

# WORKERS' COMPENSATION

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# Answers to Common Questions

## What is Workers' Compensation?

- ▣ A system of laws outlining benefits injured employees are entitled, and the administrative law procedures for obtaining such benefits.
- ▣ Compensates workers for injuries “arising out of and in the course of employment.”
  - In the course of employment: The worker was engaged in work activities at the time of the injury or its development
  - Arising out of employment: The worker's injury arises out of or otherwise relates to the work he or she performed

# Causation

What does it mean to have an injury “arise out of and in the course of” employment?

- The injury must have a causal connection to the employee’s work activities.
- For incident injuries, the most important factor is whether the employee was working when the injury occurred.
- For cumulative injuries, the employee’s work activities must be a substantial contributing factor to the injury – **not** the exclusive cause of the problem.

# Workers' Compensation

Who is covered?

Almost all Iowa workers.

- Exceptions include: self-employed farmers, maritime workers, and federal employees.
- Employers are required to carry workers' compensation insurance or verify self-insured qualifications.

# Workers' Compensation

What to do when an employee has been injured at work or from work activities:

- ▣ Report the injury to the employer. The employer must then file a report denying or admitting the injury was work related.
- ▣ Make sure medical providers know about the injury
- ▣ Statute of Limitations
  - Employee must file within **2 years** of the injury
  - Employee has **3 years** from the last payment to file or reopen a claim

If requested by the employer, the employee must submit to all reasonable medical examinations by physicians at the employer's expense.

# Injuries

What types of injuries are covered?

- ▣ Incident injuries – Those which occur suddenly, such as broken bones from a crush injury.
- ▣ Cumulative injuries – Those which occur over time, such as carpal tunnel syndrome or low back pain. Date of injury is when the employee reasonably appreciated the serious and permanent nature of the injury and its relationship to work activities
- ▣ Occupational diseases – Diseases caused by workplace factors, such as black lung
- ▣ Occupational Hearing Loss – Hearing loss caused by workplace factors
- ▣ Work need not be the sole cause of the disability, it need only be a cause

# Workers' Compensation

Does the employee have to prove negligence?

- No.

Can an employee file a lawsuit outside of workers' compensation?

- Probably not. Workers' compensation is an injured worker's exclusive remedy.
- Exceptions: Products liability, intentional torts, injuries caused by a third-party, bad faith handling of the workers' compensation claim, and gross negligence.

# Legal Issues

Aside from causation, what other disputes may arise?

- ▣ Extent of Disability
- ▣ Penalties for wrongful denial or delay of benefits
- ▣ Workers' Compensation Rate/Representative Earnings
- ▣ Date of Injury/Discovery/Manifestation of Injury

# Workers' Compensation

Do I have to give the Employer/Insurer my medical records or a medical release?

- Yes, but with some limitations and you have rights related to your records.

What information do I have a right to get from the Employer/Insurer?

- Medical records, wage information, payment information, etc.

# Workers' Compensation

What if the employee already had an injury to the affected area?

- Pre-existing conditions do not bar employees from recovering workers' compensation.
- The employee can recover benefits if the injury was aggravated by the employee's work activities.

# Workers' Compensation

What types of benefits are available

- Medical Benefits – An employee is entitled to reasonable medical care for the injury which is to be provided by the employer
- Monetary Benefits – Employee may be entitled to healing period benefits and permanency benefits

# Workers' Compensation

What types of monetary benefits are available?

- ▣ Healing Period/Temporary Disability
- ▣ Permanency
- ▣ Death

# Healing Period

- ▣ Temporary Total Disability
  - Benefits to supplement income while employee is unable to work during recovery from injury
  
- ▣ Temporary Partial Disability
  - Benefits to supplement income while employee works limited hours or in a lower wage position as he or she is recovering
  - Employee must accept the temporary job with same employer (within reason) or forfeit benefits

# Permanency

Available if an employee has a permanent impairment from the injury

- Permanent Partial Disability
  - Employee is compensated for extent to which the injury has permanently impaired him or her
- Permanent Total Disability/Odd Lot Doctrine
  - Disability makes it unlikely the employee will ever attain gainful employment again
- Death
  - Payments to surviving spouse
  - Payments to dependents
  - Burial allowance/medical expenses

# Workers' Compensation

What is the difference between a scheduled injury and an industrial disability?

- ▣ Scheduled injuries are compensated according to the state's predetermined chart.
- ▣ Employee is paid a predetermined number of weeks based on the extent of loss to the body part injured.
- ▣ Examples: injuries to an arm or leg.

# Workers' Compensation Schedule

<b>Scheduled Body Members</b>	<b>Weeks</b>
Loss of thumb	60
Loss of first finger	35
Loss of second finger	30
Loss of third finger	25
Loss of fourth finger	20
Loss of hand	190
Loss of arm	250
Loss of great toe	40
Loss of any other toe	15
Loss of foot	150
Loss of leg	220
Loss of eye	140
Loss of hearing in one ear	50
Loss of hearing in both ears	175
Permanent disfigurement, face or head	150
Body as a whole/industrial disability	500

# Industrial Disability

Comes into play when an injury is not on the schedule and has thus affected the “body as a whole.”  
(Examples: Shoulder, Back, Neck)

## Industrial Disability Factors

1. Physical Loss
2. Loss of Earning Capacity
3. Age
4. Education
5. Work History/Experience
6. Capability for Retraining/New Skills

# Second Injury Fund

What is the Second Injury Fund?

- ▣ The Second Injury Fund is designed to shield employers from having to pay higher rates for “second injuries.”
- ▣ Example: employee who has lost an arm prior to working for a company and loses the other arm in a work accident.
  - Employee entitled to industrial disability, even though the employer is only responsible for the loss of one arm.
  - The Second Injury Fund is then responsible for the employee’s compensation beyond the scheduled amount.

# Medical Care

## Choice of Doctors?

- The employer gets to choose the authorized medical provider and the employee will not be able to recover for unauthorized medical services, except in an emergency.
- However, the services must be reasonable.
- If the medical care is unsatisfactory, an employee should request the employer or insurer authorize another doctor.
- If refused, the employee may apply to the Workers' Compensation Commissioner for alternative care.

# Independent Medical Exams

What about second opinions?

- An employee has a right to have an independent medical examination if permanent disability rate is too low.
- This examination can be done to see if greater work restrictions are needed, if a higher impairment rating is appropriate, etc.

# Workers' Compensation

What types of settlements are there?

- ▣ Open File – Pays benefits, medical open, review reopening allowed
- ▣ Closed File – Pays benefits, future medical closed, no reopening
- ▣ Hybrid – Pays benefits, future medical open, no reopening

What if my case doesn't settle?

- ▣ Hearing within one year of petition being filed
- ▣ Case heard by Deputy Commissioner

# Workers' Compensation

What happens if my case is appealed?

- ▣ Deputy reviews own decision
- ▣ Workers' Compensation Commissioner reviews decision
- ▣ District Court reviews decision
- ▣ Court of Appeals/Supreme Court reviews decision

**Questions?**