

A GUIDE TO THE BENEFITS PROVIDED BY THE ILLINOIS WORKERS' COMPENSATION ACT

INTRODUCTION

The information contained in this booklet is an overview of benefits provided by the Illinois Workers' Compensation Act. However, there are many aspects of the Act that are not covered and the information contained in this booklet should not be used by an injured worker to settle a workers' compensation claim without the assistance of a competent attorney.

If you have questions or concerns about a workers' compensation case, contact the LAW OFFICES OF MARK N. LEE, LTD. toll-free at 1-800-627-5597. If you are working and would like to speak with an attorney from the privacy of your home, please contact our office during business hours to schedule an evening or weekend appointment.

Most attorneys schedule appointments at their convenience. Our attorneys schedule appointments at YOUR CONVENIENCE.

A Letter from Mark N. Lee –

My great grandfather founded one of Illinois' largest trade unions, Pipefitter's Local No. 597, in Chicago, Illinois and I worked as a union pipefitter. I remember that my co-workers were uneasy about filing a workers' compensation claim because they thought that if they filed a claim they would be fired. I did not like that they feared losing their job so helping injured workers became my goal. I went to law school, received my degree and started representing injured workers in their workers' compensation cases.

The Illinois Workers' Compensation Act was originally proposed by the employers of Illinois. The Act took away the rights of an injured employee to pursue a remedy in a court of law but provided for them to receive benefits for lost wages, medical care and disability under the Illinois Workers' Compensation Act. The act also made it unlawful for an employer to fire or discriminate against an employee for filing a workers' compensation claim.

While most employers recognize the need for workers' compensation, they have successfully lobbied to decrease the benefits paid to injured workers. Organized labor has resisted these efforts, not only for its' members, but for the entire work force of Illinois.

Illinois law provides that an injured worker has the absolute right to have an attorney represent his interests. Hiring an attorney does not create these benefits. However, hiring a qualified workers compensation attorney should ensure that an injured worker receives the proper benefits and settlement for his injury.

Sincerely,

A handwritten signature in red ink, appearing to read 'Mark N. Lee', with a stylized, cursive script.

*Mark N. Lee
Attorney*

THE FIRM

The Law Offices of Mark N. Lee, Ltd. is a Central Illinois law firm well known for representing injured workers statewide, and for its commitment to issues that affect Illinois' work force. The firm's central office is located four blocks south of the state capitol and shares a building with the Central Illinois Building and Construction Trades Council and the Central Illinois Trades and Labor Council, AFL-CIO. The firm's central location is crucial for its involvement in labor and injury related legislation.

The Law Office of Mark N. Lee, Ltd. concentrates in workers' compensation but handles all types of injury cases, including personal injury.

The firm has close associations with medical doctors, chiropractic physicians, accident reconstructionists and other experts who are essential to successfully handling and litigating workers' compensation and personal injury cases.

If you have questions regarding workers' compensation, personal injury, automobile accident, medical malpractice, or any legal matter, please contact us immediately. Do not request time off from work to schedule an appointment. Our attorneys are available to meet with you at YOUR CONVENIENCE. **There is no charge or obligation for a consultation.**

If you would like additional copies of this booklet, please contact our office.

I. WHO IS COVERED

- A. Who is covered by the Illinois Workers' Compensation Act?

Almost all workers injured in Illinois are covered by the Illinois Workers' Compensation Act. If you are injured while working in another state, you may be covered by Illinois law, particularly if your employer or labor union is located in Illinois.

CAUTION

If an insurance company tells you that you are not covered by the Illinois Workers' Compensation Act, contact our office and we will determine whether Illinois law applies. **There is no charge for this service.**

II. BENEFITS PROVIDED

- A. The employer provides all Workers' Compensation benefits. An employee with a work related injury is entitled to three basic benefits under the law:
1. Payment of all reasonable and necessary medical expenses which includes first aid, doctors' fees, hospital bills, surgical costs, physical therapy and prescriptions.
 2. Payment of $\frac{2}{3}$ their average weekly wage (AWW). This amount is referred to as Temporary Total Disability (TTD).

CAUTION

There are different ways to determine average weekly wage. If you are not receiving TTD or if you believe you are not being paid the correct weekly benefit, please contact our office and we will determine the correct weekly benefit. **You do not have to hire our firm for us to calculate your AWW or TTD.**

3. Payment for the permanency associated with your injury. This is called Permanent Partial Disability (PPD). **NEARLY ALL INJURED WORKERS REPRESENTED BY OUR FIRM RECEIVE A SETTLEMENT FOR THEIR INJURY.** Settlements are not taxable.

III. REPORTING, NOTICE AND FILING

- A. REPORTING – Following a work related injury, immediately report the accident, including the time, place and description of the accident to your employer, supervisor, foreman or company nurse.
- B. NOTICE – The law allows you to give notice of an accident within 45 days from the date of an accident; however, many problems are avoided if notice of the accident is given **immediately**. Notice can be given orally, but if possible, complete a written accident report and keep a copy.

CAUTION

Notice to a co-worker is not the same as giving notice to your employer.

- C. **FILING** – A claim for benefits with the Illinois Workers' Compensation Commission (IWCC) must be filed no later than three years following the injury or within two years following the last TTD check. Filing a claim is the responsibility of the employee or their attorney. An insurance company will not file your claim with the IWCC. If a claim is not filed within the time frame, all benefits will be lost. It is important to file a claim immediately because filing the claim gets the case assigned to a court calendar and an arbitrator, the person who resolves disputes concerning cases. If a dispute arises and the case has not yet been filed, significant delays can result. All benefits can be denied until the dispute is resolved.

CAUTION

Reporting an injury to an employer IS NOT the same as filing a case with the IWCC.

CAUTION

Sometimes a company will urge a worker to say their injury did not happen at work so that an employee health insurance pays benefits. Their goal is to save themselves money. Once a worker states they were not injured at work, it may be impossible to collect workers' compensation benefits.

IV . DOCTORS AND MEDICAL PROVIDERS

- A. DOCTORS – An injured worker is entitled to see two doctors of their choice and any other medical provider referred by those two doctors. Emergency room and first aid are not considered a choice of doctor. An injured worker should always advise every medical provider that the injury occurred at work.
- B. CHIROPRACTIC CARE – Chiropractic consultation and treatment are covered by workers' compensation. A chiropractor can be one of your choices of doctor.

CAUTION

It is important to attend all scheduled medical appointments. Failure to treat consistently will hurt your claim. If you miss an appointment, reschedule it immediately.

- C. COMPANY DOCTORS – Your employer has the right to request that you be examined by a company doctor. You must comply by attending the examination but you do not have to treat with the company doctor. Please be prepared for the examination by reviewing the details of your accident and be prepared to relate those details to the company doctor.
- D. REHABILITATION NURSES – It is common for an insurance company to hire a nurse to assist the injured worker in recovering from an accident. These nurses are paid by the insurance company. Most provide a valuable service to the worker; however, some care more about the insurance company than the

injured worker.

V. PERMANENT INJURY AND SETTLEMENT

- A. Compensation is payable for disability to any part of the workers' body. The methods used to determine the value of an injury can be complex and confusing. One of our experienced workers' compensation attorneys will assist you in getting the maximum amount of recovery for your injury.
- B. A workers' compensation case can not be fully settled under Illinois law unless a worker signs a pink settlement contract that is approved by the IWCC. After a worker signs the settlement contract, the claim is closed and medical care ends. If you are represented by an attorney, the attorney will draft the settlement contract with the terms most favorable to you. If you represent yourself, the insurance company will draft the settlement contract with the terms most favorable to them. If you are not sure whether you have settled your workers' compensation case, please contact our office.

CAUTION

Do not rely on the advice of insurance adjusters or company doctors concerning the settlement value of your claim. If you have questions regarding the value of your case, please contact this office.

VI. FURTHER BENEFITS

- A. VOCATIONAL AND CAREER RETRAINING –
If a worker is unable to return to the job performed prior to a work related injury, they may be entitled to paid vocational and career retraining.
- B. LOSS OF EARNING CAPACITY – If an injured worker is unable to earn as much money following an accident as before the accident, they may be entitled to a wage differential settlement.
- C. PERMANENT DISABILITY – An injured worker who is totally and permanently disabled is entitled to a permanent and total settlement.
- D. DEATH BENEFIT – If a worker is killed on the job, the widow or children are entitled to twenty years of weekly compensation or \$250,000, whichever is greater.
- E. DISFIGUREMENT – Compensation is payable for disfigurement and scarring to the face, hands, shoulders, arms and below the knee.
- F. LOSS OF HEARING – An injured worker is entitled to compensation for hearing loss.

VII. THIRD PARTY ACTIONS

- A. If your injury is caused by someone other than your employer, you may also have a cause of action against that party. A claim against a third party must be filed within two years following an accident. It is up to the injured worker, not the employer or insurance company, to pursue a third party case.

VIII. PRE-EXISTING CONDITIONS AND REPETITIVE INJURIES

- A. PRE-EXISTING CONDITIONS – Work related injuries may aggravate pre-existing conditions. This does not necessarily mean that the injury is not compensable. Many times the aggravation of a pre-existing injury is compensable under Illinois law.

CAUTION

If an insurance company tells you that they will not pay for an injury because the medical condition was pre-existing, call our office immediately.

- B. REPETITIVE TRAUMA – Some work related injuries are not caused by a single accident but by repetitive trauma. These injuries include carpal and cubical tunnel syndrome. Before you give a statement to an insurance company regarding a repetitive trauma injury, please contact this office.
- C. INJURIES THAT AGGRAVATE LONG STANDING MEDICAL CONDITIONS – Medical conditions such as high-blood pressure, arthritis, heart attack and stroke can be aggravated by work and may be compensable under Illinois law.

IX. EMPLOYEE FAULT – IMPROPER EMPLOYER CONDUCT

- A. EMPLOYEE FAULT – An injured worker is generally entitled to benefits even if the accident was their fault.

- B. **IMPROPER EMPLOYER ACTION** – The Illinois Workers’ Compensation Act makes it unlawful for any employer or insurance company to interfere with, restrain, coerce or discriminate against a worker because they exercise their rights under the Workers’ Compensation Act.

X. RECORDED STATEMENTS – SIGNED DOCUMENTS

- A. Do not sign any documents that an insurance company or employer wants you to sign. Do not give recorded statements to insurance companies. These documents and statements may be used against you. If an insurance company wants you to sign a document or give a recorded statement, contact this office immediately.

XI. SOCIAL SECURITY BENEFITS

- A. If a worker has been disabled for more than four months, they should file for Social Security disability benefits. The date of filing may determine when the worker is eligible for benefits. If a worker is initially denied benefits from Social Security, the decision should be appealed. If denied Social Security benefits, contact this office immediately.

If a worker receives a workers’ compensation settlement while receiving Social Security benefits, it is critical that an experienced workers’ compensation attorney write the settlement contract. Failure to

properly write the settlement contract may result in reduced Social Security benefits.

A worker may receive both workers' compensation benefits and social security benefits.

We hope this information gives you an overview of your rights under the Illinois Workers' Compensation Act. This booklet does not provide all the information needed to handle a workers' compensation claim without the assistance of an experienced workers' compensation attorney. If you need additional information, call our office immediately for a free consultation.

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