

PUBLISHED BY VIRGINIA HUNT LAW OFFICE

Nevada
Workers' Compensation Law Blog
NEWS & UPDATES ON WORKERS' COMPENSATION LAWS & HELPFUL INFORMATION ON THE CLAIMS PROCESS

Nevada Workers' Compensation Law Blog

Posted at 11:28 AM on February 4, 2010 by Virginia Hunt

Bankruptcy and Nevada Workers' Comp Benefits

I asked local bankruptcy attorney Sam Benevento to provide an answer to the question:

Will filing a bankruptcy affect your workers' compensation claim? Here's Sam's answer:

To understand the answer to this question, it helps to understand the difference between a Chapter 7 and a Chapter 13 bankruptcy. Chapter 7 is a "straight" bankruptcy. Under Chapter 7 you attempt to discharge your debts without payment. You can protect (exempt) your principal assets in chapter 7 (like a residence, household goods, car, retirement account, and other things) but non-exempt assets can be seized by the Chapter 7 Bankruptcy Trustee to pay your debts. Chapter 13, on the other hand, is a reorganization under which you voluntarily make payments to your creditors through the Chapter 13 Bankruptcy Trustee and thereby repay a portion (or sometimes all) of your debts.

Workers' compensation benefits are exempt under Nevada law. NRS 616C.250. This means that if you file a chapter 7 bankruptcy, the Bankruptcy Trustee will not be able to seize either your monthly benefit or your lump sum settlement. However, the benefits are counted as income to determine whether or not you are eligible to file a chapter 7 in the first place. Also, if the benefits are deposited into a bank account with other funds (i.e. commingled), they may be at risk of seizure. So be sure to keep any lump sum settlement completely separated from other funds.

In Chapter 13, the Trustee does not seize assets under any circumstances, so your workers' compensation benefits are always protected. However, benefits received both prior to and after filing the Chapter 13 may be used in calculating the amount of your bankruptcy payment.

You should also be aware that worker's compensation benefits may be garnished directly by a child support creditor.

Sam Benevento has been practicing bankruptcy law in Nevada for over 20 years and exclusively represents Debtors (that is – people and small business that need to file for bankruptcy protection). If you think that you may need to file, call Sam at 702-433-2000 to schedule a free consultation.

Virginia Hunt Law Office
1945 E. Warm Springs Road, Las Vegas, NV 89119
Phone: (702) 699-5336
Fax: (702) 731-9097
Email: virginia@huntlawoffice.com