



7 Things You Never Knew About Worker's Compensation

Answering the Injured Employee's
Most Frequently Asked Questions



A TMH Law Ebook

Did you know that, according to worker’s compensation law, your employer is required to pay insurance to cover job related injuries? This financial burden of running a business is a protective measure for the employee, although the employer also benefits. In the case of an injury, the employer benefits from a relatively quick, fair, no-fault compensation plan, or so is the stated intention of the law.

Worker’s compensation payouts are made to cover medical bills and provide replacement funds for lost wages while the employee is out of work. If you or a loved one is unable to work due to an injury or illness sustained while working, compensation may be available. In this ebook, you’ll find a breakdown of information, answering the seven most commonly asked questions concerning worker’s compensation law.



A History of the Law

In centuries past, and specifically during the Industrial Revolution, common law principles worked against employees who were injured on the job. Most employers could avoid any responsibility for payouts by claiming that their workers understood and “assumed risk” when they took the job. An injured worker’s only option was to file an expensive personal injury lawsuit. It was not often that an employee would win, but when they did, there was a significant monetary burden on the employer. The economic necessity of the time needed to balance the equities between the rights of injured workers and the consequent financial impact on growing industrial employment centers.

The advent of workers’ compensation law provided a faster, fairer way to take care of injured workers. Employers are now required by law to pay into insurance specifically for this purpose. Injured employees can begin to receive compensation right away. In fact, the injured worker does not even have to prove fault in order to recover medical expenses and lost wages.



Frequently Asked Questions

1

If Worker's Compensation Isn't Based on Fault, Then How is it Determined?

As long as the injury is job-related, including broken bones, strains and sprains, herniated or bulging discs, aggravation of existing medical conditions, and every other condition you can imagine, if it happened on the job or because of the repetitive moment on the job, it is covered and the employee is entitled to workers' compensation benefits. For example, workers' compensation covers every type of physical injury, including:

- Neck, back, shoulder, arm and hand injuries, including fractures, strains and sprains, herniated and bulging discs
- Knee, leg and foot Injuries, including fractures, strains and muscle tears
- Nerve damage
- Brain injuries (from head trauma and other causes)
- Repetitive injuries such as carpal tunnel syndrome
- Hearing loss as the result of exposure to loud noises at work
- Amputation or loss of use of a body part
- Burns
- Occupational diseases, including asthma, asbestosis, mesothelioma and conditions resulting from exposure to chemicals and poisons
- Death

2

What Kinds of Injuries are Not Eligible for Worker's Compensation?

Even though employees who are legitimately injured as a result of their work are eligible to receive benefits regardless of fault, no compensation is paid when an injury or death is intentionally self-inflicted. In addition, worker's compensation claims can be denied if the employee is found to have been in violation of the law or a known word order (for example, if the individual was operating machinery under the influence of alcohol or participating in the illegal use of drugs during the time of injury).

3

What Will Worker’s Compensation Cover?

- A job injury, work-related illness or death resulting in a specific work-related accident
- An injury or illness that develops over time, but that is unquestionably related to the employee’s work responsibilities (this includes injuries caused by repetitive movements, such as lifting or typing, even if they are considered a “normal” aspect of the employee’s work)

Depending on the injury or illness, hospitalization, surgery or appointments with specialists may be required. The disability period and recovery timeline will look different for every case. For that reason, the benefits through worker’s compensation can include:

- Payment of all related medical expenses
- Wage-loss compensation during disability (a percentage of the worker’s pre-injury salary)
- Vocational rehabilitation, if applicable
- Death benefits for the dependent’s survivors



4

What Should I Do If the Injury/Illness I’ve Developed Was Caused by a Job I Had Years Ago?

Workers’ compensation covers injuries, illnesses or diseases that were made worse because of a specific work requirement or the general environment of a workplace. If an illness (such as lung disease) occurs gradually as a result of working conditions, it may not reveal itself until years after an employee has left that place of employment. In these cases, the employee is still able to file a claim within 156 weeks of the last date of employment at the location that presented the occupational hazard, which caused or aggravated the illness.

5

Is My Employer Allowed to Tell Me Which Health Care Provider to See?

Unless your employer has posted a list (which must include at least six options) of health care providers, then you are completely free to choose your own provider. If a list was posted, then you may be required to see one of those doctors for initial treatment and for the next 90 days worth of any follow up care. There are specific preconditions that the employer often fails to fulfill that often gives the employee the right to select outside of the posted list.

However, employers are not permitted to direct or particularly influence you toward any specific provider on the list, and in cases when a provider prescribes invasive surgery, the employee always has the right to a second opinion, paid for by the employer.



6

How Will My Level of Impairment be Determined?

The short answer is that it is determined by the standards of the American Medical Association. If you are originally considered totally disabled, your employer will be able to request a medical re-examination after 104 weeks. At that time, if you are not deemed at least 50% impaired, then your disability status will be reduced to partial.

7 How Much Should I be Expecting to be Compensated?

As long as an injured worker is out of work at least seven days, they will usually receive about two-thirds of their average wages. However, this compensation rate does have a fixed ceiling, as it is the **lower** of either:

- 90% of the employee’s average weekly wage
- OR**
- 50% of the statewide average weekly wage

In the tragic case of a worker’s death caused by a work injury, his/her dependents may be entitled to death benefits and burial expenses.

Next Steps

Your employer’s insurance carrier has 21 days from your notice of injury/illness to make a decision to accept or deny your claim. If you have already reported your disability and have not heard back about a decision and have yet to receive the benefits that you believe you are due, call our office immediately so that we can contact your employer or your employer’s insurance carrier on your behalf.

If your claim has already been denied, we can also help you file a claim petition. Because workers’ compensation claims are administrative hearings, it can take months (or longer) until a judge decides your case. The sooner you contact our office, the sooner we can help you.

Lump Sum Settlement: Tom Holland is experience in evaluating lump sum offers. Early lump sum settlement offers may be encouraging, but Tom Holland will be able to help not leave anything on the table. If the disability continues to be treated without a definitive diagnosis and/or prognosis, prompt settlement may not be prudent. When and if to settle is your decision to make, but BEWARE. What’s the hurry? Please be cautious of an early settlement offer from a claims adjustor who suggests you do not need a lawyer. Our law office specializes in representing injured employees, and we know worker’s compensation law inside and out. You are allowed to represent yourself in worker’s compensation proceedings, but remember that the litigation is complex and your employer will be represented by an experienced attorney. Don’t walk into court, unprepared and outnumbered.



You need knowledgeable, aggressive representation on your side. Call us today to find out how you can benefit from a complimentary consultation with our lawyers. We'll work to get you the maximum compensation you're due.



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