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Back to Basics: A Quick Guide to Workers' Compensation in South Carolina

Workers' Compensation benefits are medical treatment, temporary compensation and permanent disability provided to an employee who is injured during his or her employment. Employers who regularly employ more than four people within South Carolina are subject to the Workers' Compensation Act. That means, if an employee is injured during employment, he is entitled to workers' compensation benefits even if it is his fault or if it was a result of his own stupidity that caused the injury.

Work injuries that are not compensable are those in which the employee intentionally disregarded a safety rule, was intoxicated, involved ordinary wear and tear, or suicide. Assaults are not compensable when they result from purely personal transactions, and horseplay is only compensable for the victim but not the instigator.

Once the work injury occurs, the employee has to verbally give notice within 90 days of the injury. It does not have to be in writing. An employee's failure to give timely notice will normally result in denial of the claim unless the employee can show to the satisfaction of the Commission that the claimant has a reasonable excuse for not giving timely notice, and the employer has not been prejudiced by this delay.

Who is a Covered Employee?

- Direct employees
- Statutory employees
- Part-time employees
- Lent employees
- Independent contractors who elect to be included
- Illegal Immigrants

What do I do if I get a claim?

- Complete a Form 12A.
- Contact your adjuster.
- Cooperate with defense counsel and adjuster.
- Keep notes throughout the claim.
- Offer light duty if possible.
- Be aggressive – If you want to deny a claim, be vocal.
- Interview witnesses : This is a crucial part of a workers' compensation claim. Once a claim is filed, get handwritten statements as quickly as possible while the details are fresh in the minds of witnesses. Be sure to ask for details such as who, what, when, where and how. After the statement is taken, at a minimum, have the witness read and sign the statement. If she/he cannot read, read it to him and have him sign or make his mark in front of another witness. Give a copy of the statement to the witness, and ask him to acknowledge receipt.

The insurance company will assign an adjuster to work with the business and the law firm defending the business during a workers' compensation claim. The adjuster's role is to:

- Obtain wage records and obtain/prepare wage statement.
- Take a recorded statement,
- Order surveillance or other investigation,
- Perform index check, and
- Monitor medical treatment.

The defense attorney's role is to:

- Research issues,
- Conduct discovery,
- Take depositions,
- Participate in hearings, and
- Provide recommendations to adjuster.

The attorneys on Collins & Lacy's Workers' Compensation team have 125 years combined experience representing employers and carriers before the Commission. We understand the complex litigation needs, and we recognize each client and each case is unique. This article is intended to help you draw upon our knowledge and serve as a quick reference on workers' compensation claims in South Carolina. Should you have any questions or need representation, contact me at eadams@collinsandlacy.com or 803.255.0416.