

**A GUIDE TO THE BENEFITS
PROVIDED BY THE ILLINOIS
WORKER'S COMPENSATION ACT**

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**IMPORTANT NOTICE
WORKERS' COMPENSATION
& 3rd PARTY ACCIDENT CASES**

It is extremely important to consult with our office immediately after you are involved in an accident. We can give you valuable information that can prevent potential mistakes that could affect your case. Call immediately for a free consultation (312) 464.1200 or toll-free (866) 475.7633.

3rd PARTY ACCIDENT CASES

Goldberg Weisman Cairo is also well-known for their aggressive handling of it's NON WORKERS' COMPENSATION ACCIDENT CASES. We have received record verdicts and settlements throughout the state of Illinois for our injured clients and have a multitude of million dollar verdicts and settlements to our credit. If you have been involved in an accident (on or off the job) call immediately to see if you have a THIRD PARTY CASE.

ALL CONSULTATIONS ARE FREE!

GOLDBERG WEISMAN CAIRO is a Chicago-based law firm which is well known for representing injured workers throughout the State of Illinois. We have concentrated in the handling of worker's compensation and third party cases in both the construction and manufacturing industries. We have the resources, experience and ability to aggressively and successfully represent the injured worker in both minor and major injury cases.

In addition to our Chicago, Rockford, Libertyville, Joliet, Champaign, Decatur, Springfield, DuPage and Ottawa offices, we are available to meet with you in Union halls throughout the State of Illinois.

If you have any questions relating to this booklet or wish to discuss an injury which you may have incurred, please call us immediately. There is no charge or obligation for this call.

If you wish to obtain additional copies of this booklet, please feel free to call our office.

If you wish to be placed on our mailing list, please call.

**A GUIDE TO THE BENEFITS
PROVIDED BY THE ILLINOIS
WORKER'S
COMPENSATION ACT**

INTRODUCTION

The information contained in this booklet is intended to inform workers about the general provisions of the Illinois Worker's Compensation Act, outline the general benefits provided by the Act, and answer the most common questions about Workers' Compensation. There are many provisions of the Workers' Compensation Act which, due to space limitations, are not discussed in this booklet. In addition, there are many exceptions to various provisions of the Act and many provisions which are subject to legal interpretation. The information contained in this booklet should not be used by an injured worker to settle or litigate a Workers' Compensation claim without first consulting an attorney. If you have any questions regarding the information in this booklet or wish to discuss a specific situation, please contact our office. There is no obligation or charge for consultation.

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A. BASIC ASPECTS

1. Who Is Covered By The Illinois Worker's Compensation Act?

Virtually every worker who is hired or injured in the State of Illinois is covered by Worker's Compensation. Even if the worker is injured while working in another state, he may be covered by the Illinois Act if he can show that he was hired in Illinois or the principal state of his employment was in Illinois.

2. Who Provides The Benefits?

The employer provides all of the benefits either directly or through an insurance company. The costs of Worker's Compensation benefits cannot be charged to a worker.

3. What Benefits Are Provided?

The employer is required to pay for all **Medical Expenses** incurred as a result of any work-related disease or injury. These include first aid, emergency room service, ambulance service, hospital service, doctor fees and prescriptions. The worker may also be entitled to receive appropriate physical, mental or vocational rehabilitation.

The employer is also required by law to pay the worker **Temporary Total Disability** (TTD) benefits during the period of time that the worker is off work recovering from the injury or disease, provided that a doctor has prescribed the absence from work. The worker is to be paid at a compensation rate equal to two-thirds (2/3) of his average weekly wage (excluding overtime). While there is no limit placed on the length of time that the worker can receive these benefits, no compensation is payable for the first three (3) **working** days unless the lost time continues for at least fourteen (14) **calendar** days from the date of the injury.

Finally, the employer may be required to pay the worker additional benefits should the worker suffer **Disfigurement, Permanent Partial Disability, Permanent Total Disability** or **Death** on account of any work-related injury or disease. In case of death, members of the worker's family are entitled to benefits.

The method used to calculate the TTD rate can be extremely complicated and confusing. If you have questions concerning your TTD rate or whether you are entitled to additional benefits as a result of your accident, a lawyer from our office should be consulted immediately.

4. What Injuries Or Diseases Are Covered?

Almost all job-related injuries or diseases, with few exceptions, are covered by Worker's Compensation. If an injury is not caused by anything relating to the job, the worker may still be covered by Worker's Compensation if he can show that by reason of his employment he was exposed to the danger of such injury to a greater degree than was the general public. An injured worker may even be entitled to full benefits if the accident was his own fault.

5. Must A Worker Be Injured In A Specific Accident To Be Covered By Worker's Compensation?

No. Although it is generally considered necessary for a specific accident to have occurred before a worker is entitled to Worker's Compensation benefits, there are situations where a worker may be entitled to benefits without a specific accident having occurred. These types of cases usually involve repetitive physical movements in the work environment.

6. Can A Re-Injury Of An Old Injury Be Covered Under The Illinois Worker's Compensation Act?

Yes. The fact that a work accident may have re-injured an old injury does not bar recovery under the Illinois

Worker's Compensation Act. Any new accident which aggravates a preexisting condition gives rise to the filing of a new case and may result in additional benefits.

B. REPORTING & BENEFITS

1. What Must Occur For The Injured Worker To Receive Benefits?

The **most important step** toward getting benefits started after an accident is for the worker to give **prompt notice** to his employer. Even if a worker sustains an injury which does not at first appear to be serious, he should **immediately** report the injury to his **Supervisor** or other person in charge and request to fill out an accident report, if one is available, **especially if the injury arises before a weekend, holiday, or vacation period.** (Notice to a co-worker is **not** notice to the employer.) Many cases are contested because the injured worker did not report the accident promptly. **Failure to give the notice required by law can result in a loss of worker's right to claim any Worker's Compensation benefits.** Although the law allows an injured worker to give notice within forty-five (45) days from the date of accident, many potential problems can be avoided if notice is given immediately following an accident. The **second most important step** an injured worker can do to protect their access to Worker's Compensation benefits is giving an accurate history of injury to any doctor, hospital, or nurse (health care provider). If the injury arose from employment, make sure that fact is contained in the medical records.

2. Must The Injured Worker Submit To Treatment By The Company Doctor?

While the injured worker may accept treatment from the company doctor, he also has the right to choose his own doctor or hospital at the company's expense. It should

be noted that the worker is limited to two (2) choices of doctors. The employer is also responsible to pay for the charges made by any doctors or hospitals to whom the worker is referred to by either of his first two choices of doctors. If a worker wants to see a third doctor of his own choosing, he must pay for these services. **In most cases, emergency first aid care will not be considered one of the worker's two choices.** A worker should always be certain to advise any hospital or doctor treating him that his injuries arose out of an accident on the job. **(Be as specific as possible.)**

3. What Benefits Should An Injured Worker Receive While Off Work?

The worker is entitled to Total Temporary Disability benefits (TTD) for the entire period of time during which a doctor has ordered him to remain off work to recover from the effects of his injury. The weekly compensation rate is based upon the worker's average weekly wage for the one year period before the accident (excluding overtime). Further, the TTD rate is subject to certain maximums and minimums that can be explained by a lawyer from our office. "Moonlighters" who hold two jobs shall receive TTD based upon the combined wages of the two jobs, **if the employer knows** the worker is holding two jobs. TTD benefits for volunteer firemen, police and civil defense workers or trainees are based on the gross average weekly wage earned in their regular employment. There is no limit to the length of time that a worker may collect TTD payments.

4. What If, After The Recovery Period, The Injured Worker Is Still Unable To Return To Any Type of Work?

An injured worker is considered to be totally and perma-

nently disabled if he has a complete disability which renders him wholly and permanently unable to do any kind of work for which there is a reasonably stable market. If totally and permanently disabled, the worker is entitled to benefits for life payable by the employer at the worker's TTD rate.

5. What Death Benefits Are Payable To The Worker's Survivors?

A worker's widow or widower, children or totally dependent parents who qualify for death benefits are entitled to weekly payments at a worker's TTD rate. If the widow or widower remarries, and there are no children at the time of the remarriage, the widow or widower at the time of the remarriage is entitled to a lump sum payment equal to two (2) years of compensation and all rights to further benefits are extinguished.

The maximum death benefit allowable is either twenty (20) years of weekly compensation payments or \$250,000.00, whichever is greater.

6. What If The Worker's Earnings Are Permanently Reduced Because Of The Injury?

If, after his return to work, the injured worker can no longer earn as much as he did before the accident, he may be entitled to receive weekly compensation benefits equal to two-thirds (2/3) of the difference between the average weekly salary he earned before the accident and the amount he is able to earn after the accident.

7. What If The Worker Does Not Receive Benefits To Which He Thinks He Is Entitled?

If a worker is under the active treatment of a doctor of his choice and he is unable to work and is not receiving Worker's Compensation benefits, he is entitled to have a

hearing on his case before an Arbitrator of the Illinois Industrial Commission. Workers have a right to present medical evidence and witnesses at this hearing. The worker should have an attorney represent him at this hearing before the Industrial Commission.

C. PERMANENT PARTIAL DISABILITY

1. What Compensation Is Payable To An Injured Worker For Permanent Injury To His Body?

Compensation is payable for permanent partial disability if the job-related injury or disease results in the complete or partial permanent loss, or loss of use, of a part of the worker's body. The compensation rate for permanent partial disability is 60% of the average weekly wage for accidents occurring after July 15, 1984, but is subject to minimum and maximum limits.

There is no fixed amount payable to a worker who is injured on the job. The methods used to determine the value of a Worker's Compensation case are extremely complex and confusing. One of our attorneys, experienced in the handling of Worker's Compensation claims, can protect the worker's rights and assist him in getting the maximum amount of recovery for his injury.

2. What Compensation Is Payable For Disfigurement To The Body?

A worker who suffers serious and permanent disfigurement (such as scars) to the head, face, hand, neck, arms, legs (below the knee), and chest as a result of a job-related injury may be entitled to compensation. Disfigurement cases cannot be tried or settled until a six (6) month waiting period from the date of the injury; however, these cases should be filed with the Industrial Commission immediately if the injury occurs, the same as any other type of work-related injury case.

3. What Compensation Is Payable For Bodily Injuries Not Specifically Listed In The Worker's Compensation Act?

A worker who has suffered a permanent injury to a part of his body not specifically listed in the Worker's Compensation Act can receive up to 500 weeks of compensation for permanent partial disability to the man as a whole.

D. PROTECTION OF BENEFITS

1. Must A Worker Notify His Employer If He Has Been Injured?

Yes. The injured worker is required to report all accidents to his employer within forty-five (45) days from the date of the accident. It must be reported to someone in the company who has a position of authority, i.e., foreman, company nurse or personnel manager.

2. Is There A Statute Of Limitations For The Filing Of A Worker's Compensation Claim?

Yes. There is a period of time within which a worker must file his Worker's Compensation claim before the Illinois Industrial Commission. This time period is the Statute of Limitations. In a Worker's Compensation case, the Statute of Limitations requires that a claim be filed before the Illinois Industrial Commission on the worker's behalf within three (3) years of the date of his accident or within two (2) years of the last payment of compensation (whichever of these dates is later). If a claim is not filed on the worker's behalf within this time period, **all of his Worker's Compensation benefits will be lost.**

If you have suffered an accident within the above time frame, and have not had a claim filed on your behalf before the Industrial Commission, your rights may be jeop-

ardized. You should contact our office immediately to make sure that your rights are protected.

It is important to note that the Statute of Limitations for a Third Party lawsuit is different than for a Worker's Compensation case.

Please refer to Section E.1(c) of this guide regarding Statute of Limitations for Third Party lawsuits.

3. Should An Injured Worker Apply For Group Insurance Benefits?

Employers may encourage injured workers to apply for group insurance or sickness and accident benefits instead of Worker's Compensation benefits to which he is entitled by law. Most of these alternatives do not provide for weekly benefits as great as those available under Worker's Compensation.

In addition, they usually require that the worker pay a portion of the medical expenses. Also, benefits for permanent partial disability and disfigurement are usually not available under most group insurance plans. Most group insurance policies exclude the payment of benefits for work-related injuries. If an injured worker signs a group form indicating that he was not hurt at work, it may prove difficult to later receive any Worker's Compensation benefits.

4. Can An Injured Worker Lose His Job For Filing A Claim For Compensation?

Section 4(h) of the Illinois Worker's Compensation Act provides that it is unlawful for any employer or insurance company to interfere with, restrain, coerce or discriminate against any worker in any manner whatsoever because of his exercise of the rights or remedies granted to him by the Worker's Compensation Act.

It is also unlawful to any employer or insurance company to discharge a worker because of the exercise of his rights or remedies under the Worker's Compensation Act.

5. When Is A Worker's Compensation Claim Permanently Closed?

After a worker signs his Settlement Contracts, which are submitted and approved by the Illinois Industrial Commission, his claim is closed and cannot be re-opened for any reason other than fraud committed by his employer or their Worker's Compensation Insurance carrier.

After a Contract is approved, the worker will not be entitled to any further Worker's Compensation benefits relative to his injury.

If a worker received money for his injury from his employer or its insurance company but never signed Settlement Contracts, his claim may still be open.

6. Should An Injured Worker Submit To A Recorded Statement, In Person Or Over The Phone, If Requested By His Employer Or Its Insurance Company?

No. A recorded statement can be used as evidence against the worker at a hearing before the Industrial Commission. A statement could also jeopardize a third party case. If a worker is asked to give a statement, simply have the agent or adjuster call our office for any information he or she may need regarding the accident.

7. Should An Injured Worker Sign Any Documents, Except An Accident Report, For Their Employer Or Its Insurance Company?

No. Any documents or forms that a worker signs, how-

ever harmless they may appear at the time, could possibly adversely affect his claim, especially if the worker's claim is contested at a later date.

8. Should An Injured Worker Cooperate With A Rehabilitation Nurse Hired By His Employer Or Its Insurance Company?

Yes. with caution. Under some situations a worker's employer, or its insurance company, will request that the worker consult with a rehabilitation nurse while the worker is unable to return to his usual employment. In many cases, this may be an important benefit provided to the worker under the Worker's Compensation Act. However, unless handled properly, this relationship may compromise certain rights and benefits that an injured worker has in both his Worker's Compensation case as well as a potential Third Party case. If a worker is contacted by an insurance company representative regarding a rehabilitation nurse, the worker should contact our office immediately to make sure that his rights will be protected.

9. Should An Injured Worker Apply For Unemployment Compensation Benefits If He Is Not Receiving Worker's Compensation Benefits After An Injury?

No. When you apply for Unemployment Compensation benefits, you must state you are willing and able to work. Even though it is doubtful the worker will be called for work, it could be argued by the employer or its insurance company that the worker is not entitled to weekly compensation benefits because of his statement to Unemployment Compensation that he is able to work.

10. Does An Injured Worker Need An Attorney To Assist Him In The Handling Of A Worker's Compensation Claim?

Yes. It is essential that an injured worker retain an attorney who concentrates in Worker's Compensation law to protect his rights and assure the maximum recovery under the law. Immediately after incurring an injury at work, a worker is involved in a legal claim under the Worker's Compensation Act. Every employer or its insurance company has a competent staff of attorneys representing their interests. Your employer or its insurance company has no obligation to inform a worker of his rights under the Worker's Compensation law. A Worker's Compensation claim involves not only compensation for an injury, it also has provisions which can protect a worker if he is unable to engage in his usual occupation as a result of a work-related injury.

E. BENEFITS IN ADDITION TO WORKER'S COMPENSATION

1. Third Party Cases

(a) Are There Rights In Addition To Worker's Compensation, To Recover Damages For Injuries Sustained In A Work-Related Accident?

Yes. If a third party, other than the worker's employer, is legally responsible for the accident, the worker has the right to pursue a second case. This second case would typically be based on the third party's negligence, manufacture of a dangerous product, or violation of the Illinois Structural Work Act.* Damages in this second case are generally more than Worker's Compensation benefits for the same injuries because there is no limitation on the amount of recovery. The damages to which a worker

would be entitled in a “third party case” are for pain and suffering, disability, loss of earnings and medical expenses, etc.

*The Structural Work Act was repealed for all accidents occurring after February 14, 1995.

* **(b) How Does A Worker Know If A Third Party May Be Legally Responsible For His Injuries?**

A worker may not know; however, a competent Third-Party lawyer will. The determination of whether a Third-Party case exists often requires an analysis of all applicable laws and potential theories of liability before the existence of a Third-Party case can be confirmed. It is important to have a Third-Party lawyer make this analysis on the worker’s behalf.

In order to determine whether there might be some individual or company other than the worker’s employer who might be at fault, the worker should give a complete description of his accident to a lawyer concentrating in the handling of Third-Party cases as soon as possible after the accident. The decision as to whether this second case exists should be made as quickly as possible, while any evidence pertaining to the case is still in existence. Any scaffolding or other equipment involved should be photographed and any individuals having knowledge of the accident should be interviewed while the facts surrounding the accident are still “fresh.”

(c) What Is The Statute Of Limitations For The Filing Of A Third-Party Lawsuit?

Generally a complaint must be filed in the Circuit or Federal Court within two (2) years following a worker’s accident. In construction-related accidents, the Statute of Limitations may be extended to four (4) years. If a

Complaint is not filed before that time, the worker will have no right to recover damages from any third party.

2. Social Security Disability Benefits

(a) Can A Worker Receive Social Security Benefits In Addition To Weekly Worker's Compensation Benefits?

Yes. A worker may receive both Worker's Compensation benefits and Social Security Disability payments, but the amount of worker receives will be reduced while the worker is receiving Worker's Compensation benefits.

(b) When Should A File For Social Security Disability Benefits?

It is important that a worker file a written application with the Social Security Administration as soon as it appears evident that the worker will be disabled more than five (5) months. The date of filing may determine the date of the worker's entitlement to benefits.

(c) Should A Worker Have An Attorney To Protect His Rights At A Social Security Hearing?

Yes. A Social Security Hearing is a legal proceeding. An attorney, experienced in Social Security claims, knows what must be done to maximize a worker's chances for being awarded benefits.

In general, a worker should contact an attorney who concentrates in the handling of Social Security Disability claims immediately upon receiving an initial Denial of Benefits from the Social Security Administration. At this point, the attorney will be able to properly prepare the worker's case in anticipation of his hearing date.