



*PENNSYLVANIA  
WORKERS'  
COMPENSATION  
HANDBOOK*

*Compliments of:*

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*OVER 70 YEARS EXPERIENCE  
REPRESENTING WORKERS AND THEIR FAMILIES*

# **PENNSYLVANIA WORKERS' COMPENSATION HANDBOOK**

THIS HANDBOOK HAS BEEN PREPARED BY THE LAW FIRM OF JUBELIRER, PASS & INTRIERI, P.C. TO PROVIDE ASSISTANCE TO INDIVIDUALS WHO MAY BE ENTITLED TO BENEFITS UNDER THE PENNSYLVANIA WORKERS' COMPENSATION ACT. IT IS NOT INTENDED AS A SUBSTITUTE FOR LEGAL COUNSEL, NOR IS IT DESIGNED TO ANSWER ALL QUESTIONS WHICH MIGHT ARISE. THIS HANDBOOK HAS BEEN SET UP IN A "QUESTION AND ANSWER" FORMAT TO EXPLAIN BASIC PRINCIPLES IN EASILY UNDERSTOOD LANGUAGE. IF THE HANDBOOK DOES NOT ADDRESS SPECIFIC PROBLEMS OR CONCERNS, PLEASE FEEL FREE TO CONTACT THE OFFICES OF JUBELIRER, PASS & INTRIERI, P.C. AT (412) 281-3850.

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REPRESENTATION IN WORKERS' COMPENSATION CLAIMS, SOCIAL SECURITY DISABILITY, AND CLAIMS FOR DAMAGES ARISING FROM PERSONAL INJURIES ARE HANDLED ON A CONTINGENT FEE BASIS. NO FEES ARE PAID UNLESS YOU ARE SUCCESSFUL AND THERE IS A MONETARY RECOVERY. APPOINTMENTS TO DISCUSS ANY OF THE ABOVE CASES CAN BE SCHEDULED WITH ONE OF THE FIRM'S ATTORNEYS AT NO CHARGE. IN ADDITION TO SCHEDULING APPOINTMENTS AT OUR OFFICES IN PITTSBURGH, THE FIRM'S ATTORNEYS OFTEN SCHEDULE APPOINTMENTS AT THE OFFICES OF THE LOCAL UNIONS THAT WE REPRESENT.

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## INTRODUCTION

According to recent studies, every day 183 Americans die from work-related injuries and occupational diseases. On the same day, more than 39,000 non-fatal injuries and illnesses will occur in America's workplaces. Unfortunately, instead of focusing on making the workplace safer a company's "bottom line" is often more important than its employees. Employers and the insurance industry have spent millions propagating the myth that many of these claims are fraudulent. This is simply not true. Most people seeking workers' compensation benefits are legitimate, and want to return to work as soon as possible. No one is getting rich collecting workers' compensation benefits. Workers' compensation only pays a portion of an injured employee's loss. It does not pay for the full wage loss, pain and suffering, or compensate that worker for the loss of enjoyment of many of life's pleasures. Despite its many shortcomings, workers' compensation benefits are still the most important resource available to an injured worker. It is vitally important that you understand your rights and make sure that your employer meets its obligation under the law.

## **CHAPTER 1 - SCOPE OF THE LAW**

### **1. *What is workers' compensation?***

The Pennsylvania Workers' Compensation Act is the state law established to protect individuals who have sustained injuries on the job. The Act provides for weekly disability income benefits, medical treatment, and death benefits to surviving family members of workers killed on the job. However, workers' compensation only pays a portion of an individual's overall loss. It does not reimburse an injured worker for the entire wage loss, nor does it provide compensation for pain and suffering. Despite its many shortcomings, workers' compensation is the most important resource available to an injured worker.

### **2. *To whom does the Pennsylvania Workers' Compensation Act apply?***

The Pennsylvania Workers' Compensation Act covers nearly every Pennsylvania worker, including public employees. Employers must provide compensation insurance for all of their employees, including part-time workers, professionals and executives. Non-profit corporations, unincorporated

businesses, and even employers with only one employee, must comply with the Act's requirements.

Most employers purchase workers' compensation insurance coverage from a private insurance carrier. However, if an employer has sufficient resources, it may "self-insure". An employer who fails to maintain workers' compensation insurance coverage can be subjected to criminal prosecution and substantial monetary fines. Although most Pennsylvania employees are protected by the provisions of the Act, there are some exemptions. The most common exemptions are federal civilian employees, railroad workers, longshoremen, and domestic servants.

### 3. *Who is entitled to benefits under the Pennsylvania Workers' Compensation Act?*

In order to be entitled to benefits, the injured worker must be an "employee"--this means that the individual's work must be under the direction and control of the employer. Independent contractors are not covered. Trade persons hired for a specific job and who maintain control over their work are not employees. However, in many instances an individual's status as an employee or independent contractor is not always clear. Employers often attempt to have individuals sign an acknowledgement that they are

independent contractors in an attempt to avoid responsibility for workers' compensation coverage. Such written acknowledgements will not defeat a claim for benefits if the employer exercised direction and control over the work performed by the injured individual. Competent legal counsel is needed to assess whether an employment relationship existed thereby enabling the injured individual to collect workers' compensation benefits.

#### 4. *What type of injuries are covered by the Pennsylvania Workers' Compensation Act?*

The law applies to all injuries or occupational diseases occurring in Pennsylvania, regardless of the place where you were hired. Work does not have to be the sole cause of an injury. An employer takes an employee "as is", meaning that compensation is payable even if a relatively minor incident aggravates or substantially contributes to an injury or an occupational disease. There is no requirement that the injury arise from an "accident"--injuries that develop gradually, from cumulative trauma, are also covered. An example would be carpal tunnel syndrome, or injuries to the low back or knees from repetitive heavy lifting or constant kneeling.

Employees should always inquire as to whether a particular condition is work-related. This

means discussing it with your union representative, your doctor, and consulting a knowledgeable attorney. Don't let your employer or its workers' compensation insurance carrier tell you that you are not entitled to benefits because you had a similar problem previously.

5. ***What kind of benefits are available to an injured worker or a surviving family member?***

The available benefits include: (a) wage loss benefits for total disability; (b) wage loss benefits for partial disability; (c) specific loss benefits for permanent loss of use of certain parts of the body by amputation or loss of function; (d) disfigurement benefits for a permanent scar on the head, neck or face; (e) death benefits to a workers' surviving spouse or dependents; (f) reasonable and necessary medical expense, even if the injuries do not result in lost time from work. The benefits enumerated above are explained in greater detail later in this Handbook.

6. ***What is the first thing an individual injured on the job should do?***

The answer to this question is very simple-  
-NOTIFY YOUR EMPLOYER THAT YOU WERE  
INJURED ON THE JOB. Unless notice of the injury

is given to the employer within 21 days, no compensation shall be due until notice is given. If notice of the injury is not provided within 120 days, no compensation will be allowed. The time for giving notice of an injury does not begin to run until the employee knows, or by the exercise of reasonable diligence should know, of the existence of the injury and its possible relationship to his or her employment.

No matter how minor the injury may appear the safest course of action is to report the injury immediately. Often a worker will be injured, but will complete their assigned duties without reporting the injury thinking that the pain will go away. The next day that individual may not be able to get out of bed. Although it is not too late to give notice, your employer will be less likely to pay the claim without a fight if notice was not given the day the injury occurred.

## 7. ***What kind of notice is required?***

There is no requirement that notice of an injury be in writing. However, reporting an injury in writing may avoid situations where an employer denies ever being advised that you suffered an injury at work. Always insist on receiving a copy of written accident reports.

Notice of an injury is sufficient if you describe your physical complaints, and unequivocally state that it was caused by your work activity. Merely calling to report off work due to back pain does not constitute notice of an injury. You must go further and indicate that the back pain is attributable to your work activity. If there was a specific event that gave rise to the pain, describe that event. Conversely, if the pain arose while you were performing your normal work activity, describe what you were doing when you experienced the pain. Telling a co-worker that you were hurt on the job does not constitute notice to your employer. You must advise someone in a supervisory capacity, such as a foreman or immediate supervisor.

8. ***When does compensation start?***

Compensation for lost wages is paid beginning with the eighth (8<sup>th</sup>) day of disability. Compensation is not paid for the first seven (7) days unless the period of disability lasts fourteen (14) days or more, in which event the employee receives compensation for the first seven (7) days of disability.

9. ***How is the weekly compensation benefit calculated?***

If an injured worker is totally disabled, the income loss benefits are two-thirds of the pre-injury average weekly wage. The maximum amount payable can never exceed the statewide average weekly wage, which changes each year. The pre-injury average weekly wage is not based on an individual's hourly rate multiplied by 40 hours. Instead, it includes overtime compensation, incentive pay, shift differentials and bonuses. The average weekly wage is based upon gross wages from all employers--not take home pay. If an injured individual is working for more than one employer, a situation known as "concurrent employment", the wages from both employers are utilized in calculating the pre-injury average weekly wage.

The most common method of calculating the pre-injury average weekly wage involves a review of earnings during the four calendar quarters immediately prior to the injury. The three highest quarters are averaged and that becomes the pre-injury average weekly wage. For individuals who have not worked for the employer for at least one year prior to the date of injury, or who work in a strictly seasonable occupation, alternate methods of calculating the pre-injury average weekly wage are available. Although the calculation of the pre-injury average weekly wage may seem straightforward, it is always best to check the employer's calculations. Any increase in the average weekly wage will result in an increase in the weekly

workers' compensation benefit, and this may mean thousands of extra dollars in benefits over the life of the claim.

For low wage earners, there is also a minimum compensation rate. The minimum compensation benefit is the lower of 50% of the statewide average weekly wage, or 90% of the workers' average weekly wage.

10. ***What is the maximum compensation rate?***

The maximum compensation rate changes January 1<sup>st</sup> of each year to equal the statewide average weekly wage. The new maximum only applies to injuries which occur, and occupational diseases which become disabling, during the year the maximum compensation rate is in effect. Although the maximum compensation rate increases each year, an individual's workers' compensation rate is fixed or "locked in" as of the date of injury and will not increase. There is no "cost of living" increase or adjustment in workers' compensation rates.

The following chart reflects the statewide average weekly wage for 2012 and the corresponding maximum compensation rate for the past five (5) years.

YEAR	MAXIMUM COMPENSATION RATE
2007	\$779.00
2008	\$807.00
2009	\$836.00
2010	\$845.00
2011	\$858.00
2012	\$888.00

11. *Can an injured individual sue an employer or a co-employee whose negligence caused the injury?*

No. The Pennsylvania Workers' Compensation Act is the exclusive remedy, which means that an employer is immune from negligence lawsuits by employees or their families, except under extremely limited situations. The only exceptions are:

- a) Uninsured employers--The immunity provision does not protect an employer who fails to obtain the required insurance coverage under the Act;
- b) An occupational disease that is not covered by the Act;

- c) Injuries sustained while not in the scope of employment--An example of an injury sustained while not in the scope of employment would be the following: A mechanic employed by a bus company is injured on his day off when a bus owned by his employer collides with the employee's private personal automobile. Although injured as a result of his employer's negligence, since he was not in the scope of his employment at the time the injuries were sustained, a suit against the employer would be permitted.
  
- d) Intentional injuries motivated by purely personal reasons--Note that even if the employer's conduct is considered reckless or an intentional violation of safety standards, this would not be enough to overcome the bar to a civil lawsuit. Only if the company intentionally injured the worker for personal reasons could the employee file a lawsuit.

The immunity from personal injury lawsuits also extends to co-workers, including supervisors, no matter how negligent they were in causing the injury.

12. ***Is the employer or workers' compensation insurance carrier liable for pain and suffering or mental anguish?***

No. The employer and/or its workers' compensation insurance carrier are not liable for pain and suffering or mental anguish.

13. ***Can an injured individual sue third parties whose negligence caused the injury?***

Yes. Only employers and co-workers are shielded from lawsuits. Workers can sue other individuals or companies whose negligence caused the injury or the occupational disease. Some examples of such third party lawsuits are:

- a) Motor vehicle collisions involving vehicles operated by third parties, or suits against governmental entities alleging unsafe road conditions;
- b) Suits against manufacturers and distributors of unsafe machinery, such as unguarded saws, shears or punch presses;
- c) Manufacturers and distributors of toxic chemicals;

- d) Unsafe industrial equipment, such as defective ladders or scaffolding;
- e) Owners of premises that permit unsafe and dangerous conditions to exist, such as icy sidewalks, or steps without handrails.

Injured workers should have their cases reviewed to assess the potential for third party lawsuits. The awards in such lawsuits may be several times the amount recoverable under workers' compensation. This is due to the fact that third party lawsuits permit the recovery of damages for pain and suffering, mental anguish, loss of consortium, and loss of enjoyment of life.

14. ***Does the negligence or fault of the injured worker affect the claim for benefits?***

No. Workers' compensation is a "no fault" system, which means that an individual's benefits cannot be denied even if the employee's carelessness caused the injury. This means that the employer cannot assert as a defense the fact that the injury occurred as a result of the injured worker's carelessness. As previously noted, the employer's negligence does not result in an award for pain and suffering or other compensatory damages. The employee does not collect more if the injury was

attributable to the employer's fault. Similarly, the employee does not collect less if the injury resulted from his or her carelessness. For instance, an employee whose injury was attributable to the failure to wear safety shoes would not forfeit his or her right to benefits. However, if an injury is attributable to a serious violation of law, or the consumption of drugs or alcohol, no compensation will be allowed.

## CHAPTER 2 - TYPE OF BENEFITS

### 15. *What is total disability?*

The answer to this question depends on whether the injury date was before or after June 24, 1996. As a result of extensive lobbying efforts by the insurance industry and employers, the legislature enacted amendments to the Pennsylvania Workers' Compensation Act known as "Act 57", which went into effect June 24, 1996. For injuries that occurred prior to June 24, 1996, an injured worker was considered totally disabled if he was unable to return to his time of injury occupation, and the employer or insurance carrier hadn't demonstrated the availability of suitable alternative employment. The employer and/or insurance carrier had the burden to prove that other work was available to the injured employee. Total disability benefits conceivably could continue indefinitely. In order to convert benefits to partial disability, the employer was forced to demonstrate that one of the following applied:

- a) That the employer actually offered the employee a job consistent with the injured worker's physical limitations; or
- b) That there was an actual job available with another employer consistent with the injured worker's physical limitations; or

- c) That the injured worker had acted in bad faith during the vocational rehabilitation process.

Although litigation of these issues still arises for those injuries which occurred prior to June 24, 1996, it is less prevalent since Act 57 has now been in effect for several years.

Under Act 57, if an injured worker has received total disability benefits for a period of 104 weeks, that individual can be required to submit to an impairment rating examination requested by the insurance carrier. The impairment rating examination is an attempt to quantify the injured worker's disability under the AMA "Guides to the Evaluation of Permanent Impairment" otherwise known as the "AMA Guidelines". If the examiner finds that the injured worker's impairment is equal to or greater than 50% under the AMA guidelines, total disability benefits continue. However, if the injured worker's impairment rating is less than 50%, the injured worker is considered to be partially disabled. The distinction between total disability and partial disability is very important, since partial disability benefits will continue for a maximum period of 500 weeks.

Very few injured workers will have an impairment rating equal to or in excess of 50% under

the AMA guidelines. This is due to the fact that the guidelines do not take into consideration pain or other subjective criteria. For instance, a treating physician's opinion that an injured worker is totally disabled from all forms of gainful employment is totally irrelevant to the impairment evaluation process. Only catastrophic injuries will equal or exceed the 50% impairment rating threshold, such as individuals who have suffered an amputation of their upper extremity or who have been rendered paraplegic.

#### 16. *What is partial disability?*

Once again, the answer to this question depends on whether the injury date was before or after the enactment of Act 57. As noted in response to the prior question, if you were injured before June 24, 1996, and you were not earning wages, and the employer had not demonstrated the availability of suitable alternative employment, you were considered totally disabled. The distinction between total and partial disability is important because under total disability you would continue to receive your full compensation rate, and benefits would continue indefinitely. If you had actually returned to work or the employer had demonstrated the availability of suitable alternative employment, your benefits were reduced, and they would only continue for a maximum period of 500 weeks.

However, under Act 57 an employer is no longer required to demonstrate that suitable alternative employment is actually available to the injured worker. Weekly workers' compensation wage loss benefits can be changed to partial disability in two ways:

- 1) After the employee has received total disability for 104 weeks, by demonstrating that the impairment rating is less than 50% under the AMA guidelines, as discussed previously. Converting benefits to partial disability through an impairment rating evaluation in and of itself does not reduce the employee's weekly benefit, but does limit the duration of benefits to 500 weeks; or
- 2) By demonstrating that the injured employee has earning power by utilizing a vocational expert to prepare a labor market survey of jobs consistent with the injured worker's education and physical limitations.

Under this scenario, an employer can reduce an injured employee's wage loss benefits based upon a list of "phantom jobs". There is no requirement that any of the prospective employers in the labor market survey have any openings. Nor is

there any requirement that the “phantom” employers would consider hiring someone who is receiving workers’ compensation benefits. Act 57 shifted the burden to find another job to the injured worker. Previously, the burden was on the employer and insurance carrier to demonstrate that another employer was willing to hire the injured worker before the weekly wage loss benefits could be reduced.

17. ***How is the compensation rate for partial disability benefits calculated?***

The benefit rate for partial disability is two-thirds of the difference between the pre-injury average weekly wage and the earning power after the injury. The benefit rate for partial disability can never exceed the applicable maximum compensation rate for total disability. Unlike total disability compensation, there is no minimum compensation rate for partial disability.

Compensation is not payable if there is no loss in earning power. For instance, if an individual returns to work still suffering from residual physical limitations which prevent performing all of his former functions, but still earns wages equal to or in excess of the pre-injury average weekly wage, there is no compensation payable. In this situation, compensation

benefits are suspended until the physical or mental disability results in a loss of earnings.

Merely returning to work at the same hourly rate does not necessarily result in a cessation of workers' compensation benefits. If an individual returns at the same hourly rate but less hours are available in the new position, the injured worker is still entitled to partial disability benefits to compensate him for two-thirds of the difference between the pre-injury average weekly wage and his earnings after returning to work.

18. ***How long will compensation benefits continue to be paid?***

If you have read the answers to questions 15 and 16, you already know that the answer depends on when you were injured. If your injury occurred before June 24, 1996, total disability benefits can continue indefinitely. If the employer was successful in demonstrating that suitable alternative work was actually available, your status would change to a partial disability recipient and you would then be limited to an additional 500 weeks of benefits. Any discussion of the particulars of such litigation is dependent upon the precise contention of the employer, that is, whether they attempted to demonstrate that you were fully recovered, or whether they claim you refused available

work, or failed to participate in good faith in vocational rehabilitation efforts.

If the injury occurred after June 24, 1996, the effective date of Act 57, the injured worker will in most instances be limited to receiving total disability benefits for no more than 104 weeks. Benefits will then be converted to partial disability benefits either through an impairment rating evaluation, or by demonstrating that the injured worker has earning power through the use of a labor market survey of “phantom jobs”. In addition to making it much easier for the employer and insurance carrier to reduce the benefits payable to an injured worker, Act 57 also made it much easier to limit the length of time that benefits are payable. Remember, partial disability benefits can only continue for a maximum period of 500 weeks.

#### 19. ***What are specific loss benefits?***

Specific loss benefits represent compensation payable for the amputation or permanent loss of use of certain parts of the body, loss of hearing or vision, and disfigurement. Compensation for specific loss can be paid even if the individual has not lost any time from work.

Eligibility for specific loss benefits requires that the injured worker suffer a permanent loss of use for all practical intents and purposes. This does not mean that the affected body part needs to be totally useless; rather, an evaluation must be made as to whether that part of the body is of meaningful value both at home and at work. The legislature has assigned a value to particular parts of the worker’s body as set forth on the chart below. Unless a particular body part is set forth on the chart, no benefits are payable. For example, there is no specific loss benefit for the loss of a kidney, or disfigurement benefit for a scar on the low back or leg.

**Chart of Specific Loss Benefits**

SPECIFIC LOSS OR PERMANENT LOSS OF USE	WEEKS OF COMPENSATION	HEALING PERIOD
Hand.....	335 weeks	20 weeks
Forearm.....	370 weeks	20 weeks
Arm.....	410 weeks	20 weeks
Foot.....	250 weeks	25 weeks
Lower Leg.....	350 weeks	25 weeks
Leg.....	410 weeks	25 weeks
Eye.....	275 weeks	10 weeks
Thumb.....	100 weeks	10 weeks
Index finger (first finger).....	50 weeks	6 weeks

Middle finger (second finger).....	40 weeks	6 weeks
Ring finger (third finger).....	30 weeks	6 weeks
Little finger (fourth finger).....	28 weeks	6 weeks
One-half thumb, finger.....	One-half of full award	Full healing period
Great toe.....	40 weeks	12 weeks
Any other toe.....	16 weeks	6 weeks
One-half great toe, other toe.....	One-half of full award	Full healing period
Hearing - complete loss in both ears.....	260 weeks	10 weeks
Hearing - complete loss in one ear.....	60 weeks	10 weeks
Hearing - partial loss in both ears.....	Multiply percentage of binaural hearing impairment by 260 weeks	None
Hearing - partial loss in one ear.....	Multiply percentage of hearing impairment in one ear by 60 weeks	None
Disfigurement - head, neck or face, maximum.....	0 - 275 weeks	None

Where an injury results in a specific loss, the injured worker may also be entitled to receive disability benefits for the time he or she is disabled up to the maximum number of weeks called the “healing period”. Healing period benefits end and specific loss benefits begin when a worker returns to work at the pre-injury wage, or when the healing period runs out, whichever occurs first.

If there are several specific losses, the healing periods are not cumulative, and instead, the worker receives payment only for the longest healing period. Often an injured worker is still unable to return to his time of injury occupation after the healing period expires. Insurance companies will normally try to assert a credit for any additional benefits paid while the worker is disabled, and attempt to deduct those benefits from the specific loss compensation. This is only permitted if there are no other injuries separate and apart from the specific loss. If the worker can demonstrate disability from injuries separate and apart from the specific loss sustained in the same incident, there is no deduction allowed from the amount of specific loss benefits.

As an example, if an individual sustains an amputation of her ring finger, as well as a severe cut in the palm of her hand, the healing period would be six weeks, with an additional 30 weeks of compensation

for the amputation of the ring finger. If the worker was not able to return to work at the end of the six-week healing period, but instead, remained absent from work for 15 weeks, the insurance carrier may attempt to deduct the additional disability benefits from the specific loss award. If that individual could demonstrate that the cut in the palm of her hand was disabling and was separate and apart from the specific loss of the ring finger, the deduction would not be permitted. However, if there are no injuries separate and distinct from the specific loss, the specific loss benefit and the healing period is the maximum amount which will be paid to the injured worker, even if the injury prevents the worker from ever returning to work.

## 20. *What are disfigurement benefits?*

If an individual sustains permanent disfigurement of the head, neck or face they are eligible to receive disfigurement benefits for a period not exceeding 275 weeks of benefits. Note that the award is not based upon a set dollar amount, but instead, is expressed in weeks of compensation. The rate is the same as the rate for total disability benefits, that is, two-thirds of the employee's pre-injury average weekly wage. The workers' compensation judge has discretion to award benefits based upon the personal observation of the resultant scarring. The number of

weeks awarded depends upon the length of the scar, the severity of the scar, the location of the scar, as well as the individual's age and sex.

A frequently overlooked claim involves scars resulting from surgical incisions in and around the neck region. Individuals who have undergone cervical disc surgery and who eventually return to work are still entitled to disfigurement benefits for the scar resulting from the surgical incision as long as the scar is considered unsightly. From a practical standpoint, any scar on the head, neck or face which is observable from several feet away is normally considered unsightly, and that individual is entitled to disfigurement benefits.

## 21. ***What are death benefits?***

Where death results from an injury or occupational disease, the Pennsylvania Workers' Compensation Act provides for the payment of weekly compensation benefits and a burial expense allowance of \$3,000.00. The weekly workers' compensation benefits are payable to the widow, widower, children, and if there are no eligible recipients in those classes, benefits are payable to parents, or brothers and sisters who are actually dependent upon the decedent at the time of death. The surviving spouse is entitled to benefits if he or she was living with the worker at the

time of death or was actually dependent upon the worker. Benefits to a surviving spouse will continue for life, unless the surviving spouse remarries. Upon remarriage, the surviving spouse is paid a lump sum of one hundred four (104) weeks of compensation. Benefits are payable to eligible children until age 18, unless they are dependent because of a disability, in which case compensation shall continue during the child's disability. Benefits to a child can continue to be paid until age 23 if the child is enrolled as a full-time student in an accredited educational institution.

22. *How are death benefits paid?*

The Act provides various percentages of the decedent's pre-injury average weekly wage depending upon the individuals eligible to receive benefits. The compensation payable as death benefits can never exceed the statewide maximum compensation rate. The percentage adjusts according to a schedule established by the legislature which is based upon the number of survivors, as set forth below:

**SCHEDULE OF DEATH BENEFITS**

**PERCENT OF  
WORKER'S  
AVERAGE**

## WEEKLY WAGE

WIDOW(ER)	51%
WIDOW(ER) AND ONE CHILD	60
WIDOW(ER) AND TWO CHILDREN	66-2/3
WIDOW(ER) AND THREE OR MORE CHILDREN	66-2/3

### **ORPHANED CHILDREN OF WORKER**

ONE CHILD	32%
TWO CHILDREN	42
THREE CHILDREN	52
FOUR CHILDREN	62
FIVE CHILDREN	64
SIX OR MORE CHILDREN	66-2/3

### **DEPENDENT PARENTS (NO WIDOW(ER) OR CHILD)**

PARTIALLY DEPENDENT PARENTS	32%
TOTALLY DEPENDENT PARENTS	52

### **DEPENDENT BROTHERS AND SISTERS OF WORKER**

(NO WIDOW(ER), CHILD NOR DEPENDENT PARENT)

ONE	22%
TWO	27
THREE OR MORE	32

## CHAPTER 3 - PROCEDURE

23. *How will an injured worker know if a claim has been accepted?*

Within 21 days after the worker notifies the employer that he/she has been injured, the insurance carrier must notify the worker whether it will pay the claim or whether the claim has been denied.

24. *What is the difference between a Notice of Compensation Payable and a Notice of Temporary Compensation Payable?*

A Notice of Compensation Payable (NCP) constitutes an acknowledgement that your claim has been accepted as compensable. The NCP includes a description of your injury, your pre-injury average weekly wage, and the applicable weekly compensation benefit.

A Notice of Temporary Compensation Payable is not an acceptance of your claim. Instead, it means your employer may pay benefits for up to ninety (90) days while an investigation of your claim continues. The employer does not have to pay benefits for the entire ninety (90) day period. Benefits can be

stopped at any time during the ninety (90) day period by sending the injured worker a Notice Stopping Temporary Compensation Payable.

If the Notice Stopping Temporary Compensation Payable is not filed within the ninety (90) day period the employer is considered to have accepted responsibility for your injury.

**25. *What is the time limit to appeal a claim which has been denied?***

When a claim has been denied, the insurance carrier will send you a Notice of Compensation Denial. Generally, a claim for benefits under the Pennsylvania Workers' Compensation Act must be filed within three (3) years after the date of injury. In a claim for death benefits, a Claim Petition seeking benefits must be filed within three (3) years after the date of death. In addition, the death must occur within 300 weeks after the injury. In certain situations the statute of limitations can be extended. If an individual receives payments in lieu of compensation, the statute does not begin to run until three (3) years following the last payment. Payments in lieu of compensation include payments from an employer's general funds which are made without the employee performing any services.

The limitation period may also be extended if the conduct of the employer or insurance carrier intentionally deceived the injured worker into a false sense of security. Although there are some limited situations where the statute of limitations can be extended, obviously the safest course of action is to make sure that all claims are filed within three (3) years from the date of injury. Don't allow yourself to be denied benefits by failing to file the claim in a timely fashion.

26. ***What is the time limit to reopen a case where the injured worker previously received benefits?***

In situations where benefits have previously been paid, the time limit to reopen the case depends on the document signed by the employee when compensation benefits were last paid. If the employee signed a Supplemental Agreement providing for a suspension of benefits, a Petition for Reinstatement must be filed within three (3) years after the 500-week partial disability period ended. If the employee signed a Final Receipt, a Petition to Set Aside the Final Receipt must be filed within three (3) years from the date disability benefits were last paid.

27. ***What is the difference between a Suspension of Compensation and a Termination?***

A suspension applies to a situation where an injured worker returns to work with some residual disability, but the disability does not prevent earning wages equal to the pre-injury average weekly wage. Since there is no ongoing wage loss, the worker does not receive a weekly disability benefit. However, the employer and/or its insurance carrier remain responsible for all reasonable and necessary medical expense related to the injury.

A termination of benefits is essentially an end to your workers' compensation claim. A termination means you have made a full recovery from your injury and have no need for further medical treatment for the work injury.

28. ***What is a Final Receipt?***

A Final Receipt is a document that signifies you have returned to work and all disability has ended. In most instances, you should not sign a Final Receipt. The Final Receipt itself indicates in bold print that you should not sign it if any of the following apply:

- You are not fully recovered from your work injury or disease; or
- You have returned to work but are earning less because you are unable to do your former job due to your work-related injury; or
- Your employer or the insurance company is withholding your last workers' compensation check unless you sign this form.

Despite the clear warning not to sign the form if any of the above situations are applicable, we often encounter workers who have signed a Final Receipt because the employer told them that it was merely an acknowledgement of the dates they were absent from work and the total amount of compensation paid. Never sign a Final Receipt just because your boss tells you that you have to sign it. Furthermore, your employer cannot withhold your final workers' compensation check because you have refused to sign a Final Receipt. It is illegal to hold your check. If your employer refuses to release your check, contact an attorney immediately.

29. ***Can the insurance carrier force the injured worker to be examined by one of their doctors?***

Yes. Insurance companies are entitled to have an injured worker examined by a physician of their choice every six months. Although insurance carriers attempt to characterize these examinations as “independent medical examinations” or IME’s, in actuality IME means “insurance medical examination”. When an insurance medical examination is scheduled you should immediately contact your attorney. Although your attorney cannot prevent the examination from occurring, your attorney can provide helpful suggestions for how to conduct yourself at the examination. You are never required to treat with an IME doctor, nor are you required to follow their advice regarding your work status. In most instances, your attorney will know the reputation of the doctor selected to perform the examination, and will be able to provide advice as to what to expect.

30. ***If the insurance carrier’s doctor feels the worker is recovered, will the weekly workers’ compensation checks stop?***

No. Your checks cannot stop unless a workers’ compensation judge conducts a hearing and orders them stopped. If an insurance carrier stops your

check based upon a physician's opinion that you are fully recovered, contact your attorney immediately. The insurance carrier has violated the Workers' Compensation Act and is liable for penalties in addition to all past due compensation.

31. ***What should an injured worker do if a workers' compensation claim is denied?***

If you receive a Notice of Compensation Denial, you must file a Claim Petition within three (3) years of the date of your injury. The mere fact that you have filed an accident report will not preserve your claim. You will have to take the initiative to file a Claim Petition for compensation, and to do this you should retain an experienced workers' compensation lawyer.

32. ***What should an injured worker do if a petition is filed seeking to stop or reduce benefits?***

In any contested case, if an injured worker appears before a workers' compensation judge without an attorney, the judge will strongly urge that individual to obtain legal representation. The judge will normally point out that he or she cannot act as your legal representative. The judge will also point out the fact

that your employer and its insurance carrier are represented by counsel, and you are at a severe disadvantage if you attempt to proceed on your own.

Legal fees in workers' compensation cases are handled on a contingent fee arrangement, which means that if you do not win your case, you do not have to pay a fee. In selecting an attorney, you should also inquire as to whether the law firm advances costs of litigation. The costs of litigation in a typical workers' compensation case can be quite high, oftentimes several thousands of dollars. Narrative reports from treating physicians, depositions, and court reporting fees must be paid, and before signing a Power of Attorney you should inquire as to whether you are responsible for those costs. In addition, you should clarify the length of time that attorney's fees will be deducted from past due and future compensation benefits.

## CHAPTER 4 - MEDICAL BENEFITS

### 33. *What type of medical expenses are covered?*

Under the Act, your employer and/or its workers' compensation insurance carrier is required to pay all medical expenses that are reasonable and necessary and causally related to your work injury. This includes, but is not limited to, charges of physicians, hospitals, physical therapists, chiropractors, as well as medication, prostheses, and assistive devices.

Under the Act, there are limits on the amounts that healthcare providers and pharmacies can charge for the treatment of work-related injuries. Physicians and other medical providers are reimbursed for the treatment of work-related injuries at the rate of 113% of the applicable Medicare reimbursement mechanism. If no such reimbursement mechanism exists for a particular service, payment shall be 80% of the amount most often charged for the service by similar medical providers within a given geographic area. Prescription drugs and professional pharmaceutical services are limited to 110% of the average wholesale price allowance for the product. Under the regulations, if an injured employee pays more than 110% of the average wholesale price of a prescription drug because the insurer initially denied liability for the claim, the insurer shall reimburse the

injured employee for the actual cost of the prescription drug once liability has been determined.

34. *Does an injured worker have to treat with the employer's doctor?*

With the passage of Act 57, injured workers are required to treat with a medical provider on the employer's list of designated physicians for 90 days. Before the passage of Act 57, claimants were required to treat with a physician on the employer's list of designated physicians for 30 days. Prior to August 31, 1993, injured workers were required to treat with designated panel providers for only 14 days. As you can see, recent amendments have continued to erode the injured workers' rights.

Current regulations require that the list of designated healthcare providers be posted in prominent and readily accessible places at the worksite. Such places include, but are not limited to, places for treatment and first aid of injured employees and employee informational bulletin boards. In addition to the posting of the list of designated panel physicians, the regulations require that the employer provide written notice to an employee of the employee's rights and duties regarding the use of designated panel physicians at the time the employee is hired and immediately after the injury. If the employee's injuries

are so severe that emergency care is required, notice of the employee's rights and duties shall be given as soon after the occurrence of the injury as is practical.

The employer's duty to provide written notice shall be evidenced by the employee signing a written acknowledgement of having been informed of and having understood the notice of the employee's rights and duties. The failure of the employer to provide the required written notice shall relieve the employee from the obligation to treat with panel physicians. However, an employee may not refuse to sign an acknowledgement, since such refusal would be considered evidence of bad faith.

35. ***Can the employer force an injured worker to treat with a particular physician?***

The employer and/or its workers' compensation insurance carrier are never permitted to pick a specific doctor to act as your treating physician. Even if the employer has a list of designated panel physicians posted, and the required written notice that the employee was informed of their rights and duties regarding medical treatment, the employer cannot require you to treat with a particular "hand-picked" physician. The injured employee has an absolute right to pick a physician from the list of designated panel physicians. Unfortunately, most of the physicians on

the employer's lists are notorious for sending individuals back to work prematurely, or concluding that the condition is not work-related.

In certain situations an injured worker can treat with a physician of their own choice immediately after the injury, and still force the employer to pay for such treatment. This would involve situations where the designated list of panel physicians is deficient, or the employer does not have the required written notices that the employee was fully informed of their rights and duties regarding medical treatment. Whether or not such a situation exists would have to be determined on a case-by-case basis. An experienced workers' compensation attorney will know whether the list of designated panel physicians is appropriate, and whether the employer has complied with the written notice requirements set forth in the regulations.

36. ***When can an injured worker see his own doctor?***

Assuming that your employer has fully complied with all regulations, you may still see your own physician, but during the first 90 days any treatment rendered by physicians not on the employer's list is at your own expense. In instances where the panel physicians conclude that the condition is not work-related, or is not disabling, seeing your

own physician is still the best advice. Although you may have to pay for that visit, a workers' compensation judge is not required to accept the opinion of the employer's panel physicians, even during the first 90 days. If your workers' compensation claim is denied, the workers' compensation judge assigned to hear your appeal may conclude that you sustained a disabling injury and your doctor's opinion is more credible. On that basis, you can be awarded benefits, whereas, if the only medical evidence available is that provided by the employer's panel physician, your claim is obviously doomed. In that situation you would have no medical evidence to contradict the panel physician's opinion that the condition is not work-related or not disabling.

If the employer has complied with the regulations, the employer is not responsible for the payment of medical treatment other than that provided by their designated panel physicians during the first 90 days. After that 90-day period, you are free to go to any physician of your own choosing. You must notify the employer within five (5) days of the appointment with your own physician or the employer will not be responsible for paying medical charges until notice is received.

37. ***Can an injured worker be forced to have surgery?***

If an injured worker refuses reasonable medical services, compensation benefits can be suspended. However, the insurance carrier cannot stop your checks merely because the company doctor has expressed the opinion that surgery would reduce the extent of disability or improve an individual's earning capacity. Instead, the employer must take the initiative and file a petition seeking to suspend benefits, and only after there has been a hearing before a workers' compensation judge can benefits be stopped. In determining whether the recommended medical treatment is reasonable, the judge will consider: (1) whether it is highly probable that the treatment will cure the problem; and (2) whether it is highly probable that the medical treatment will enhance the injured worker's prospects for gainful employment. If the evidence establishes that the recommended surgery involves minimal risk and offers a high probability of success, a judge may conclude that it is unreasonable to refuse surgery. In those instances where you do not wish to have surgery, or your treating physician is not recommending the suggested procedure, you should immediately contact an experienced workers' compensation attorney.

## CHAPTER 5 - SPECIAL SITUATIONS

38. *Is an employee entitled to workers' compensation benefits if injured going to or coming home from work?*

Generally, injuries sustained commuting to and from work are not in the course of employment and are therefore not compensable. There are several exceptions to the general rule, such as individuals who have no fixed place of work. If an individual has been dispatched from home and suffers injuries while traveling to a customer's jobsite, benefits should be payable. In addition, employees who are "on call" who have finished their normal assignment, and are then requested to return to the employer's facility for a particular problem are considered to be on a special mission and therefore entitled to benefits.

39. *Is an employee who sustains injuries at an employer-sponsored social or athletic event entitled to compensation?*

Compensation is payable if the injuries are sustained while engaged in the furtherance of the employer's business or affairs. As an example, injuries sustained in a charity volleyball game organized by an employer-sanctioned employee organization and encouraged by the employer was found to be in the

course of employment, and benefits were awarded. Similarly, injuries sustained while using a gym on an employer's premises during lunch hour, with the employer's knowledge, was also considered compensable. Determinations as to whether injuries sustained in such activities are on a case-by-case basis, and the inquiry focuses on whether the employer hosted the event or encouraged employee participation.

40. ***If an employee who previously sustained a compensable injury returns to work and later experiences problems at home, can workers' compensation benefits be reinstated?***

If a compensable work injury recurs with normal activities outside of the workplace, the individual is entitled to have compensation benefits reinstated. The resolution of this question normally requires a determination as to whether the problems which developed outside of the workplace are attributable to a recurrence or aggravation. The term "recurrence" normally signifies disabling symptoms from an old injury, whereas the terminology "aggravation" generally indicates a new injury. There are no "magic words" to conclusively demonstrate whether a particular condition is a new or old injury. Instead, each instance is fact specific. An example of a "recurrence" is where an employee has returned to

work but continues to take prescription medication for pain and continues to attend regularly scheduled appointments with the original treating physician. If that individual bends over to tie his shoe and experiences disabling back pain, that would normally be considered a recurrence of disability attributable to the old injury and workers' compensation benefits would be reinstated. Conversely, if an individual had returned to work but discontinued medical treatment, and then slipped and fell at home suffering pain in the same body part that had previously been injured at work, this would more likely be viewed as an aggravation or new injury and compensation benefits would not be awarded.

41. ***Can an employee receive workers' compensation benefits for a disability caused by work-related mental stress?***

An employee claiming psychiatric disability due to emotional, non-physical stimulus at work must prove that they were subjected to abnormal working conditions. For an employment event to be considered abnormal, it must be considered in relation to the specific employment. When a particular occupation is highly stressful, such as policemen and firefighters, the determination as to whether the employee was subjected to abnormal working conditions is based on a determination as to whether

the particular employees were under more stress than that expected of policemen and firefighters, as opposed to occupations in general. Recently the courts have made it very difficult to collect workers' compensation benefits for injuries resulting from psychological stimulus, and this will continue to be an area of considerable litigation.

42. ***Can a heart attack be considered a work-related injury?***

Compensable injuries are not limited to broken bones or musculoskeletal disorders. In many instances, heart attacks are precipitated by an individual's work activity. Individuals with underlying coronary artery disease are more susceptible to heart attacks if severe demands are placed upon the heart muscle. These demands can arise from heavy physical exertion or temperature extremes. In order to be compensable, work does not have to be the sole cause of the heart attack. Although the underlying coronary artery disease develops gradually and is normally unknown to the employee, if the work activity substantially contributes to the heart attack, the disability associated therewith is compensable.

43. ***Can the insurance carrier hire a private investigator and conduct surveillance of an***

## *individual receiving workers' compensation benefits?*

As long as the investigation does not constitute a breach of privacy, such activity is legal. Insurance carriers often hire private investigators to monitor the activities of individuals receiving workers' compensation benefits. The investigators will attempt to obtain videotape of your activities outside the house, such as cutting the grass or participating in hobbies or interacting with family and neighbors. The investigators are hoping to catch on film your involvement in physical activities which exceed your doctor's limitations.

Even more troubling are the elaborate scams that the investigators will employ to obtain evidence against you. For instance, our office has been involved in situations where private investigators told a neighbor that the injured worker had applied for life insurance and they needed to verify that he was active outside of his home. In other instances they have set up elaborate scams advising the injured worker that they were selected to participate in a marketing research program. In that instance, the injured worker was offered a gift certificate to purchase selected items at a grocery store. Naturally the products included large bags of dog food and cases of soda. On the day of the promotion the investigators were in the supermarket parking lot hoping to obtain film of the

injured worker lifting the items into the trunk of his car. Obviously, in situations where the injured worker's physician has restricted lifting to 10 lbs., such evidence can be devastating. Not only does the workers' compensation judge question the credibility of the injured worker, such evidence can also cause the treating physician to question the veracity of the patient's continued complaints of pain.

This office always advises injured workers that the mere fact that they are receiving workers' compensation benefits does not mean that they are bedridden or housebound. However, they should be familiar with their treating physician's limitations and restrictions. If the treating physician has issued reports indicating that the injured worker can perform light duty, there is nothing wrong with performing light duty activity outside of the home. In those instances where you become aware of surveillance activities, it is a good idea to wave to the investigator or tell them to say hello to the insurance adjuster assigned to your case. In all likelihood the surveillance activities will stop, at least for a period of time. The insurance companies know that if you are aware of the fact that you are currently under surveillance, you will act accordingly.

44. ***Can an employee collect pension benefits and workers' compensation benefits at the same time?***

The answer to this question is dependent upon both the date of your injury and the provisions of your pension plan. If your injury occurred after the effective date of Act 57, your employer is entitled to a dollar-for-dollar credit for any pension benefits that you receive to the extent that the pension plan was funded by the time-of-injury employer. For example, assume an individual had worked for the time-of-injury employer for 20 years, and as such was entitled to a pension of \$2,000.00 per month. If that individual actually began receiving pension benefits while still receiving workers' compensation benefits, he or she would essentially be trading \$2,000.00 in taxable pension benefits for \$2,000.00 in non-taxable workers' compensation benefits. The net effect is that the injured worker would actually have less net income available each month. In addition, if the insurance carrier is paying less in workers' compensation benefits due to the credit arising from the receipt of pension benefits, there is less incentive to settle the case for a fair amount.

If the injury occurred before June 24, 1996, the employer is not entitled to a credit for any amount the injured worker receives in the form of pension benefits. However, before applying for

pension benefits, it is very important that a knowledgeable attorney review the pension plan. Many pension plans provide that benefits are not available, or are reduced, due to the simultaneous receipt of workers' compensation benefits.

For any individual who is currently receiving workers' compensation benefits and is considering retirement, we strongly urge you to consult an experienced attorney. Oftentimes employers will attempt to stop your workers' compensation benefits claiming that your retirement signifies that you have permanently withdrawn from the labor market. In such an instance, the carrier argues that your wage loss is no longer attributable to your injury, but instead, is attributable to your withdrawal from the labor market. Some retirees have lost their workers' compensation benefits by thoughtlessly telling the employer that they were never going to work again. If the same individuals had not been injured, they may have worked longer or perhaps sought part-time work after retirement. It is important to advise the employer that the reason you are retiring is the fact that your injuries prevent you from returning to work. As previously noted, this is an area where experienced legal representation is a necessity.

45. *Can an individual who is receiving workers' compensation benefits also receive social security disability benefits at the same time?*

Yes. Social security disability benefits can be an important source of additional income for seriously disabled workers. The social security tax paid by your employer and the amount deducted from your earnings are the insurance premiums for this program. Entitlement to benefits is not limited to disabilities caused by your work injury. Instead, applicants can rely upon any conditions which contribute to their overall disability. However, the test for disability is more stringent, and requires proof that you are suffering from impairments which have lasted or can be expected to last for twelve (12) months which prevent you from performing substantial gainful work. The determination in this regard is based upon a consideration of your age, your education, your prior work experience and your medical impairment.

Individuals who are receiving workers' compensation benefits may find that their disability insurance benefit is reduced, under the workers' compensation "offset" rule. You are limited to receiving eighty (80%) percent of your average monthly earnings over the last five (5) years before your disability arose. The workers' compensation benefits continue to be primary, which means that your workers' compensation benefits are not reduced.

Even for those individuals who do not qualify for their full social security disability insurance benefit, there is a real advantage to applying for and being awarded social security disability insurance benefits. This is due to the fact that a disabled individual is entitled to Medicare coverage two (2) years after their social security disability entitlement begins. In addition, individuals who initially receive a reduced social security disability benefit can later have that amount increased to the full benefit if they settle their workers' compensation claim and include language prorating the workers' compensation settlement over their remaining life expectancy. An experienced attorney will know to include the appropriate language in any workers' compensation settlement where the individual is already receiving social security disability benefits or may be eligible for such benefits in the future.

46. ***Can an injured worker receive workers' compensation benefits and social security retirement benefits at the same time?***

If the injury occurred before June 24, 1996, the injured worker is entitled to receive workers' compensation benefits and social security retirement benefits simultaneously. However, if the injury occurred after June 24, 1996, the workers' compensation benefit will be reduced by fifty (50%)

percent of the amount received in the form of old age social security retirement benefits. As previously noted, the age of an individual applying for social security disability benefits is one of the factors in determining eligibility. In most instances, individuals old enough to receive social security retirement benefits will also have an excellent claim for social security disability insurance benefits. Even though the amount received in social security disability benefits may initially be less than the social security retirement benefit, the offset mandated by Act 57 normally makes it more advantageous to pursue a claim for social security disability benefits.

**47. *If a claim for workers' compensation benefits has been denied, do you recommend applying for sick and accident benefits?***

This office never recommends applying for sick and accident benefits *in lieu* of pursuing a claim for workers' compensation benefits. However, if your workers' compensation claim is denied, we recommend appealing the workers' compensation denial and signing an agreement to reimburse the sick and accident insurance carrier once you receive a favorable decision in your claim for workers' compensation benefits.

Sick and accident policies are designed to provide benefits for non-occupational disabilities. Many workers are instructed by their employers to apply for these group benefits in lieu of workers' compensation. Workers' compensation is better for the following reasons:

1. Workers' compensation benefits are not subject to income tax;
2. Sick and accident benefits are normally much less than your weekly workers' compensation benefit;
3. Sick and accident benefits are only paid for the time period specified in the policy, normally twenty-six (26) weeks;
4. If you are receiving workers' compensation benefits and return to work in a lower paying job, you are entitled to receive partial benefits. Sick and accident benefits do not provide for partial benefits;
5. Workers' compensation is responsible for all reasonable and necessary medical expense. Your

group insurance includes deductibles and limitations which do not apply under workers' compensation.

For individuals who do apply for sick and accident benefits while awaiting a decision on their workers' compensation appeal, you have to be careful to indicate on the application that the disability is attributable to a work injury. If you answer no to this question, the workers' compensation insurance carrier will obtain a copy of the disability application and use your statement against you in the workers' compensation proceedings.

48. ***Should an injured worker settle a workers' compensation claim for a lump sum amount?***

In many instances a settlement of your workers' compensation claim is appropriate. However, as to whether a settlement is in your best interest depends upon many factors. It would be impossible to provide an answer to this question that would be true for all individuals. Some of the factors to be considered include consideration of future medical expense, the likelihood of returning to work, and whether the lump sum settlement affects fringe benefits, such as continued medical insurance coverage

and pension contributions. For individuals unable to return to work, consideration must be given to obtaining approval of social security disability insurance benefits, and whether you would be entitled to pension benefits upon receipt of your social security disability award, or whether you have to wait until attainment of a certain age. Legal advice should be sought before considering any lump sum settlement. Many lawyers lean toward lump sum settlements because they guarantee a fee. Your interests alone should be the determining factor in deciding whether to accept a lump sum settlement. Always remember that the insurance carrier cannot force you to settle your case. Settlements must be negotiated between the insurance carrier and the injured worker. If you determine that a lump sum settlement is not in your best interest, you cannot be forced to settle your claim.

49. ***How should an individual go about selecting an attorney in a workers' compensation case?***

Almost all experienced workers' compensation attorneys operate on a contingent fee basis. This means that their fee is based upon a percentage of the amount they recover for you. No fee is paid unless the attorney is successful in obtaining benefits or preserving benefits that the insurance carrier attempted to reduce or terminate.

The most important element is the experience of the attorney you select to represent you. The standard fee in workers' compensation cases is twenty (20%) percent of past and/or future compensation. You should specifically inquire as to the number of weeks of past and/or future compensation from which the fee will be deducted, as well as clarifying who is responsible for the costs of litigation. The amount of the fee and the responsibility for the costs of litigation should always be known before signing a fee agreement.

#### 50. *How do your fees work?*

The law firm of Jubelirer, Pass & Intrieri, P.C. handles workers' compensation cases on a contingent fee basis. The written fee agreement provides for a fee of twenty (20%) percent of past and/or future compensation benefits for a maximum period of twenty-four (24) months and shall be for a lesser period of time if the period of disability is less than twenty-four (24) months. This means that in a contested case where the period of disability extends ten (10) weeks, fees are only deducted from the ten (10) weeks of compensation owed to the injured worker. However, in cases where the period of disability is indefinite, fees are only deducted for a maximum period of twenty-four (24) months.

Although some attorneys request that clients agree to pay a percentage of compensation as long as benefits are being paid, Jubelirer, Pass & Intrieri, P.C. does not do so. In addition, our firm charges a reduced fee on lump sum settlements. The costs of litigation in workers' compensation cases are advanced by Jubelirer, Pass & Intrieri, P.C. After a favorable outcome is achieved, the insurance carrier is ordered to reimburse the firm for all costs of litigation. If the result is unfavorable, the firm does not seek to recover litigation costs from the injured worker. All consultations in workers' compensation cases are free of charge. In any case where the law firm of Jubelirer, Pass & Intrieri is hired to represent an injured worker, a written fee agreement is signed and a copy provided to the client. The original fee agreement is introduced in the workers' compensation proceedings, and before any fee is charged, it is approved by the workers' compensation judge in accordance with the requirements of the Pennsylvania Workers' Compensation Act.

IF YOU, YOUR FRIENDS OR CO-WORKERS HAVE ANY QUESTIONS ABOUT THE WORKERS' COMPENSATION ACT THAT ARE NOT ANSWERED BY THIS HANDBOOK, PLEASE CONTACT THE OFFICES OF JUBELIRER, PASS & INTRIERI, P.C. TO SCHEDULE AN APPOINTMENT WITH ONE OF OUR ATTORNEYS.