

WORKERS' COMPENSATION INJURIES ON THE JOB BASIC RIGHTS AND OBLIGATIONS

Kenneth Vercammen & Associates Law Office helps people injured due to the negligence of others. We provide representation throughout New Jersey. The insurance companies will not help. Don't give up! Our Law Office can provide experienced attorney representation if you are injured in an accident and suffer a Serious Injury.

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When the Workers' Compensation Act was passed many years ago it was probably the first true "no fault" law in this State. With some very narrow exceptions, the question of negligence (fault) is not an issue if a worker is hurt on the job. Whether or not the employer is at fault has no impact on the worth of a case. In cases involving injuries suffered in connection with employment, your lawyer will represent you without payment in advance.

If a worker is injured on the job, the worker has three basic rights:

- (1) the right to medical treatment;
- (2) the right to receive payment (temporary disability) for lost time; and
- (3) the right to receive payment for any after-effects of the injury if the after-effects are found to be permanent (partial permanent disability).

If you are injured, you should immediately report the accident. Make sure an accident report is filled out and write down the names of all witnesses.

When a worker is injured on the job, the employer or the employer's insurance company are obligated to furnish and pay for medical treatment. However, in New Jersey, the employer has the right to select the doctors who will provide that treatment, since it's the employer or its insurance company who is responsible for payment of medical expenses. It follows that if the worker does not go to the authorized treating doctor, then the employer will generally not be responsible for payment of the medical expenses. When an employee is hurt on the job, the

employee is entitled to receive temporary disability benefits of 70% of wages up to an amount set by the State. For example, the maximum amount for an injury in 1997 is \$496 per week. These benefits are payable on a retroactive basis if the employee is out at least seven (7) days and the treating doctor certifies that the employee cannot work.

In general, temporary disability benefits will continue to be paid so long as the workers' treating doctor certifies that the employee cannot work.

When medical treatment is completed and the employee is able to return to work, there may be a basis for payment to the employee of benefits for the after-effects of the injury. This is called partial permanent disability and is based on a schedule which utilizes a system of assigning value to each part of the body on a scale of 1% to 100%.

Generally, the issue of partial permanent disability is resolved by filing a claim in the Division of Workers' Compensation. A lawyer who represents a claimant before the Division of Workers' Compensation may not charge any fee in advance. An Administrative Law Judge who hears the case will set the fee (never more than 20%) and if there is no recovery, an attorney will not be allowed a fee.

Finally, disposition of a claim in the Division of Workers' Compensation will not always operate to end a claim. There are rights and obligations on the part of both the employer and the employee.

Since an employee is not obligated to pay a fee in a workers' compensation case unless awarded by the Court, it would make sense for the employee to immediately consult an attorney to protect his/her rights.

The employee should also be aware of the fact that there are time limits regarding the reporting of accidents. The safest approach is, of course, to report a work related accident immediately, even if it seems relatively minor at the time. Failure to report an accident can cause delays in receiving temporary disability and other benefits.

When you meet with a worker's compensation attorney, the following information will be requested from you:

1. Name, address and telephone number.

2. Name, address and telephone number of employer.
3. Name, address and telephone number of any union the client is a member of , along with full details of any union benefits that may have been received or to which the client has a right. (There may be a union benefit plan which provides the employee with payments for drugs and medical bills in addition to workers' compensation benefits.)
4. The job title the client held when injured, along with the client's educational background and previous employment history.
5. The nature of the employer's business.
6. Your Social Security number.
7. Your sex, age, and marital status at the time of the accident.
8. The name of the employer's worker's compensation insurance carrier or indication of whether the employer is self-insured.
9. The exact details of how you gave notice of the accident to the employer or whether the facts and circumstances are such that the employer must have had knowledge.
10. The exact place where the accident occurred and the date and time of the occurrence.
11. A full description in your own handwriting of how the accident occurred or to the exposures if an occupational disease case.
12. Your wages or earnings and whether on time or piece-work basis, the rate per hour, or the weekly wage.
13. The date when you stopped work and the date of return to work.
14. A statement of past and present complaints, as well as a description of all body parts affected by the accident. Explain any emotional complaints since the accident to investigate the question of neuro-psychiatric disability.
15. The compensation paid for temporary or permanent disability must be ascertained.
16. Full details as to medical aid required and whether it was requested from the employer. If the medical treatment was furnished by the employer, all dates of treatment should be inventoried. If the employer refused to furnish the

treatment, indicate in detail all requests made to the employer for treatment, as well as obtaining the names and addresses of all doctors who furnished the treatment.

17. Be certain you have the names and addresses of all physicians and hospitals who rendered medical treatment since the accident, including but not limited to the injuries arising from the accident. Attempt to obtain the amount of all physician's bills and prepare a file for paid and unpaid bills.

If you are receiving medical treatment from a doctor of your choice or if the employer has refused to render medical treatment, the attorney must give written notification to the employer and its insurance carrier of all the details concerning your injuries and accident and the name and address of the doctor by whom he is being treated or the name and address of the doctor who is going to be treating him. The attorney must clearly indicate in the letter that this is a formal request pursuant to Title 34 for the employer/respondent to furnish medical treatment by the doctor chosen by the petitioner or, alternatively, that the respondent should immediately provide the name and address of a doctor that it wants to treat the petitioner. In Worker's Compensation, the respondent controls the choice of doctor.

18. Any Blue Cross, Blue Shield, or major medical plans which cover you, as well as identification numbers, since it may be possible to obtain payment for medical bills from these plans, if the employer/worker's compensation refuses to make payment. See Workers' Compensation (ICLE 1983).

If you are injured while working, we recommend you immediately speak with an experienced attorney.