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WORKERS' COMPENSATION NEWSLETTER

This is a newsletter of interest to professionals who provide services to Injured Workers.

WHO CONTROLS MY MEDICAL TREATMENT?

If you are injured in the State of North Carolina as a result of an injury by accident while in the course and scope of your employment then you may be entitled to both medical and lost wage benefits pursuant to Chapter 97 of the North Carolina General Statutes. These Statutes are commonly referred to as the North Carolina Workers' Compensation Act. Everyday I receive many questions from injured employees in regards to their medical treatment through workers' compensation. As a result of these questions we felt it was imperative to try and address these concerns as one of our newsletter topics. We hope that the following discussion is helpful in answering questions that the public may have in regards to medical treatment through the Act.

When an employee is injured in the State of North Carolina and the insurance carrier deems it to be a "compensable claim" then they will instruct the injured employee where they are to seek medical treatment. Many injured employees do not wish to be treated by the recommended physician and would rather seek medical assistance at a physician that they already know. However, it is becoming more evident every day that the carrier does maintain the right to direct medical treatment of the injured employee.

What does this mean for the injured employee? Does the injured employee ever have the ability to see a doctor for an independent opinion? As long as the injured employee is in the healing period, it is very difficult for the injured employee to select a physician of his choosing. The carrier has physicians which are within their insurance network that they utilize on a regular basis. They are not likely to let the employee independently select another physician. In addition, employers often have contracts with other physicians to handle their workers' compensation claims. This does not mean that the injured employee will receive inadequate medical treatment but the injured employee

will undoubtedly feel as though they are being forced to see a particular physician.

There are essentially two stages of an injured employee's medical treatment when you are speaking about a work related injury. The two stages are termed as "pre" and "post" maximum medical improvement. The term maximum medical improvement indicates that the treating physician has opined that the injured employee is as good as they are going to get medically under their care. The term pre-mmim is associated with the time period identified as the healing period. This is the period of time directly following the compensable injury by accident. The carrier or self-insured employer refers the injured employee to a doctor of their choosing during this period of time. My recommendation to those injured employees is to put forth a good faith effort to comply with the physician's recommendations.

I recommend that the injured employee comply with the directives of the treating physician because the law requires the employee to comply with reasonable medical treatment recommendations. Unfortunately, not complying may jeopardize the injured employee's right to receive further compensation both monetarily and medically. Does this mean that the employee is at the complete mercy of the carrier or self-insured and their treating physician? No.

Once the treating physician has decided that the injured employee is at maximum medical improvement, they have come to the conclusion that they can no longer offer any medical benefit to the employee and essentially the employee cannot get any better. It is at this time that we enter the post-mmim period. But what does this mean? This means that the employee obtains the ability to receive what has been called a second opinion on the rating. The law allows when there is a question of permanency that the injured employee can obtain an opinion from

a physician duly licensed in North Carolina for their opinion as to their rating. Once the physician offers a second opinion in regards to the rating if the physician also indicates there is further medical treatment that can be offered then the injured employee can apply to the Industrial Commission to have these recommendations authorized by the carrier.

The injured employee does have options. If the treating physician assigned by the carrier releases the injured from their medical care and the injured are not satisfied then they can get a second opinion on the rating. Moreover, it is possible that the carrier may allow you to see another physician for a second opinion. They generally will not allow you to choose the physician but maybe you can agree on a physician. Remember, it is in the insurance company's best interest to get you well as quickly as possible also.

I also want to stress one other option. The law allows the injured employee the ability to apply to the Industrial Commission at any time for treatment from another physician. The Industrial Commission has the power to order the insurance company to send you to another physician. You will need to contact the Executive Secretary's office with the Industrial Commission in order to do this. If you have been injured and you wish to learn more about your options or you wish to understand more about your rights then I urge you to contact an attorney for assistance. We are available 24 hours a day seven days a week.

Training for Your Group or Office

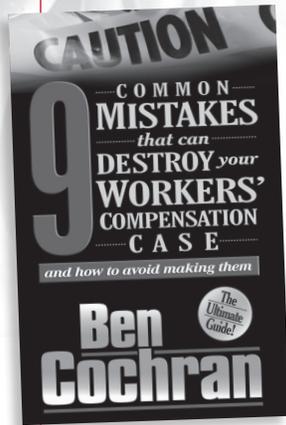
We are available to conduct workshops or short training meetings, tailored to the needs of your office staff. **There is no charge for this.** Please call our office to make arrangements for in-service training, or talks to groups and organizations on any area of Workers' Compensation law.

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Call or visit www.asklawyernc.com and enter your questions. You will get answers by an attorney the same day, confidentially and with no obligation.

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Worker's Compensation Book For FREE



Ben Cochran, a Board Certified Specialist in Workers' Compensation Law, has written a new book for injured workers and consumers to educate them as to the pitfalls on the Workers' Compensation claims process. *9 Common Mistakes that can Destroy your Workers' Compensation Case* is written in plain English without the legal mumbo jumbo. This book will help you learn what you should and should not do when pursuing a Workers' Compensation claim.

If you or your office would like some free copies for your staff, patients or clients, please call 1-800-600-7969 and we will get you as many copies as you need.



**Do you
know
someone
who has
been injured
on the job?**

What is Workers' Compensation?

To protect an injured worker from loss of income if injured at work and for payment of medical bills, the State Legislature adopted the North Carolina Workers' Compensation Act. The legislative intent of the Act is to make employers responsible for the injuries of their employees who were injured by accident in the furtherance of the employer's business. This Act provides workers with full compensation for medical bills and partial compensation for lost wages if they have been injured on the job. The Act also compensates injured workers for any permanent disability or lasting inability to earn the same wages due to the compensable accident.