

## **WORKERS' COMPENSATION CLAIMS**

### Frequently Asked Questions

#### **I've been injured while on-the-job. What steps do I take to file a claim?**

An injury occurs within the course of your employment must be reported in writing to your employer within 30 days from that injury, if you intend to claim under workers' compensation laws. The employer is then required to prepare a document called a Form 19, which gives official written notice of your injury and the circumstances surrounding it. If you are unsure as to whether or not your employer has prepared this document, it is suggested that you personally send formal, written notice to the North Carolina Industrial Commission in Raleigh, NC, in order to protect your right to claim compensation. You may also call the Commission and request that they send you a Form 18 (Notice of Accident to Employer), which you can prepare yourself to send to the Commission and your employer.

#### **What do I do about seeking medical treatment?**

If your injury is deemed compensable by your employer, most likely they will have their insurance carrier oversee your medical treatment. In some cases where the injury is significant, some employers assign a nurse case manager to oversee your treatment. Your employer and/or their representatives will instruct you on which physician they want you to see. It is essential to understand that your employer is generally not going to pay for any medical treatment that they have not authorized. Should you choose to get unauthorized medical treatment, you could run the risk of jeopardizing payment for that treatment by the carrier.

#### **What benefits am I entitled to?**

If your injury is deemed compensable, your employer is responsible for the following:

- (a) Payment of all authorized medical treatment;
- (b) Temporary Total disability (TTD) payments of 2/3 of your average weekly wage for the duration of time you are unable to work (as authorized by your treating physician), after the first 7 consecutive days;
- (c) Permanent Partial Disability (PPD) payment, based on the percentage of your disability (if any is assigned by your physician);
- (d) Payment for any visible scarring that your injury may have caused.

These are some of the benefits available. There may be other benefits depending upon each specific case.

#### **I feel as though my injury has caused me great pain and suffering. Am I entitled to compensation for pain and suffering?**

No. The Workers' Compensation laws do not provide for payment of pain and suffering.

#### **I am not satisfied with the option of the physician that my employer instructed me to see. Can I see someone else, without jeopardizing my claim?**

Yes. You do have the right to request a second opinion. You also have the right to request a change of physician. It is usually to your benefit to arrange these requests with the cooperation of your employer. If your claim has been accepted as compensable, your employer should realize that you have these rights and should assist you. However, there

are some instances where it may be necessary for you to make these requests directly to the Industrial Commission for approval.

**My physician has instructed me to return back to work; however, I really don't feel that I am able to perform my job. What should I do?**

When you are released to return to work, it is your responsibility to at least make a genuine attempt to do so. Your failure to do so could seriously jeopardize your claim. Also, if your physician has placed restrictions on your job duties, it is your employer's responsibility to find you work that fits within these restrictions. If your employer does not have such work available and will not be able to accommodate you, generally you are entitled to remain out of work on TTD benefits until you can return to your normal duties.

**What if my employer doesn't accept my claim as being compensable?**

At this point, many people feel it necessary to consult with an attorney, as a hearing before the Industrial Commission and/or a Mediation may be required. However, you can request a hearing without an attorney. To do so, contact the Commission and request a Form 33 (Request That Claim Be Assigned For Hearing). Complete the form and submit it to the Commission (with a copy to your employer). You need to be aware that it will take some time before a hearing or Mediation date is set. You are "on your own" as far as medical treatment is concerned and, it will be up to you to prove this treatment was necessary and related to your injury at the time of your hearing, if your employer is to be held liable for payment of same.

**Am I entitled to claim both Worker's Compensation benefits, and file a negligence claim against my employer for this injury?**

No, not in most circumstances. Payment of Worker's Compensation benefits generally "protect" the employer against negligence lawsuits. Although there are some cases where it is possible to do both, these cases are very specific and usually involve specific factual circumstances. It is suggested that you consult with an attorney to discuss the specifics of your case to determine if it would fall into the legal guidelines of a negligence suit as well. You should seek this consultation at an early date, as there are statutes of limitations that could bar your claim.

**What is your fee for representation in Workers' Compensation cases?**

Our firm allows the Industrial commission to set our fee. We document the hours that we have put into the case, as well as any costs we may have advanced. We then ask the Commission to take this into consideration and set a fee. We find that the general range is somewhere between 20-25%. This amount is deducted from the final monies awarded to the employee.

*This information is a general discussion of worker's compensation laws. It is not intended to provide detailed information for your specific circumstances of claim.*

*This is an advertisement for legal services.*

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