



Your Workers Compensation Case

Overview of how your case will proceed

Injury

- Your injury must have arisen from your job or was caused by your job... if not .. NO CASE.
- Report injury immediately to your employer
- Request a claim form ... “DWC – 1 “ you fill out the top portion and your employer fills in bottom portion
- Employer has 24 hrs to turn form into carrier.

Medical Treatment

- If your employer has a designated medical facility or doctor that you must go to for your industrial injury then you must see them for your initial medical examination.
- If your employer has a Medical Provider Network... MPN... you may switch doctors but it must be within their approved network under most circumstances

Disability

- TTD – Temporary Total Disability ... if your doctor declares that you are too injured to return to your job and/ or you can return to work with restrictions but your employer can not accommodate those restrictions and has no modified work for you... then you will be paid $\frac{2}{3}$ of your Average Weekly Wage so long as your physician certifies you TTD.. Up to a maximum of 104 weeks.

Disability (con't)

- You must report to your workers comp doctor at least every 45 days or the rules say that the insurance company can stop your payments.
- When you designate a doctor from the MPN list that person becomes your PTP... Primary Treating Physician and is responsible for your medical care throughout the case and may make referrals to other doctors if needed.
- This will continue till you are declared Permanent and stationary.

Permanent Disability

- When your PTP declares you Permanent and Stationary (P & S) it simply means that you are not expected to improve or decline over the next year... you are stable.
- You may not be the person you were before you were injured and have disabilities you did not have before and your doctor will issue a report called the P and S report which outlines what those disabilities are and the impairment

Permanent Disability (Con't)

- When you are P and S your disability payment will be reduced substantially. The money you receive will be subtracted from your eventual settlement of your claim. Avg. PD \$230 wk.
- Once declared P and S you may go back to your former job or find a new one as the case may be.
- Settlement of your claim may begin at this time depending if the carrier wants to get another medical opinion as to your level of disability.

Challenges to the P and S Report

- If either your attorney or the insurance company does not agree with your PTP as to the nature and extent of your disability they may challenge the report and request an exam with an allegedly neutral doctor called a QME. *(Qualified Medical Examiner)
- The challenging party will offer names of some doctors to act as the QME. If there is agreement between the parties he is then called an AME.

Challenges to P and S (con't)

- Going to an Agreed Medical Examiner... generally eliminates the need for a later trial.
- But... if there is no agreement on a doctor...then either side may request a State Panel QME ... whereby the state sends the names of 3 doctors and both attorney's strike a name and the remaining doctor is your QME. Unfortunately this method may lead to eventual trials because of one side objecting.

Settlement Process

- Once all the medical reports are completed one side or the other will file for a hearing called an MSC ..Mandatory Settlement Conf.
- You will receive notice of the time and date of the hearing and you will need to attend.
- Most of the time you just need to be there and sit...and wait if the attorney's are able to settle the case you will need to sign papers.
- If the attorney's can't reach settlement then we generally get a trial date and send you home.

2 Ways to Settle your case

- Stip and Award – Permanent disability paid out over time every 2 weeks till the full amount paid less attorney fees... Medical to remain open for your industrial injury but is usually a hassle to get
- Compromise and Release (C and R) 1 lump sum payment for Permanent Disability and a negotiated buy out of your anticipated future medical costs. It is never dollar for dollar otherwise there would be no incentive for the Carrier to pay up front cash.

Settlement of your case

- MSA... Medicare Set asides – if your settlement comes under the watchful eyes of the Social Security Admin. Then your settlement needs to be approved by the gov't before you can settle by C and R.
- The insurance company must forward your medical records to an organization that calculates the anticipated medical costs over the rest of your lifetime for your injury and how much the gov't will require the insurance company to pay you to buy off the liability so that medicare doesn't have to pay for your injury

Taxes

At the current time all workers compensation payments made to injured workers are tax free.

So... in calculating your settlements keep that in mind.

Things to be aware of ...

- Workers comp moves SLOWLY...cases may last years depending on how much treatment you need. Frustrations will occur since all treatment must be approved by the insurance company and their utilization review dep't.
- Treatment will most often be delayed or denied and your attorney and doctor will have to fight constantly to get them to authorize. Many times it requires a court hearing or an agreement to go to a neutral QME to determine medical need.

Things.... Con't

- Sometimes your check may be a few days late please understand the Post office or the clerk at the insurance company is out of our control and if your check is a day or two late don't panic... hold off on calling your attorney until it is more then 3 days late....Please.
- Remember ... once you have an attorney the insurance company will not talk to you most of the time so do not call them unless you are told you can.

Sub Rosa Filming....

- The insurance company may film you at any time you walk out your front door. They will follow you when you drive or go shopping. They may walk next to you in the supermarket and you WILL NEVER KNOW YOU ARE BEING FILMED!
- Remember ... if you are going to do the talk.. You will have to live the walk.