



WHAT YOU SHOULD KNOW ABOUT YOUR WORKERS' COMPENSATION CASE

Procedures, Pitfalls and Practical Pointers

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This is not legal advice. These are only guidelines for you to review before you call us or when you cannot reach us because we are in hearings or depositions. Legal advice is only given in our office and in personally addressed correspondence.

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WHAT IS WORKERS' COMPENSATION?

The Pennsylvania Workers' Compensation Act provides for the payment of benefits to workers who are killed or injured on the job. This statute also includes death or disability resulting from an occupationally acquired disease.

All injuries, or death, which arise in the course of your employment and are related to your work, regardless of your previous physical condition, are covered subject to proof by you or your survivors.

Your employer is required by law to provide timely payment of workers' compensation benefits to all employees who are injured on the job. These benefits include bi-weekly compensation checks paid to the disabled worker, reimbursement and payment of related hospital, doctor and prescription expenses, and death benefits paid to a deceased worker's dependents.

The weekly benefits are broken down into temporary total disability, known as TTD, permanent partial disability, known as PPD, and specific loss and disfigurement benefits.

The Pennsylvania Workers' Compensation Act has undergone dramatic legislative changes in recent years. On August 31, 1993, Act 44 amendments became law, on February 1, 1995, Act 1 changed hearing loss benefits and on June 24, 1996, Act 57 amendments went into effect.

NOTE: Under Pennsylvania law, workers' compensation **does not** consider pain and suffering; the raises which you would have received during the time of your injury or in the future; cost of living; your life expectancy; whether or not you would have worked until age 62 or until age 65; or any fringe benefits which you may or may not have.

WHAT IS THE DIFFERENCE BETWEEN WHAT IS THE DIFFERENCE BETWEEN TEMPORARY TOTAL DISABILITY (TTD) AND PERMANENT PARTIAL DISABILITY (PPD)?

The two main types of disability under Pennsylvania's workers' compensation law are:

- 1) temporary total disability, and
- 2) permanent partial disability.

If you are not able to do any type of work, you should be placed on temporary total disability. If you can do some type of modified or light duty work, you should be placed on permanent partial disability. Both temporary total disability and permanent partial disability will provide bi-weekly compensation checks and will pay for your provable, reasonable and necessary work related medical bills.

The important difference between temporary total disability and permanent partial disability is, if you are on temporary total disability, and you should die while receiving these benefits, your family will *not* be entitled to receive survivors' benefits *unless* your death is a *direct result* of your injury or disease. Your family *will* receive survivors' benefits if you are receiving permanent partial disability benefits, no matter what the cause of your death.

The decision as to which type of benefit you will receive will be based on the severity of your injury, whether or not it is a permanent injury, and whether or not you can do any type of work.

We will negotiate with the insurance company to get the best possible benefits for you. If we can not successfully negotiate with the insurance company, a Workers' Compensation Judge may have to decide which benefits you should receive, if any, after many hearings.

WHAT ARE SPECIFIC LOSS AND DISFIGUREMENT BENEFITS?

In addition to permanent partial disability, you could collect benefits for:

- 1) specific loss, or
- 2) disfigurement.

Specific loss benefits are based on medical testimony stating that you have suffered a loss of use for all intents and purposes of a certain body part. The workers' compensation law provides for the payment of a specified number of weeks of benefits for various body parts.

You can receive specific loss benefits even if you have returned to work. For example, if you have lost your finger in a work related accident, but the loss of that finger does not keep you from returning to your job, you can receive specific loss benefits for a certain number of weeks, in addition to your paycheck, as determined by a Judge.

Disfigurement benefits work in a similar way. Disfigurement benefits are awarded for permanent, severe and disfiguring scars and marks to the head, face, and neck above the collarbone. The disfiguring scar or mark can be the result of surgery, such as the removal of a disc from your neck.

If you have been disfigured as a result of a work related injury, such as a scar on your face, that scar could be worth a certain number of weeks of benefits to be determined by the Judge.

You may collect specific loss or disfigurement benefits in addition to permanent partial disability benefits. You can not collect specific loss or disfigurement benefits if you are receiving temporary total disability.

NOTE: If medical tests determine that you have a measurable hearing loss as a result of your work environment, you may have a claim for specific loss of hearing. Under the Pennsylvania Workers' Compensation Law, you do not have to miss work in order to qualify for a work-related hearing loss, provided the medical testing supports such a finding.

DOES WORKERS' COMPENSATION COVER CLAIMS FOR MENTAL DISABILITY?

The Workers' Compensation Act does provide for benefits to individuals who suffer from psychiatric injuries which are not part of a physical injury, but which are caused by stressful conditions in their workplace. However, in order for a claimant to receive benefits for a mental disability, a claimant must show through objective evidence that the disability was caused by abnormally stressful conditions in the workplace — for example, some type of harassment. However, mental injuries which are part of a physical injury claim, such as depression caused by chronic pain, are covered and do not require a showing of "abnormal" working conditions. If you are having trouble coping emotionally with your injury, which is certainly understandable, you should consult with your doctor about getting a referral to an appropriate therapist.

WHAT KIND OF TIME RESTRICTIONS ARE THERE?

The workers' compensation law requires that you notify your employer of an injury or disease within **120 days from the injury**. Failure to do so may result in a denial of your claim.

You have three (3) years from the date of your injury to file a Claim Petition.

Occupational diseases are a little different. The three (3) year time limit does not begin to run until the date that you knew, or should have known that you had a work related disease.

Even if your injury does not result in any lost time, you must report it within one hundred twenty (120) days and file your claim within three (3) years.

WHAT SHOULD I DO IF I HAVE BEEN INJURED ON THE JOB?

If you are injured on the job, or suspect that you have an occupational disease, you should report the injury, in writing, to your employer. Remember, you only have 120 days — about four (4) months — to do this. You do not need to use a specific form to report your injury to your employer, as long as you notify your employer in writing.

You should immediately seek medical treatment.

If you suffer a work related injury, your employer and/or its insurance carrier must pay for reasonable and necessary medical treatment related to your injury. However, in order to insure payment for the treatment that you receive, *you have certain obligations* and duties to satisfy:

- 1) You must always report your injury to your employer PROMPTLY, in writing!
- 2) If you require medical treatment and your employer supplies a list of doctors and health care providers (“providers”) as appears below, you must treat with one of the listed providers for 30 days (from your initial visit) if you were injured before June 24, 1996 or for 90 days if you were injured on or after June 24, 1996. If you do not treat with one of the listed providers, your employer does not have to pay for the treatment during that initial “30” or “90” day period.

Your Employer’s Designated and Approved Providers			
Name	Address	Phone #	Area of Practice
1. Dr. A	AAAAAAA	AAA-AAAA	AAAAA AAAA
2. Dr. B	BBBBBBB	BBB-BBBB	BBBBBBBBBBB
3. Dr. C	CCCCCCC	CCC-CCCC	CCCCCCCCCCC
4. Dr. D	DDDDDD	DDD-DDDD	DDDDDDDDDD
5. Dr. E	EEEEEEE	EEE-EEEE	EEEEEEEEEEE
6. Dr. F	FFFFFFF	FFF-FFFF	FFFFFFFFFFFF

- 3) If you still require treatment after the initial “30” or “90” day period, you may seek treatment with *any* doctor whom you choose. However, each time that you elect to treat with a new or different doctor you must notify your employer within five (5) days of your first visit to your new doctor. If you fail to notify your employer, you *may* lose your right to payment for treatment rendered during the period that notice is not given.

NOTE: Whichever doctor you choose for treatment must file periodic reports with your employer. An initial report must be filed within ten (10) days of your first treatment, and thereafter your doctor must file a monthly report for as long as treatment continues. Your employer will not have to pay for your treatment until the required reports are filed.

- 4) If you are faced with a medical emergency, you may secure treatment from any doctor of your choice.

NOTE: Most insurance carriers do not like reports from chiropractors. They will almost always choose to believe a physician's report over a chiropractor's report, even if you are seeing your chiropractor more often than the physician.

In order for the doctor to fully understand your injury, it is important for her/him to know the nature of your job. *As soon as possible*, you should describe your job to the doctor, including the day-to-day duties which you perform; what you were doing when you were injured; and **HOW YOU WERE INJURED ON THE JOB**. If your injury limits you from performing your job, you should explain to the doctor exactly how it limits you.

By explaining in detail exactly what you were doing when you were injured (so that the doctor can “see” in her/his mind what you were doing when you were injured, as if s/he were watching a videotape), and by discussing your current physical limitations with the doctor, the doctor will have a better understanding of your injury, and will be better able to provide her/his opinion as to the cause of your injury and the prognosis for your recovery.

YOUR EMPLOYER MAY ASK YOU TO SIGN THIS DOCUMENT:

**EMPLOYER'S ACKNOWLEDGMENT OF NOTICE
AS TO HIS/HER RIGHTS AND DUTIES UNDER
§306(F.1)(1)(i) OF THE WORKERS' COMPENSATION ACT**

I hereby acknowledge that my Employer has provided me personally with a notice of my rights and duties under Section 306(f.1)(1)(i) of the Workers' Compensation Act (relating to medical treatment for work injuries) and that I have read that notice and understand my rights and duties thereunder.

I further acknowledge that I have been provided with a list of designated health care providers with whom I must treat during the first ninety (90) days of treatment for a work injury. I understand that failure to treat with one of the designated providers during the first ninety (90) days of treatment will result in the Employer not paying for that treatment. I understand that I may treat with a provider of my own choosing after the initial ninety (90) days of treatment, but that I am obligated to notify my Employer of any treatment with a new or different provider within five (5) days of the initial treatment with that provider. I have been advised and understand that any non-designated provider with whom I treat has an obligation to provide my Employer with monthly reports (the first due within ten (10) days of the initial treatment).

So acknowledged

(Date)

(Employee's Signature)

We advise against signing this document at any time. Your employer may try to send it with other correspondence to hide or camouflage its importance.

Your rights and duties are too complicated to understand from this simple document. DO NOT RETURN it to your employer, or if you must return it, return it with a large "X" through it.

After you have been injured and have seen the doctor, your employer or the insurance carrier, has three (3) options with respect to your work injury.

- A) Accept your claim outright within twenty-one (21) days by issuing a Notice of Compensation Payable (NOCP).
- B) Deny your claim outright within 21 days by issuing a Notice of Denial (Denial).
- C) Temporarily accept your claim for up to six (6) weeks by issuing a Notice of Temporary Compensation Payable (NTCP).

A NOTICE OF TEMPORARY COMPENSATION PAYABLE (NTCP) IS POTENTIALLY VERY DANGEROUS. While you are led to believe that you are on compensation and everything is going smoothly, your employer is in the process of preparing **to cut off** your workers' compensation benefits by issuing a Notice Stopping Temporary Compensation.

If your employer agrees that your injury is work related and issues a NOCP, you will begin to receive workers' compensation benefits.

If your employer denies that your injury is work related, your employer is required by law to issue a Notice of Compensation Denial within twenty-one (21) days. As soon as you learn of this denial, you must notify us so that we may file a claim petition on your behalf.

In light of these changes to the Workers' Compensation law, we advise:

- 1) Never sign anything unless you have first discussed it with your attorney.
- 2) Immediately notify your union or building representative — if you have one — of any accident you sustain, or any document or correspondence which you receive from your employer or its insurance carrier.
- 3) Immediately contact your attorney if you receive any of the following documents:
 - A) Notice of Compensation Payable
 - B) Notice of Denial
 - C) Notice of Temporary Compensation Payable
 - D) Notice Stopping Temporary Compensation

WHAT HAPPENS AFTER A CLAIM PETITION IS FILED?

We will prepare the Claim Petition for your signature, and file it for you with the Workers' Compensation Bureau in Harrisburg. A copy of the petition will be mailed to your employer. Your employer is required to file a written answer to your petition. Your petition will be assigned to a local Worker's Compensation Judge who will schedule hearings and preside over your case.

It is very important that you provide us with the complete names, addresses and dates of treatment for all of the doctors and hospitals that have examined you for your injury. We will contact them to get copies of their records and reports regarding your injury. After we receive and review all of the records and reports from each of your medical providers, we will decide what medical testimony is needed to support your claim.

We will take the medical deposition of your main treating doctor, (known as your primary doctor), at that doctor's office. We will then submit the written transcript of your doctor's testimony at the next hearing. Your employer will take the medical deposition of the IME doctor. See "*What is an Independent Medical Examination (IME)?*" on page 19.

There will be several hearings scheduled by the Judge. You will need to attend most, if not all the hearings. The hearings are usually quite short, and are informal. At the hearings, you will testify about your injury and both sides will present medical and other testimony. After all of the testimony has been presented, the Judge will make the final decision.

In a few cases, the Judge's decision can be appealed by either side. As a rule of thumb, most Judge's decisions are final and the success of an appeal is very low.

HOW LONG WILL THIS PROCESS TAKE?

On average, it can take as long as one and one-half (1 1/2) years from the date that the petition is filed for the Judge to make a decision. Each case is individual. If the Judge's decision is appealed, it could take much longer.

IS THE PROCESS THE SAME FOR EVERY PETITION FILED?

Although every case is unique, most petitions which are filed follow the process described above. One difference between filing a Claim Petition and filing other types of petitions is the addition of a supersedeas hearing.

One or more of the scheduled hearings may be designated as a supersedeas hearing. At this hearing, the Judge will be asked to make a preliminary decision whether or not you should continue to receive benefits during the hearing process. Since the supersedeas hearing usually happens before much of the testimony has been given, the outcome of the request for supersedeas is strictly up to the Judge's first review of the evidence. If the evidence seems to favor your employer, the Judge can stop your benefits until a final decision is made.

Although the supersedeas decision regarding benefits is only temporary, it **can not** be appealed. You must wait until the Judge makes a final decision at the end of the hearing process to learn if the supersedeas decision will stand or be reversed.

WHAT OTHER PETITIONS CAN BE FILED?

Several other types of petitions, besides a Claim Petition, may be filed.

If you are currently receiving workers' compensation benefits, a Petition to Review Utilization Review, a Petition to Review Medical Treatment and/or Billing, or a Petition to Review Compensation Benefits may be filed in order for the Judge to clarify wording on documents previously issued or to make a decision about the payment of certain bills. A Petition to Review may be filed by either you or your employer to clear up "gray areas" regarding your benefits.

If you had been receiving workers' compensation benefits, then you temporarily returned to work after signing a Supplemental Agreement, but now you are again unable to work, a Petition to Reinstate Compensation Benefits may be filed. Similarly, if you returned to work after signing a Final Receipt, but now are unable to work, a Petition to Set Aside Final Receipt may be filed. See **Form H** for an example of the form used for each of these petitions.

If you have been awarded benefits and your employer is not complying with the Judge's Order, you may file a Petition for Penalties, also known as a Petition for Finding of Violation, to not only force your employer to comply but to request additional money and interest for every day that your employer does not comply with the Order.

CAN MY EMPLOYER FILE A PETITION?

Your employer also has the right to file a petition, but only after you are receiving workers' compensation benefits. Remember, you can receive benefits if your employer issues a Notice of Compensation Payable, or as a result of a favorable Judge's decision in response to your Claim Petition.

As soon as you go on workers' compensation, and at any time thereafter, your employer may file a Petition to Terminate, Suspend or Modify your benefits if any doctor says that you are able to return to work and you refuse to return to work. Your employer may also file a petition if you return to work but do not complete the proper paperwork. A Petition to Terminate Compensation Benefits may be filed if your employer believes that you are *completely* recovered. A Petition to Suspend Compensation Benefits may be filed if your employer believes that you can return to work at your old job at the same or greater pay level, but that you still have medical problems from your injury. A Petition to Modify Compensation Benefits may be filed if your employer believes that you can return to work at light duty, or at an easier job which pays you less money than your old job.

If you have returned to work, your employer could file a Notification of Suspension or Modification pursuant to §413(C) & (D) within seven (7) days after you return to work. The notice will allege that you either returned to work with no wage loss and your benefits have been suspended or that you have returned to work with a partial wage loss and your benefits should be reduced or modified. If you do not agree with the information contained in the notice, you have twenty (20) days to challenge the notice. If the notice goes unchallenged, your benefits will automatically be suspended or modified. **It is imperative that you contact this office immediately upon receipt of this notice!**

If your employer believes that you are not cooperating by attending medical examinations, they may file a Petition for Physical Examination.

Your employer can seek to have your medical treatment reviewed by another doctor to determine if the treatment is reasonable or necessary by filing a Utilization Review: Initial determination. Your employer can also file a Petition to Review Utilization Review if they do not agree that your medical treatment is necessary and related to your work injury, or a Petition to Review Compensation Benefits if they believe that you are not receiving the correct compensation amount.

IF YOU RECEIVE A PETITION FROM YOUR EMPLOYER, YOU MUST IMMEDIATELY SEND A COPY OF IT TO US SO THAT WE CAN PROTECT YOUR INTERESTS.

If your employer files a petition, the case will be assigned to a Judge and proceed through the same type of hearing process described under *"What Happens After a Claim Petition is Filed"* on page 8.

Your employer has the right to file petition after petition until your employer wins, and they only need to win once!

HOW MUCH MONEY WILL I RECEIVE?

Workers' compensation benefits are calculated based on your pre-injury average weekly wage (AWW).

Total disability benefits are payable at a rate of 2/3 of your pre-injury average weekly wage, up to the statewide maximum rate. If you were injured before June 24, 1996, your AWW is based on the most highly compensated quarter of the previous four quarters. If you were injured on or after June 24, 1996, your AWW is based on the average of the three most highly paid quarters of the previous four quarters.

Your AWW is calculated on a Statement of Wages.

If you are only partially disabled and are able to return to work — but at a job that pays less money than the job you had when you were injured — you may receive partial disability benefits of 2/3 of the loss between what you are paid at your new job and what you would have received at your old job.

Also, if you have concurrent employment, (two or more employers at the same time), and your work injury from your first employer makes it impossible for you to work for your second employer, your wages from both employers will be added together to calculate your average weekly wage. You should receive 2/3 of the combined wages, as long as that amount does not exceed the statewide maximum rate.

You do not have to pay taxes on the money that you receive as workers' compensation benefits.

NOTE: Police and fire fighters receive their *full*, non-taxable pay, not 2/3 of their average weekly wage, for work related injuries.

HOW LONG CAN I RECEIVE BENEFITS?

For those worker's injured before June 24, 1996 you can, *theoretically*, receive temporary total disability benefits (TTD) for life. These benefits can be cut off only under the following circumstances:

- 1) if you die;
- 2) if you sign something to allow them to be cut off; or,
- 3) if a Judge orders them to be cut off by supersedeas or final decision.

You can receive permanent partial disability benefits (PPD) for up to 500 weeks, which is 9 and 1/2 years. If you are partially disabled, you may want to consider a commutation of your case.

For those worker's injured on or after June 24, 1996, Act 57 can limit the Claimant to 104 weeks or two years of total disability payments depending on the degree of impairment. If the Claimant begins to receive total disability benefits immediately following the date of his/her original work injury, the 104 weeks will start to run from the date of injury, however, if a worker is not "immediately" disabled after the work injury (i.e. there is no wage loss) the 104 weeks will not begin to run until the Claimant is off work and sustains a wage loss.

After receiving total disability benefits for 104 weeks, a Claimant will be subjected to an impairment evaluation to assess the degree of impairment. The evaluation will follow the criteria set forth by the AMA Guidelines. If Claimant's impairment is found to be equal or greater than 50%, the Claimant is considered to be totally disabled and can continue collecting total disability benefits. However, if the impairment rating is less than 50%, the Claimant is considered to be partially disabled, and benefits will be modified from total disability to partial disability benefits. This means that while the Claimant's wage loss payments may remain the same, Claimant will be limited to 500 weeks of benefits. To reduce the amount of wage loss benefits, the employer or insurance carrier must prove an increase in earning power by showing there is work available for the Claimant within his or her physical restrictions and vocational capabilities.

WHAT IS A COMPROMISE AND RELEASE?

A Compromise and Release Agreement is a lump sum settlement of your workers' compensation benefits. A compromise and release or "C&R" as it's commonly referred to can settle both your wage loss and

medical benefits, or just one or the other. However, both parties must agree to the terms of the settlement. We will recommend that you settle the medical aspect of your claim only when it's in your best interest. The insurance carrier or employer can't force you to give up medical coverage, but they can try to make it a condition of settlement. Once the agreement has been approved by the workers' compensation judge, the carrier is no longer responsible for paying wage loss benefits or work-related medical expenses, including prescriptions (depending upon what has been agreed to).

When and if your carrier offers to settle your case by filing a Petition to Seek Approval of a Compromise and Release, we will explain in detail the consequences of settling your case with a Compromise and Release Agreement in greater detail.

HOW WILL MY MEDICAL BILLS BE PAID?

Your employer is required by law to promptly pay provable, reasonable and necessary hospital and doctor bills, and your prescription expenses which are a direct result of your work injury. Your employer is not required to pay any non-work related medical bills such as doctors visits for colds and flu, or if you were injured from a non-work accident. The medical bills which your employer is required to pay must continue to be reasonable and necessary treatment, and directly related to your work injury.

Original work related medical bills should be sent to your employer's insurance company, or to your employer if it is self-insured. *It is very important that you make a photocopy of every bill which you send to your employer, or its insurance company, for payment.* All bills which you send for payment must be itemized bills. The insurance company will not pay a bill which simply says "Balance Due". The bill must specifically list the services performed or the items purchased. Your medical provider may send the bill directly to the insurance company for payment, as long as you are given a copy of the bill for your records.

When you send these bills for payment, you should note your social security number and your claim number on your letter and on your bills. Please allow at least six (6) weeks for the bills to be processed and paid by the insurance company. If, after six (6) weeks, you are still having difficulty getting these bills paid, drop us a note with xerox copies of the bills. We will negotiate with the insurance company to try to resolve the payment of these bills for you.

At the time of medical treatment, you must tell your medical provider that you suffered and sustained a work-related injury, and request that the records and bill reflect such work injury. You must describe in detail to all of your medical providers the nature of your job, including the day-to day duties and tasks which you perform for your job, and explain to them in detail what you were doing when your injury occurred and **HOW YOU WERE INJURED ON THE JOB**. *It is very important* that each medical provider understands the nature of your job and how your injury is related to your job.

Oftentimes, you will be caught in a battle between your Blue Cross/Blue Shield (or HMO) insurance carrier and your workers' compensation carrier. If you have properly advised your medical providers that their treatment of you is a result of your work injury, and your employer denies your workers' compensation claim, then your bills may not be promptly paid. As a result, the hospitals and doctors will sometimes refer the matter to a collection agency. If this situation occurs, you should write a letter to your accident and health insurance carrier (usually Blue Cross/Blue Shield or an HMO) explaining the situation and request that they pay your medical bills pending the outcome of your workers' compensation claim. The following is an example of the type of letter which you should send to your accident and health insurance carrier:

Today's Date

Your Accident and Health Insurance Carrier
or Blue Cross/Blue Shield or HMO
Address
City, State Zip

RE: Your Name
Your Address
Your Social Security Number

Dear Sir/Madam:

I was injured on the __ day of _____, 20___. My employer's workers' compensation carrier has denied my claim and I am presently litigating that claim. Enclosed is a copy of the workers' compensation denial. In light of that denial, I request that you immediately pay my outstanding medical bills. A copy of this letter is simultaneously being transmitted to my attorney who will discuss with you protection of your subrogation rights in the event that my claim is adjudicated in my favor.

Very truly yours,

Your Name

cc: Shelley W. Elovitz, Esquire

If, after receipt of your letter, your accident and health insurance carrier refuses to pay your bills, you should contact the Pennsylvania Department of Insurance and explain the situation to them. The Insurance Department has four Consumer Services Offices in the Commonwealth. The locations and telephone numbers are:

Philadelphia	215/560-2630
Pittsburgh	412/565-5020
Harrisburg	717/787-2317
Erie	814/871-4466

The following is an example of the type of letter which you should send to the Pennsylvania Department of Insurance.

<p>Today's Date</p> <p>Pennsylvania Department of Insurance Bureau of Accident and Health Insurance 1321 Strawberry Square Harrisburg, PA 17120</p> <p>RE: Your Name Your Employer Your Social Security Number</p> <p>Dear Sir/Madam:</p> <p>I was injured on the ___ day of _____, 20___. My employer's workers' compensation carrier has denied my claim and I am presently litigating that claim. Enclosed is a copy of the workers' compensation denial. My accident and health insurance carrier has also refused to pay my outstanding medical bills. Enclosed is a copy of my letter requesting that they do so.</p> <p>I believe that my accident and health insurance carrier is in violation of Title 31 and is required to pay my outstanding medical bills because the workers' compensation carrier has refused coverage.</p> <p>Please take whatever action is necessary to have my accident and health insurance carrier provide its policy benefits to me. Thank you for your assistance in this matter.</p> <p style="text-align: right;">Very truly yours, Your Name</p> <p>cc: Your Accident and Health Insurance Carrier or Blue Cross/Blue Shield or HMO Address</p>

By keeping us advised as to which bills remain unpaid, we will be better able to work with the medical providers, the insurance companies and you to try to resolve the payment of your work related bills.

NOTE: If you do not belong to a union, your employer may drop you from group accident and health coverage (Blue Cross/Blue Shield or HMO) at any time. However, ALL employers must provide you with a COBRA (Consolidated Omnibus Budget Reconciliation Act) notice prior to canceling your group health coverage. If you receive a COBRA notice, send a copy of the notice to us as soon as possible so that we may advise you of your options for securing alternative health coverage.

WILL MY TRAVEL EXPENSES BE PAID?

Your employer is required by law to reimburse you for *long distance* travel expenses for *medical treatment* which are a direct result of your work injury. Your employer is not required to pay local travel expenses for medical treatment, or any travel expenses for non-work related medical treatment.

Your employer is not required to pay for travel expenses for non-medical reasons, such as travelling to a job interview.

The difference between local and long distance travel is determined by the residents living in your area. If the residents of your local community/neighborhood routinely travel to the same place that you are receiving medical treatment for similar medical care, then that travel is considered local. However, if the residents of your local community neighborhood do not routinely travel to that area, then your travel to that area for medical treatment is considered long distance. Every case that involves travel is unique because you probably live in a different area than someone else who has been injured at work and is requesting reimbursement for travel expenses. If your employer or the insurance carrier do not agree to reimburse you for your travel expenses, the Judge may need to make the final decision on whether your travel is local or long distance.

HOW IS MY EMPLOYER'S INSURANCE CARRIER INVOLVED?

Your employer has an insurance company — also called an insurance carrier or comp carrier — that handles its workers' compensation matters. It is this insurance carrier that will send you your checks and pay your related medical bills.

NOTE: Some employers have received permission from the Commonwealth of Pennsylvania to be self-insured. If your employer is self-insured, there will not be an insurance company involved. Your employer will act as the insurance company, and we will treat your employer as if it were the insurance company.

As soon as we begin to represent you, we will advise your employer's insurance carrier that they must not contact you directly, attend any of your medical examinations or telephone you without our express written consent. If they write a letter to you, they should send a carbon copy of that letter to us. Sometimes they don't. The following is the type of letter which we send to the insurance carrier.

Insurance Company Name
 Address
 City, State Zip

RE: Your Name

Dear Claim Representative:

Please be advised that we represent the above claimant in connection with a pending workers' compensation case. Inasmuch as you now have notice of our representation, please *DO NOT contact my client, or attend medical exams with my client, or telephone my client without my express written consent.* If you must correspond with my client, after I have given my consent, then I request that all correspondence be carbon copied to me.

Your kind cooperation in this regard is appreciated.

Very truly yours,
 Shelley W. Elovitz

The insurance carrier is working for your employer. **THE INSURANCE CARRIER IS LOOKING OUT FOR YOUR EMPLOYER'S INTERESTS, NOT YOURS!**

The insurance carrier will try to see that you return to work by securing medical doctors to examine you with the hope that they will testify against you and say that you have recovered from your work injury. If you cannot return to your previous job, they will try to find a new job for you.

The insurance carrier may put you under video tape surveillance to try to prove that you are not really injured. They may video tape you working around your home. They may interview your neighbors and even follow you in your car. See *"What is Surveillance?"* on page 26.

They have the right to file petitions against you if they believe that you are no longer injured or that you should return to work. They also have the right to try to stop your benefits if they believe that you are not cooperating with them. Cooperation includes attending their medical examinations and applying for the jobs which they find for you.

We want to cooperate 100% with the insurance carrier, even if they do not cooperate with us.

DO NOT CONTACT THE INSURANCE CARRIER YOURSELF UNLESS WE HAVE SPECIFICALLY TOLD YOU TO DO SO.

HOW IS A VOCATIONAL REHABILITATION COMPANY INVOLVED?

Due to recent changes in the law, if you were injured before June 24, 1996, your employer or its insurance carrier may hire a vocational rehabilitation company to help find a job for you.

The vocational rehabilitation company, (sometimes known as the “voc rehab company” or just the “rehab company”), or the insurance carrier may send you to an Independent Medical Examination (IME). See *“What is an Independent Medical Examination (IME)?”* on page 19.

You should think of the vocational rehabilitation company in the same way that you think of the insurance carrier. **Remember — THE VOCATIONAL REHABILITATION COMPANY, LIKE THE INSURANCE CARRIER, IS LOOKING OUT FOR YOUR EMPLOYER’S INTERESTS, NOT YOURS.**

If we represent you, the vocational rehabilitation company should not contact you directly, attend any of your medical examinations or telephone you without our express written consent. If they write a letter to you, they should send a carbon copy of that letter to us. The following is the type of letter which we send to the vocational rehabilitation company.

If you are injured on or after June 24, 1996, the carrier does not have to find you a job. The carrier no longer has to prove that work is available to you by actually searching for job leads and sending job notices to you. The carrier can determine your earning power based on expert opinion. Your indemnity benefits can be modified through expert opinion which sets forth hypothetical jobs and their associated salaries that are available to you.

Rehabilitation Company Name
 Rehabilitation Company Address
 City, State Zip

RE: Your Name

Dear Rehabilitation Representative:

Please be advised that we represent the above claimant in connection with a pending workers' compensation case. Inasmuch as you now have notice of our representation, please *DO NOT contact my client, or attend medical exams with my client, or telephone my client without my express written consent.*

Inasmuch as the Court decisions at this time do not require a workers' compensation claimant to be interviewed by a rehabilitation company representative, I see no reason to schedule any meetings between you and my client. **HOWEVER, MY CLIENT AND I ARE 100% WILLING TO COOPERATE WITH YOU.** Therefore, if you can explain in writing to us your necessity for a face-to-face interview, we will seriously consider allowing one to proceed, albeit at my office.

As a prerequisite to this meeting, kindly forward to us a copy of your typewritten questionnaire and we will have the claimant complete it so that it is available to you at or prior to the meeting. If it is your intention to ascertain the nature of my client's educational abilities or attainment, mental abilities or industrial background, we will certainly provide you with all details that you require.

Very truly yours,
 Shelley W. Elovitz

The carrier must notify you when they have received medical evidence which indicates that you have been released to return to work in some capacity. This form is entitled a Notice of Ability to Return to Work.

WILL I HAVE TO MEET WITH THE INSURANCE CARRIER OR THE VOCATIONAL REHABILITATION COMPANY?

We believe that it is proper for your employer and its insurance carrier or vocational rehabilitation company to meet with you to see you and your injury first hand.

Upon their request, we will schedule an appointment for them to meet with you in our offices. We will prepare you for the meeting and will be there with you during the meeting. You will not have to talk to them alone unless, together, we decide otherwise.

Prior to the meeting, we will send you a questionnaire to fill out and return to us. The questions on the questionnaire are similar to the questions which will be asked at the meeting.

We will give a copy of the questionnaire containing your written answers to the insurance company and/or vocational rehabilitation company before the meeting begins so that you will not need to answer the same questions again.

Remember, we will be with you during this meeting.

WHAT IS AN INDEPENDENT MEDICAL EXAMINATION (IME)?

Under the workers’ compensation laws, your employer through its insurance carrier or vocational rehabilitation company has the right to have you periodically examined by the doctor of their choice. This is called an independent medical examination, also known as an IME.

You must attend this examination! Your employer can file a petition to compel your attendance at an IME. If you do not attend this IME, your workers’ compensation benefits and medical payments may be stopped. After you leave the doctor’s office, you should make a written note of what the doctor did and said to you, and how long the actual examination took. You should then send the note to my office. Please write “*Attention: WC Medical Department*” on the envelope when you mail it. We will contact the insurance company and obtain a copy of the doctor’s medical report.

<p>Your Name Your Address City, State Zip</p> <p style="text-align: center;">RE: <u>INDEPENDENT MEDICAL EXAM</u></p> <p>Dear Client:</p> <p>Under the workers’ compensation laws, your employer and/or its insurance carrier have the absolute right to have you examined by a doctor of their choice. This examination is known as an independent medical exam.</p> <p>Failure to attend this examination may result in the stoppage of your workers’ compensation benefits and medical payments. Therefore, <i>you must attend this examination.</i> If you wish, your spouse may attend this examination with you.</p> <p style="text-align: center;">Doctor: Address: Date & Time:</p> <p>After you leave the doctor’s office, <i>make a written note of what the doctor did and said to you.</i> Please send this note to my paralegal. We will then follow up with a request for copies of any reports that this doctor prepares for your employer and/or its insurance carrier. If you have any questions regarding this examination, please call my paralegal at the above telephone number.</p> <p style="text-align: right;">Very truly yours, Shelley W. Elovitz</p>

We will notify you by letter when you must attend an IME. The following is the type of letter which we will send to you regarding the scheduling of an IME. If anyone else contacts you regarding your attendance at an IME, please send a copy of that letter to us.

Neither the insurance carrier or the vocational rehabilitation company should be with you during the IME. You have the right to be examined in private by the doctor and his/her nurse.

REMEMBER, DO NOT TALK DIRECTLY TO THE INSURANCE CARRIER OR THE VOCATIONAL REHABILITATION COMPANY UNLESS WE HAVE SPECIFICALLY TOLD YOU TO DO SO.

WHAT IS AN IMPAIRMENT EVALUATION?

For employees injured on or after June 24, 1996, the carrier will be entitled to schedule an impairment evaluation. The doctor performing this evaluation will not be assessing the employees degree of disability. The doctor will give the employee an impairment rating based entirely on the AMA Guides to Evaluation of permanent impairment.

The impairment evaluation is designed to determine the degree of impairment that remains as a result of the work injury. The impairment is determined following the evaluation by a board certified physician. The physician must be licensed in the Commonwealth of Pennsylvania and maintain an active clinical practice for at least twenty (20) hours per week. The physician will be selected by agreement of the parties, however, if an agreement can not be reached, a physician will be designated by the Department of Labor.

Following the impairment evaluation, if the employee's impairment is found to be equal or greater than 50%, the employee is presumed to be totally disabled and can continue to collect total disability benefits, however, if the impairment rating is less than 50%, the employee is presumed to be partially disabled.

DO I HAVE TO HAVE MEDICAL TREATMENT THAT I DO NOT WANT?

No one can force you to have medical treatment that you do not want to have. However, your benefits may be stopped if a Judge decides that you are refusing reasonable and necessary medical treatment.

WHAT ABOUT FINDING A NEW JOB?

If you were injured before June 24, 1996 your employer, through the insurance carrier or vocational rehabilitation company has the right to try to find you a new job.

The workers' compensation laws *require* that you make an inquiry, fill out the application and/or submit to an interview for each job selected by your employer, even if you or your doctor think that you can not do the job.

*You must pick up from the Post Office any certified or registered mail that is sent to you by either the insurance carrier or the vocational rehabilitation company. **You must follow up on each job referral!***

IF YOU DO NOT FOLLOW UP AND APPLY FOR THESE JOBS, YOUR WORKERS' COMPENSATION BENEFITS MAY BE REDUCED OR TERMINATED. IF THIS HAPPENS, THE POSSIBILITY OF SETTling YOUR CASE WILL GO DOWN THE DRAIN.

If you take a new job and then have a recurrence of your original work injury, your workers' compensation benefits may be reinstated. If you take a new job and then you are laid off because of a reduction in the

work force, bankruptcy of the employer, etc., your workers' compensation benefits may be reinstated. If you are laid off because of your own misconduct, tardiness, etc., your benefits will be in trouble and it will be difficult to get them back.

If, by the suggestion of the vocational rehabilitation company, or your local office of vocational rehabilitation, you are in school in order to learn a new vocation and your employer sends you a job referral, you must still follow up on that job referral. However, the hours of the new job must fit into your school schedule.

One last note on finding a new job, if you are over the age of 62 or 65, and consider yourself to be retired, your employer may file a petition to stop your benefits because you voluntarily withdrew from the labor market by retiring. If you are receiving workers' compensation benefits and are nearing retirement age, it is important that you contact us prior to notifying your employer that you are planning to retire from your job.

WHAT IF I BELONG TO A UNION?

When an insurance carrier starts to look for a job for you, one of your most important defenses is your collective bargaining agreement. If the carrier recommends a potential job to you which, if accepted, would cause you to lose your union benefits or status, then under the law that job is considered "unavailable" to you. This is another potential protection that is afforded to you by your union.

WHAT SHOULD I DO WHEN THE INSURANCE CARRIER SENDS ME A JOB REFERRAL?

Whenever you receive a list of jobs from the insurance carrier or the vocational rehabilitation company, you must do the following:

- 1) Immediately send us a copy of the listed jobs if you see that it has not been carbon copied (cc:) to us.
- 2) Immediately call the proposed employer to see if the job is available.
- 3) Immediately make an appointment with the proposed employer for a personal interview.
- 4) Dress nicely for the personal interview, in your Sunday best.
- 5) Obtain the name of the person who interviewed you.
- 6) Always state your positive points first at the personal interview so the proposed employer has a strong indication that you want the job. Then be candid as to your condition— but don't dwell on your injury.
- 7) Ask at the personal interview whether or not the proposed employer was made aware of the fact that you have a bad back, bad leg, etc.— but don't dwell on it.
- 8) Ask the nature of the job, the duties of the job, and whether the job requires any prolonged standing, bending, lifting, stooping, or prolonged sitting.
- 9) Ask the proposed employer if there is a written job description for the job and if you can have a copy of it.

- 10) Ask the hourly wage of the job and whether the job is full-time or part-time.
- 11) If the starting wage is less than your previous wage, politely ask the proposed employer if there is a possibility of negotiating a higher wage now or in the future. DO NOT just demand a wage other than the one provided by the proposed employer.
- 12) At all times be polite, cooperative and send a thank you note to the person who interviewed you. The following is an example of a thank you note:

<p>Today's Date</p> <p>Proposed Employer Address City, State Zip</p> <p>Dear (Name of Person Who Interviewed You):</p> <p style="padding-left: 40px;">Thank you for giving me the opportunity to interview for the job which you discussed with me.</p> <p style="text-align: right; padding-right: 40px;">Very truly yours, Your Name</p>
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The application for employment may not have a space on it for you to indicate that you are currently on workers' compensation. If the application asks for your work history and your reason for leaving your last job, you should indicate that you left because you were injured in the course of your employment— but do not dwell on it.

You should tell the person who interviews you that you are currently on workers' compensation and explain what part of your body is injured— but do not dwell on it.

If you dwell on your work injury, you may give the appearance that you are not cooperating with the job interview process. If you do not cooperate, your employer may be able to stop your benefits. You must let the proposed employer know that you are injured but still show the proposed employer a positive attitude about finding a new job.

In order for us to show that you are cooperating and attending the job interviews, you must keep a diary record for every job referral made by your employer. We will need a copy of your complete job referral diary before the hearing.

It is important that you understand that you must apply for each and every position referred to you by the vocational rehabilitation company. It is not sufficient that you have applied for **most** of the referrals or that you have applied for all but one of the referrals. **If you have not applied for each and every job referral then there is no guarantee that you have protected your benefits!**

The following is an example of a Job Referral Diary Sheet. Prior to your job interviews, we will give you blank Job Referral Diary Sheets to fill out for each job referral. Keep all of the filled out sheets together so that you will be able to return them to us. Don't forget to always keep one sheet blank so that you can make extra photo copies if you run out of sheets.

<p><u>JOB REFERRAL DIARY SHEET</u></p> <p>JOB TITLE: _____</p> <p>JOB DESCRIPTION: _____</p> <p>NAME OF COMPANY: _____</p> <p>Date you received the job referral: _____</p> <p>Telephone number of the company: _____</p> <p>Date(s) of telephone calls to company: _____</p> <p>Name of person at company talked to: _____</p> <p>Position of person at company talked to: _____</p> <p>Did you fill out an application for work? ___(yes) ___(no)</p> <p>Date application was filled out for work: _____</p> <p>How was the application made? ___(in person)___(by phone)</p> <p>Did you have a personal interview? (yes) (no)</p> <p>Name of person who interviewed you: _____</p> <p>Position of person who interviewed you: _____</p> <p>How many positions are available? _____</p> <p>Did you talk about your work injury? ___(yes) ___(no)</p> <p>Did you send a thank you note? ___(yes) ___(no)</p> <p>Have you actually been hired? ___(yes) ___(no)</p> <p>Do you think that you will be hired? ___(yes) ___(no)</p> <p>Did they already hire someone else? ___(yes) ___(no)</p> <p>Date that they already hired someone else: _____</p> <p>COMMENTS: _____</p>
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MAY I FIND MY OWN JOB?

If your employer is trying to find a job for you, or if your employer is not trying to find a job for you, but you feel that you can work, regardless of your date of injury, some of the best things that you can do are as follows:

- 1) Apply to your local office of vocational rehabilitation and ask for re-training or re-schooling.
- 2) Apply to the Pennsylvania Office of Vocational Rehabilitation. You can do this at any time without our direction or permission. You can apply at any time during your case, however, the sooner the better. Simply applying cannot in any way hurt your case. **All that we request is that you notify us.**
- 2) Apply to your local Unemployment office to see what light duty jobs they have— NOTE: make sure that the people at the Unemployment office know that you are looking for A *JOB*, not unemployment benefits.
- 3) Check the want-ads yourself and start putting in applications for jobs which you really think that you can handle. Keep a record of each job that you apply for.

If you do these three (3) things and keep records of them, we are in a better position to defend your benefits in front of the Judge.

WHAT IF I RETURN TO WORK?

If you are *completely* recovered from your work injury, and your doctor has released you to return to your *full, unrestricted* job, we may advise you to sign a Final Receipt and return to work.

If you are only partially recovered from your work injury, and you have returned to work and you are working in pain, or if your doctor has released you to return to a modified or light duty job, we may advise you to sign a Supplemental Agreement and return to work on a trial basis.

REMEMBER, DO NOT SIGN ANY PAPERS UNLESS WE ADVISE YOU TO SIGN THEM!

If you have been released to return to modified or light duty work and fail to report for work, your benefits may be cut off. The one exception to this might be if you have a *strong* report from *your* doctor which says that you are unable to perform the modified or light duty job.

If you return to work at a light duty job, and your employer doesn't provide you with light duty work within your physical limitations, we will file a petition to protest it and to reinstate your benefits.

If you return to work at a light duty job and after a good faith try, you are unable to do the light duty work, your workers' compensation benefits should be reinstated. If they are not, we will file a petition to reinstate your benefits.

If you return to work at light duty and then your employer lays you off, we will file a petition to reinstate your benefits as long as your lay off is not a result of your misconduct.

If the insurance carrier does not reinstate your benefits, or if your employer does not continue your light duty employment— or if their offer of light duty work does not appear to have been an honest attempt on their part— we will file a Petition for Penalties on your behalf. See **Form I** for an example of a Petition for Penalties. We will also notify the Workers’ Compensation Bureau that your employer and the insurance company are playing games and not acting in good faith.

WHAT IF I RECEIVE A NOTIFICATION OF SUSPENSION OR MODIFICATION FROM THE INSURANCE CARRIER?

If you have returned to work and you receive a Notification of Suspension or Modification from the insurance carrier, you must call us **immediately!** If you don’t object to the Notice within twenty (20) days of receipt, your benefits may be suspended or modified in accordance with the Notice.

IF I SIGN A FINAL RECEIPT, MAY I EVER RE-OPEN MY CASE?

If you sign a Final Receipt it is difficult — but not impossible — to re-open your case. A Final Receipt terminates your workers’ compensation benefits.

To re-open your case, we would need to prove that you were still disabled from your work injury at the time that you signed the Final Receipt. In addition, we would need to prove that you did not understand what you were signing.

You must file a petition to re-open your case within 3 years of signing the Final Receipt.

IF I SIGN A SUPPLEMENTAL AGREEMENT, MAY I EVER RE-OPEN MY CASE?

If you sign a Supplemental Agreement your case may be re-opened because the Supplemental Agreement states that you were still injured at the time that you returned to work. A Supplemental Agreement only suspends your workers’ compensation benefits, it does not terminate them.

You have 500 weeks— which is 9 and 1/2 years— from the date that you sign the Supplemental Agreement to re-open your case.

You may re-open your case if your disability has recurred or has changed from a partial disability to a total disability. You may re-open your case if you miss work or lose your job because of continued problems with your injury. You may re-open your case if you lose the *complete* use of the injured part of your body, even if you do not miss work because of it. If this happens, we may be able to get you additional benefits known as specific loss benefits. See “*What are Specific Loss and Disfigurement Benefits?*” on page 6.

If any of these events happen, you must notify us so that we may start the process to have your benefits reinstated. The more time that passes, the more difficult it will be to re-open your case.

It is important that you monitor your case and write to us at least once every year to let us know what your medical treatment has been and the current condition of your injury.

WHAT PAPERS SHOULD I SIGN?

DO NOT SIGN ANY PAPERS UNLESS WE SEND THEM TO YOU AND TELL YOU TO SIGN THEM!

Your employer, the insurance carrier or the vocational rehabilitation company may ask you to sign a Final Receipt or a Supplemental Agreement. **DO NOT SIGN THESE PAPERS UNLESS WE TELL YOU TO SIGN THEM!**

If your employer, the insurance carrier or the vocational rehabilitation company tell you to sign any papers, DO NOT SIGN THEM — and let us know at once.

SHOULD I DISCUSS MY CASE?

DO NOT DISCUSS YOUR WORKERS' COMPENSATION CASE WITH YOUR EMPLOYER, ITS INSURANCE CARRIER, THE VOCATIONAL REHABILITATION COMPANY OR ANYONE THAT YOU JUST MET!

Remember, the insurance carrier and the vocational rehabilitation company are looking out for your employer's interests, not yours. You can never be sure if the friendly person you just met is being friendly, or is working for your employer. Use caution and do not discuss your case!

WHAT IS SURVEILLANCE?

Your employer, the insurance carrier or the vocational rehabilitation company may send an investigator to your neighborhood to talk to your neighbors and take videotape film of you outside of your house. They do this to try to catch those few employees who are not as injured as they claim to be. For example, if an employee claims to have an injured back, but it is known around the neighborhood that the employee often works on the family car, mows the grass, and tosses a football with the kids, that employee is likely to be videotaped doing these things. The employer, will show the videotape film to the Judge, who will more than likely stop that employee's benefits.

It is important to remember that because of these few dishonest employees, your employer may try to "catch" you doing things which make it appear that you are not injured. BE CAREFUL not to do things that you are physically unable to do. If it hurts to mow the grass— don't do it! If it hurts to check the oil in the car— don't do it! Don't stop your entire life, but be aware that if you look healthy to your neighbors, (and that UNSEEN investigator), you may look healthy to the Judge. If you have to do something that hurts, and you have the opportunity to let your neighbors know that you are in pain, let them know that it hurts.

Even after you have actually won your case, you should be careful. That is when surveillance may start again. It doesn't matter whether or not your doctor has said that you may try to exercise, or go fishing or hunting as part of your physical therapy. If the insurance company finds that your are doing these things, it will try to use them against you.

WHAT SHOULD I DO IF MY CHECK IS LATE?

If you regularly receive your workers' compensation check on a specific day of the week, and it does not arrive on that day, try to be patient. Often it is just delayed in the mail and it will arrive within the next few days. If your check is over three (3) full business days late, contact our office and we will contact your employer's insurance carrier.

The following is the type of letter which we will send to the insurance carrier if your check is late.

DO NOT CONTACT THE INSURANCE CARRIER YOURSELF UNLESS WE HAVE SPECIFICALLY TOLD YOU TO DO SO.

Insurance Company Name
Address
City, State Zip

RE: Your Name

Dear Claim Representative:

As you know, we represent the above claimant in connection with her/his workers' compensation claim. My client has advised me that the regular workers' compensation check which is due and owing has not yet been received.

Would you kindly look into this and see that the regular check is forwarded without further delay.

Very truly yours,
Shelley W. Elovitz

DO I HAVE TO GO SOMEWHERE TO PICK UP MY CHECK?

Neither your employer, or the insurance company, may require you to physically go somewhere in order to pick up your workers' compensation check. They are required by law to mail it directly to you.

If your employer, or the insurance company, refuses to mail your check to you, you should write a letter to the Workers' Compensation Bureau and tell them that your employer, or the insurance company, is in violation of the Act, and request that the Bureau direct them to mail your check to your home. The following is an example of the type of letter which you should send.

Today's Date

Bureau of Workers' Compensation
1171 South Cameron Street
Room 103
Harrisburg, PA 17104-2501

RE: Your Name
Your Employer
Your Social Security Number

Dear Sir/Madam:

My employer, and/or its insurance company, is refusing to mail my workers' compensation benefit check to me at my home address. I have been advised by my employer, and/or its insurance company, that I must physically go to _____ to pick up my check. My attorney and I believe that this is in violation of the Act, and we respectfully request that you direct my employer to mail all future checks to me at my home address. My home address is _____.

A copy of this letter is simultaneously being transmitted to my attorney, my employer, and my employer's insurance company. Thank you for your assistance in this manner.

Very truly yours,
Your Name

cc: Shelley W. Elovitz, Esquire
Address

Your Employer
Address

Your Employer's Insurance Company
Address

WHAT ABOUT SOCIAL SECURITY DISABILITY BENEFITS?

The Social Security Administration administers a Disability Insurance Benefits program known as DIB.

DIB is a program for disabled workers who have been contributing to the Social Security Fund. Unlike workers' compensation, DIB is *not* limited to disabilities caused by work. It considers you as a whole person and looks at all of your illnesses and disabilities regardless of whether they are work related or not.

For every quarter that you work, part of your pay is paid into the Social Security Fund. As you know, taxes are *not* removed from the money that you receive as workers' compensation benefits. Therefore, no payments are made into the Social Security Fund when you are on workers' compensation.

It is important that if you are totally disabled, and expect to be so for twelve (12) months or more, you should apply for DIB. If you are granted DIB, this prevents a lot of zeros from being added into your social security account for each quarter that you do not work.

Several quarters of not paying into the Social Security Fund while receiving workers' compensation benefits might negatively affect what you should receive from social security when you are 62 or 65 years old and want to retire.

After you have been on DIB for two (2) years, you are entitled to a medical card which may pay for your medical bills which are not related to your work injury.

HOW DO WORKERS' COMPENSATION BENEFITS AFFECT SOCIAL SECURITY DISABILITY BENEFITS?

If you are receiving workers' compensation benefits, you may receive DIB at a reduced rate.

Under the workers' compensation/social security "offset" rule, social security will pay only enough of your DIB to bring you up to 80% of your average monthly earnings before disability. This offset can eat up most of your DIB social security benefits.

However, even this minimum amount is worthwhile because it will be combined with the medical card for payment for your non-work related medical bills and it will "freeze" and protect your old age retirement benefits.

HOW WILL A COMPROMISE & RELEASE AFFECT SOCIAL SECURITY DISABILITY BENEFITS?

Social security will treat a lump sum payment of your workers' compensation benefits as weekly compensation payments and will continue the offset. However, the way that the lump sum agreement is drawn up will determine how long the offset is continued.

We will work with you at the time that the lump sum is approved so that you will receive the smallest possible offset and, therefore, the largest possible social security DIB check.

WHAT ABOUT UNEMPLOYMENT COMPENSATION BENEFITS?

If you ask your employer *in writing* to re-employ you at a light duty or modified duty job and your employer refuses, then you might be eligible for unemployment compensation benefits. If you apply for unemployment benefits you **must** advise the unemployment compensation authorities of the following:

"I am able and available to be engaged in all forms of light duty work within my physical limitations."

You will also, of course, need to have some type of medical support for the above statement to show to the unemployment authorities.

WE DO NOT RECOMMEND THAT YOU APPLY FOR UNEMPLOYMENT COMPENSATION.

Under the 1993 amendments to the Workers' Compensation Act, you will no longer be able to receive unemployment compensation benefits without a credit being taken against your workers' compensation benefits.

We advise against signing up for unemployment compensation while you are on workers' compensation for the following reasons:

- 1) You will be trading nontaxable dollars for taxable dollars; and
- 2) When your workers' compensation is over, you will in all probability still have additional credit weeks so as to qualify for unemployment compensation.

IF YOU ARE ON WORKERS' COMPENSATION BUT ARE ALSO APPLYING FOR SOCIAL SECURITY DISABILITY, DO NOT APPLY FOR UNEMPLOYMENT WITHOUT SPECIFICALLY DISCUSSING IT WITH ONE OF THE ATTORNEYS IN THIS OFFICE.

Applying for unemployment compensation benefits while simultaneously attempting to receive social security disability benefits can jeopardize your attempts to receive social security disability benefits.

WHAT ARE OTHER OFFSETS TO WORKERS' COMPENSATION WAGE LOSS BENEFITS AND THE REPORTING REQUIREMENTS?

Wage loss benefits payable under the Workers' Compensation Act are now affected by offsets for the following benefits:

- 50% set off for social security retirement benefits,
- Severance benefits,
- Employer funded pension benefits

An employee is required to report the receipt of unemployment compensation benefits, wages received in employment or self-employment, old age benefits under the Social Security Act, severance benefits and pension benefits. The Bureau has created forms to use for reporting purposes entitled, **Employee's Report of Benefits (Unemployment Compensation, Social Security (Old Age), Severance and Pension Benefits) for Offsets.**

If you are receiving wage loss benefits from the carrier, you may receive this form. You must notify this office immediately if you receive this notice. It is important for you to know that it is your responsibility to notify the carrier concerning the receipt of benefits which entitle the carrier to an offset. Do not wait until you receive a form requesting the information.

It is your responsibility to report information regarding employment or self-employment to the carrier within thirty (30) days after return to work. The Bureau has created two forms for this purpose entitled, **Employee Report of Wages (Other Than Workers' Compensation Benefits Received)** and **Employee Verification of Employment, Self-Employment Or Change in Physical Condition.**

If you receive an Employee Verification of Employment form, you must notify this office immediately. **FAILURE TO COMPLETE THE VERIFICATION FORM WITHIN THIRTY (30) DAYS OF RECEIPT WILL RESULT IN A SUSPENSION OF YOUR WORKERS' COMPENSATION INDEMNITY BENEFITS!!**

WHAT ABOUT THE AMERICAN'S WITH DISABILITIES ACT (ADA)?

Beginning July 26, 1992, some employers are covered by the American's with Disabilities Act (the ADA). If your employer employs 25 or more employees, then you may have rights under the ADA. Please note, however, that the ADA looks at disability differently than does workers' compensation or social security. The ADA protects a qualified disabled individual if the disability is a physical or mental impairment which substantially limits one or more of life's major activities, such as speaking, hearing, seeing, or performing manual tasks. Briefly stated, you should be aware that:

the ADA stops employers from discriminating against "any qualified individual with a disability", and

the ADA requires employers to make "reasonable accommodations" to the known physical and mental limitations of otherwise qualified individuals with disabilities, unless the accommodation (help) would impose an undue hardship on the employer.

If you believe that you can perform the essential duties of a job with or without accommodation (help), you may be entitled to return to a job with your employer. However, you must specifically request this return and any reasonable accommodations (help) which you think your employer can render to you.

If you choose to file a claim against your employer, you have 180 days from the date that you knew of the discrimination to file a claim with the Pennsylvania Human Relations Commission; or 300 days to file a claim with the Federal Equal Opportunity Commission. If you file a claim with the Pennsylvania Human Relations Commission, you will be protected under both Federal and Commonwealth laws. If you wait and file only with the Federal Equal Opportunity Commission, you are only protected under the Federal laws.

CAN MY EMPLOYER FIRE ME FOR FILING A WORKERS' COMPENSATION CLAIM?

No, under Pennsylvania law, an employer is not permitted to terminate an employee for filing a workers' compensation claim.

WHAT ABOUT FULL TORT vs. LIMITED TORT?

While not strictly workers' compensation, we would be remiss in not explaining to you the difference between full tort and limited tort in connection with your car insurance. While selecting limited tort may save you \$200 or less on your yearly premium, you will have forfeited your right to sue for pain and suffering in the event you are injured in a car accident caused by someone else. We advise against selecting the limited tort option. Make sure you choose FULL TORT! ALSO, IF YOU ARE INVOLVED IN AN ACCIDENT, PLEASE CALL US BEFORE YOU SPEAK WITH THE INSURANCE CARRIER. Our Personal Injury Department will be happy to answer your questions!

IN CONCLUSION...

This booklet was designed to help you better understand the workers' compensation process and to minimize the understandable anxiety, nervousness and uncertainty which you may experience as a result of your workers' compensation case. When you have questions, please *first* refer to this booklet. Many of your questions will be answered without the necessity of a telephone call to your attorney.

If, after referring to this booklet you still have questions, please contact us and we will be more than happy to further explain the workers' compensation process to you.