or may appear before the Council. A Notice of the Council's decision will be mailed to all parties, usually within four weeks. A decision may be reconsidered or appealed as noted below.

In some cases the Council will deny benefits unless certain conditions are satisfied by a certain time. The fisherman, therefore, must read the Council decision carefully and fulfill all the conditions to assure the best opportunity for approval.

- Under Alaska Statute 44.62.540(a), the fisherman has the right to file a Petition of Reconsideration to the Council within 15 days after the mailing of the decision.
- Under Alaska Administrative Code 8 AAC 055.030(d), the fisherman has the right to appeal the decision of the Council to the Commissioner of Labor within 45 days after receipt of the notice of the decision. The appeal must contain a complete statement of the justification including a description of the relief sought.
- A request for reconsideration or appeal must be in writing, signed by the claimant, and filed by mail or in person at the Office of the Commissioner, Department of Labor and Workforce Development, PO Box 111149 (1111 West 8th Street), Juneau, AK 99811. Otherwise, the Council decision is final.

### **What is Covered**

Related costs of transportation, medical care, hospitalization, prescriptions, therapy, and chiropractic care will be paid for an occupational injury or illness if it is "directly connected with operations as a commercial fisherman" in Alaska waters or on shore preparing or dismantling boats or gear used in commercial fishing.

# What is the Fishermen's Fund?

Taken from Department of Labor web site: <http://labor.state.ak.us/wc/ffund.htm>

Those costs noted above that are necessitated by a cardio-vascular disease may be paid if "attributable, directly or indirectly, to the fishing endeavor" (AS 23.35.080). A fisherman is also entitled to "such assistance after discharge from the hospital during period of convalescence as allowed in consideration of the condition of the Fund" (AS 23.35.090).

The total allowance for any one heart attack is \$2,500.

**Covered Injuries or Illnesses.** Occupational illnesses or diseases which may be covered include: hernias, varicose veins of the leg; rheumatism, arthritis, musculoskeletal ailments such as bursitis, traumatic sciatica and tenosynovitis; the respiratory diseases bronchitis, pneumonia, and pleurisy caused by or aggravated by the fishing endeavor.

With respect to a pre-existing injury, if subsequent aggravation is attributable strictly to that injury, and does not amount to a new injury, then, as with a recurring disability, benefits will not be awarded (AS 23.35.130, Opinion of Attorney General).

## **What is Not Covered? Conditions of Coverage**

Noncovered Illnesses and Diseases and Other Conditions. Illnesses or diseases and other conditions not covered include strep throat, tonsillitis, the common cold, influenza, ulcers, cancer, appendicitis, insect bites, salmonella, giardia, smoking related conditions, cracked teeth or loose fillings from eating. Sexually transmitted diseases or drug or alcohol related injuries, and those caused by not following good hygiene and health practices, or improper care are not covered. Ear infections caused from diving in a commercial fishery are covered but not when due to a cold.

Chronic Conditions. Chronic injuries, although aggravated by the fishing endeavor, may not be covered since they are usually pre-existing and not directly connected to the operations of a fisherman.

Three-Month Gap in Treatment. The Council must reassess the treatment of an injury or illness when there is a three-month gap in the treatment. A doctor's statement is required noting how the treatment was directly connected to the prior commercial fishing injury.

Fifth Injury Within Eight Years to the Same Area of the Spine. A doctor's statement is required when an application for benefits is received to cover expenses related to the fisherman's fifth injury or illness for the same area of the spine within eight years. The statement is necessary to determine whether it is a new acute injury or illness or if it is a chronic condition, which is not covered.

Dental and Eye. Dentures, glasses or contact lenses lost or broken may be replaced or repaired only when lost or broken in activities directly connected to operations as a fisherman. A claim for dental injury without other bodily damage must be supported by a doctor's report that substantiates the injury's direct connection to operations as a fisherman, or an affidavit may be required.

Carpal Tunnel. No benefits will be allowed for surgery until all other alternative treatment has been explored. If surgery is required after exploring these alternatives, the Council must review the application to see if the need for surgery is

# What is the Fishermen's Fund?

Taken from Department of Labor web site: <http://labor.state.ak.us/wc/ffund.htm>

caused by the fishing endeavor. If surgery is required, the fisherman must provide in writing, or present to the Council in person, the following:

1. The extent of alternative treatment pursued;
2. A ten-year history of work experience including the number of years commercially fishing and type of fishing;
3. How the injury or illness has affected the ability to fish; and
4. Any other information considered pertinent.

Away from the Boat. An injury or illness occurring away from the boat or fishing site will be covered as long as it is directly connected to operations as a fisherman, such as injuries incurred on a dock while hauling gear to the boat or at home repairing commercial fishing gear.

Transportation. Costs are covered to and from the vessel, fishing or gear repair or storage site to the nearest medical facility where appropriate emergency care can be provided. Additional transportation costs to receive specialized or skilled care unavailable at the nearest approved medical facility must be supported by a written statement from the attending physician which clearly defines the specialized medical skill required and the nearest place where it is available. Approval of additional transportation costs may require consideration of the financial condition of the Fund.

Costs incurred for transportation after discharge from the hospital during period of convalescence may be approved to return the fisherman to the boat, home or another place that reasonably meets with the fisherman's convenience. (AS 23.35.090-100, 8 AAC 055.010 (d) and AS 23.35.080 & 100.)

## **To Whom are Benefits Paid?**

Benefits will be paid only to the medical provider or to the fisherman — to the provider if the bill is outstanding, or to the fisherman if his payment is verified by evidence such as cancelled checks, receipts, or bills or statements from medical providers.

A vessel owner who pays a bill can be reimbursed if the Fishermen's Fund administrator receives evidence in writing that there was a prior agreement that the vessel owner would pay any medical expenses, or would advance payment with an agreement to be reimbursed. The fisherman will be reimbursed instead of the vessel owner if the fisherman submits evidence that the vessel owner deducted these expenses from the fisherman's compensation. However, these reimbursements do not imply that such an agreement or understanding is in compliance with marine law.

See Appendix C for an example of agreement.

## **Requesting More Benefits or Time**

Except for compelling reasons, benefits for the care of any one person involving a single injury or disability will not be paid beyond one year from the date of initial allowance, and cannot exceed \$2,500.

# What is the Fishermen's Fund?

Taken from Department of Labor web site: <http://labor.state.ak.us/wc/ffund.htm>

Requests to exceed the benefit limit or the duration of care must be in writing. They must note the "amount of relief" or additional benefits needed, or the "extent of additional time" required. Compelling reasons justifying the request must be specified. The Council must approve all requests.

Compelling reasons to exceed \$2,500 are not defined in law but must be sufficient to justify the requested benefit or time extension and must include:

- The financial status of the fisherman.
- Impact of injury or illness on the fisherman's ability to earn a living while undergoing required treatment and to continue to earn a living commercial fishing.
- Any other compelling factors that affect the fisherman's ability to pay for related expenses in excess of \$2,500, or that result in conditions that require follow-up treatment beyond one year.

Please remember to note:

How much additional relief or money is needed in excess of what the fisherman can pay and/or the amount of extended time wanted beyond one year.