

MEDICAL BENEFITS

All reasonable necessary medical treatment and hospitalization services must be paid for by the employer or the employer's insurance carrier. The employee has the right to choose the treating physician.

TEMPORARY TOTAL DISABILITY BENEFITS

If there is lost time which extends beyond three days due to the injury, temporary total disability benefits become payable starting with the fourth day lost. If, however, the disability extends beyond seven (7) days, the full disability period becomes compensable and no waiting period applies. The benefit amount is 66 2/3 percent of gross weekly wages received at the time of the injury, up to a maximum established annually by the Secretary of Labor.

TEMPORARY PARTIAL BENEFITS

If the employee goes back to work part-time or at a lower rate than his/her pre-injury wage, the employee may be entitled to 2/3 of the difference between the pre-injury wage and his/her current wage. Partial disability may be received up to 300 weeks.

PERMANENT IMPAIRMENT BENEFITS

When a job related injury or illness results in a permanent partial disability, benefits are based upon a percentage of certain "scheduled" or "nonscheduled" losses. A "scheduled" loss is one involving arms, hands, fingers, legs, toes, eyes and ears. A "nonscheduled" loss is one involving the back, heart, lungs, etc.

DISFIGUREMENT BENEFITS

An employee may file a petition for disfigurement one year post accident/surgery for any scar, burn, or amputation related to the work accident. Disfigurement is paid out in a number of weeks up to 150 weeks depending on the severity of the scar.

DEATH BENEFITS

When a job-related accident or illness results in the worker's death, benefits are payable to the dependents of the worker as defined by the law. The weekly benefit payments are based upon the number of dependents. Children who are deemed to be dependents remain so until the age of 18 or, if a full-time student, until the age of 25 years. If a child is physically or mentally disabled, he/she may be eligible for further benefits. The employer or its insurance carrier is responsible to pay up to \$3,500.00 in funeral expenses for a job related death.

Office Locations

We have seven offices to serve you.
There is no charge for initial consultation
If you have any questions
please call an office in your area today.

Suburban Wilmington Office

1202 Kirkwood Highway
Wilmington, Delaware 19805
(302) 998-0100 ♦ (800) 632-9230

Bear Office

1701 Pulaski Highway
Bear, Delaware 19701
(302) 832-3200 ♦ (888) 832-DEBT

Dover Office

911 S. Dupont Highway
Dover, Delaware 19901
(302) 734-8700 ♦ (888) 734-6800

Millsboro Office

28535 DuPont Blvd., Suite 2
Millsboro, DE 19966
(302) 934-9400 ♦ (888) 408-0606

Kent County Office

500 W. Loockerman Street, Suite 120
Dover, DE 19904
(302) 674-7100 ♦ (866) 542-8400

Milford Office

1008 N. Walnut St.
Milford, DE 19963
(302) 424-7744

Seaford Office

1200 Norman Eskridge Hwy
Seaford, DE 19973
(302) 628-1800

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WORKERS' COMPENSATION

QUESTIONS AND ANSWERS
ABOUT YOUR RIGHTS WHEN
INJURED AT WORK

Rev. 12/10

WHAT IS WORKERS' COMPENSATION?

Workers' Compensation is a system created by the Delaware Legislature, which provides benefits to workers who are injured or who contract an occupational disease while working. The benefits include medical care, temporary disability payments and compensation for a resulting permanent impairment. In the event of the death of an injured worker, benefits are payable to the family of the worker. Benefits may be paid voluntarily or it may be necessary to petition the Industrial Accident Board for relief.

WHO IS COVERED?

Employers with one or more employees are required to carry workers' compensation insurance. Employers may not charge an employee any portion of the premium or expense of carrying workers' compensation insurance. Farmworkers are exempt from the workers' compensation statute.

Workers' Compensation benefits have certain entitlement requirements which must be met in order to receive benefits. The requirements are established by law in Title 19, Delaware Code and are administered by the Delaware Department of Labor, Division of Industrial Affairs, Office of Workers' Compensation. Workers considered to be independent contractors, rather than employees, are not covered.

Seamen, maritime workers, railroad workers and federal employees are covered under federal workers' compensation law

WHAT MUST A WORKER DO IF INJURED?

The worker should notify the employer of the accident as soon as possible. If an employer is not made aware of an accident within 90 days, a worker will not be eligible for compensation until notice is given. The notice may be given to the foreman, personnel office, or anyone in authority at the employer's place of business.

WHO PAYS BENEFITS?

Benefits are paid by the employer or the employer's workers' compensation insurance carrier. Employers are required by law to report an accident to the appropriate authority within 10 days after knowledge of the injury. A report is required no matter how minor the injury. An employer may be fined \$100 to \$250 for failure to file a first report of injury.

WHAT IF AN EMPLOYER REFUSES TO PROVIDE MEDICAL SERVICES AND/OR TEMPORARY DISABILITY BENEFITS?

If the employer denies the claim, the employee has two years from the date of the accident to file a Petition For Compensation Due with the Office of Workers' Compensation. If the case goes to a hearing, the employee must arrange for the presence of a medical witness or the scheduling of a deposition prior to the hearing date. Employees should be aware that employers are represented by attorneys.

WHAT IS THE LEGAL PROCEDURE IN FILING A PETITION?

Once a petition is filed, a pretrial hearing is scheduled by the Office of Workers' Compensation. At the time of pretrial, a pretrial memorandum is completed. The employee lists all benefits that he/she is seeking and any witnesses needed for the hearing. The employee needs to be aware that he/she will need to make arrangements for the presence of a medical witness or the scheduling of a deposition prior to the hearing. Usually there is a fee involved for medical testimony, payable by the employee. Signed statements of medical records generally cannot be used as evidence.

If the employee is represented by an attorney, the attorney fills out the pretrial memorandum on the employee's behalf. A hearing date is then assigned. The case may be heard by the Industrial Accident Board or by a Hearing Officer. Hearings are held every day in the Wilmington and Milford Offices.

Petitions for wage replacement and petitions to terminate benefits are scheduled within 120 days from the date of the notice of pretrial. The hearing is held in the office closest to the place where the injury occurred. Although the hearing is not as formal as Superior Court, it is a formal proceeding. The burden of proof falls on the party who filed the petition.

CAN AN EMPLOYER TAKE ACTION AGAINST A WORKER FOR FILING A CLAIM?

The Workers' Compensation Statute prohibits the employer from discharging or in any other manner discriminating against an employee because the employee has claimed or attempted to claim workers' compensation benefits, or because he/she has testified, or is about to testify in a workers' compensation case.



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