

YOUR RIGHTS IN WORKERS COMPENSATION



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Summary

Any time you are injured at work, you are entitled to workers compensation benefits from your employer or your employer's insurance company. You do not need to prove that anyone was at fault for causing your injury, only that you sustained an injury while working. As detailed below there are four basic workers compensation benefits – (1) Medical Benefits, (2) Temporary Disability Benefits, (3) Permanent Partial Award and (4) Permanent Total Disability Benefits.

Types of Claims

There are two types of claims in Workers Compensation – injuries from accidents and injuries from "occupational exposures". Accident claims arise from an injury that occurs as a result of a specific event, such as a back injury from lifting an object or a knee injury from a fall. "Occupational exposure" claims cannot be pinpointed to a specific event but result from a repeated exposure or strain over a long period of time. Typical occupational claims include carpal tunnel syndrome, or conditions that arise from repetitive strains or chemical exposures.

Notice

If you are injured while at work, it is your obligation to notify your employer. This is critical. If you fail to do this you may jeopardize your rights. Under the law you have 30 days to notify your employer of an injury, but we strongly advise that you notify your employer of any injury immediately, even if you do not believe it is serious. This will prevent your employer from arguing later on that your injury did not happen on the job. Although you do not have to provide written notice of an injury, we once again strongly suggest that you do, and keep a copy for yourself. Most employers require that a form be filled out.

You should also know that even if you provide your employer with notice of your injury you must file a Claim Petition with the Workers Compensation Court within 2 years of your injury to protect your rights.

Medical Benefits

If you sustain a work injury, your employer or their insurance carrier must provide you with medical treatment. There are no deductibles or co-pays owed by you. Your employer or its insurance carrier however, has the right to select your doctors. These physicians are called authorized treating physicians. You should be aware that if you seek medical treatment which is not provided by an authorized treating physician or which has not been approved by the workers compensation insurance carrier; you will be responsible for the medical bills.

Temporary Disability Benefits

If an authorized treating physician determines that you are unable to continue in your employment for a temporary period of time, you are entitled to receive temporary disability benefits. You must be out of work for more than seven consecutive days before being eligible for this benefit. This generally equals 70% of your gross weekly wage, subject to a State maximum rate depending upon your year of injury. Again, the insurance carrier is only responsible to make these payments if you are deemed to be unable to work by an authorized treating physician or if the Court orders these payments based upon the opinion of an independent doctor that you are unable to work. The workers compensation carrier is obligated to continue making these payments until such time as you are deemed capable of returning to your employment or you reach maximum medical improvement.

Permanent Partial Disability

At the end of your treatment you may be entitled to an award under permanent partial disability. This does not mean that you must be permanently disabled and unable to work. These benefits are available if the part of your body which was injured while at work continues to have some limitation even after treatment. This award is available even if you return to your prior position at full duty. The amount of the award will depend upon what part of your body is injured and the severity of your injury. This is governed by a schedule provided each year by the Legislature.

Permanent Total Disability

When a job-related injury results in total disability which is permanent, the injured worker is entitled to payments for 450 weeks which will be extended after that period for as long as the total disability exists. After the 450 weeks, these payments are subject to a reduction for wages earned from other employment. Weekly payments for permanent total disability are 70% of your gross weekly wage, subject to a State maximum rate depending upon the year of injury.