

## **Frequently Asked Questions about the Alabama Workers Compensation Act**

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### **QUESTION 1: Can my employer fire me or lay me off if I file for Workers' Compensation?**

ANSWER: Alabama law makes it illegal for an employer to discharge an Employee who "instituted or maintained any action" for Workers' Compensation benefits. This law protects any Employee who seeks benefits, even if they have not yet filed a lawsuit. If the Employee proves that the sole reason the employer fired the Employee was because he sought benefits, the employers may be liable for reinstatement, back pay and damages.

### **QUESTION 2: Am I required to visit the Company's doctor?**

ANSWER: Yes; under the Act, the employer is only liable to pay medical benefits for an injured Employee treated by a doctor of the employer's choosing or approved by the employer. If you refuse treatment by the employer's approved doctor, you risk losing your right to claim benefits. If you seek treatment from your own doctor, the employer will not be liable to pay your medical benefits. If you are not satisfied with the treatment provided by the employer's doctor, you have the right to choose another from a list of four other approved by the employer.

### **QUESTION 3: What should I expect from the Company doctor?**

ANSWER: The better doctors all have the same goal – to help the injured worker recover from the injury and return to work as soon as

possible, as safely as possible. The Employee should be sure that the doctor understands the Employee's job duties and that the return to work instructions are specific. The use of restrictions such as "no heavy lifting," "no prolonged standing" or "light duty" have little meaning for the supervisor and are open to much interpretation. It is very important that the injured worker not exaggerate the effects of his injury or the physical demands of his job.

**QUESTION 4: Am I entitled to weekly benefits while I am off work?**

ANSWER: Yes; as long as an approved physician certifies to your employer that you are unable to work because of the on-the-job injury, you are entitled to Temporary Total disability benefits. If you can work only part time or do other duties that pay less, you are entitled to Temporary Partial benefits.

**QUESTION 5: Am I required to go to court before my case is concluded?**

ANSWER: In almost all cases where permanent disability benefits are agreed upon by an Employee and his employer, the court must approve the settlement to insure that it carries out the purposes of the Act. This is true whether the Employee is represented by an attorney or chooses to deal with the employer or insurance carrier directly.

**QUESTION 6: Can I require that my employer be responsible for all future medical bills?**

ANSWER: Under the Act, the employer is liable for all medical expenses related to your injury, both at the time of the accident and in the future. Final settlements of all claims should provide that no future medical care is necessary, that the cost of future medical care is agreed upon and paid, or that the employer will pay any future medical costs.

**QUESTION 7: What are my rights if I have a permanent disability that prevents me from returning to my regular work?**

ANSWER: Every permanent disability case is as different as the Employee who is injured. Your rights depend on the type of injury, your job, the opinions of the doctors who treat you, and other considerations that come into play in your specific situation. There are no absolute answers, and only an expert can advise you of exactly what your rights are.

**QUESTION 8: Can I draw Social Security Benefits and Workers' Compensation benefits at the same time?**

ANSWER: Yes, if you meet the eligibility requirements of both. The amount of Social Security may be reduced to some extent based on the total amount of income you are receiving at the time. Nevertheless, it is usually to your advantage to try to draw both types of benefits.

**QUESTION 9: The weekly rate I am receiving from the Workers' Compensation benefits is only two-thirds of my regular salary. This isn't fair! Can't I get more?**

ANSWER: You are right, it is unfair. However, the amount of benefits is limited by the Act, and those limits in Alabama are low. Until the law can be changed and the benefits improved, an injured Employee is only entitled to what the Act provides.

**QUESTION 10: I am not even getting two-thirds of my weekly salary! I made almost \$1200.00 a week at the time I got hurt, but I am only getting \$682.00 a week in benefits – that is only half!**

ANSWER: Remember that all the benefit amounts are subject to maximum and minimum amounts set by state law. For the year July 1, 2006 to July 1, 2007, no injured Employee in Alabama can draw more than \$682.00 per week in any type of benefits, regardless what percentage that is.

**QUESTION 11: What about drug testing?**

ANSWER: The Act entitles employers to make injured Employees submit to drugs and alcohol testing. There are some limitations on this

right in some circumstances: employers may have to bargain about drug testing with Employees who have a union, and government employers may be subject to constitutional limitations on testing. The general rule is, however, that Alabama employers have the right to test injured Employees. Employees who test positive after an injury may lose the right to claim benefits.

**QUESTION 12: What is the ADA and how does it relate to my on-the-job injury?**

ANSWER: The ADA is the Americans with Disabilities Act, which is a federal law that protects person with disabilities from discrimination. The ADA prohibits employers from discriminating against persons who are nevertheless qualified to perform function of a particular job. If your on-the-job injury results in a permanent disability that affects your major life activities, including your ability to work, you may be covered by the ADA and have rights that protect you from being treated differently than before your injury. Neither the ADA nor the Alabama Workers' Compensation Act requires an employer to create a job or light duty work for a disabled Employee, but the ADA does require the employer to accommodate an Employee's disability if the Employee is otherwise qualified.