



A Guide to Your  
**WORKERS'  
COMPENSATION  
CLAIM**  
in New Jersey

We've put together this guide to help you better understand your rights as an injured worker. If you have been injured or become ill on the job, you will want to read this helpful guide regarding the workers' compensation system in the state of New Jersey.

Read and understand the following seven points in order to maximize your claim and protect your rights under New Jersey law.

## POINT

If you are injured while at work the first thing you need to do is immediately notify your employer. Preferably in writing. It can be your supervisor, human resources or any manager at your workplace.

By law, your employer must have workers' compensation insurance coverage in place to provide benefits to injured workers, regardless of the type of workplace. In rare instances an employer may be self-insured, in which case you may deal with your employer directly. However, in most cases you will be communicating with your employer's insurance carrier.

## POINT



After you tell your employer you are injured, he or she may then provide you with a claim form to be completed and sent to the insurance carrier. Thereafter, the carrier is required to file a “First Report of Injury” form with the Division of Workers’ Compensation of New Jersey in Trenton, so the state will be made aware of your accident or illness.

Your employer and/or his or her insurance carrier will investigate the claim.

## **HERE ARE SOME TYPICAL WORK-RELATED CLAIMS:**

Burns, back and neck injuries, amputations of arms or legs, heart attack or strokes on the job, carpal tunnel, diseases caused by inhalation of chemicals or other toxins such as asbestos, fractures, hernia, chronic obstructive pulmonary disease (COPD), post traumatic stress disorder (PTSD), torn rotator cuff, concussion, general anxiety disorder.

As you can see, a wide variety of injuries are covered and some of these are harder to treat and harder to document than others. Lawyers specializing in workers' compensation law represent these injured workers in obtaining medical care and financial compensation from insurance companies.

**POINT**



After completing all necessary medical treatment or reaching what's called "maximum medical improvement," the insurance company must electronically file a second report with the state called a Subsequent Report of Injury. Information contained in this report, including a detailed explanation of any benefits paid on the claim and why claims have been denied, must be sent to you or your attorney.

The insurance company may resist compensating and argue you are not entitled to benefits. For instance, they may claim your injuries and medical problems are not work-related. This will require you to be examined by a doctor to determine the cause of your injury.



Additionally, because the doctors who provide treatment must be "authorized" by the insurance company you may desire to see a different doctor for a second opinion. A skilled workers' compensation lawyer can help guide you through this process to insure you get the treatment and compensation you deserve.

## COMMON ISSUES YOU MAY ENCOUNTER:

- Whether the injury or illness is considered work-related. If it is not, you are not entitled to compensation.
- The type and extent of medical treatment. Your doctor may disagree with the insurance company's authorized doctor about how much or what type of treatment you need for your injury.
- The payment of temporary or permanent disability benefits. If you are permanently injured, you are entitled to what's called a "permanency award." This will be determined by the court, or negotiated with the employer's insurer, at least six months after you have concluded your medical treatment. Permanent benefits can be either partial or total, depending upon your ability to work after your medical treatment.
- Vocational rehabilitation. Your employer may help you retrain for another job that will not aggravate your injury at your company, or another company.
- If the injured person dies, the victim's family may decide to pursue what's called "dependency benefits," which can include lost wages and funeral costs.

**POINT**



If you and your doctor disagree with the insurance company about any of these issues, you are allowed by law to contest the matter in NJ State Workers' Compensation Court. Although not mandatory, most people retain attorneys to protect their interests and help minimize their costs. Those who represent themselves in court are called "pro se claimants."

It is almost certain that the insurance carrier will have an attorney representing your employer present at the hearing.

After a formal claim petition is filed with the Division of Workers' Compensation you will eventually have a hearing in Workers' Comp Court. Be aware that if you have hired an attorney, he or she is not permitted to charge a fee in advance for filing this claim on your behalf. **WHY NOT?**

If your claim is compensable, the judge will determine your attorney's fee. Therefore, be wary if an attorney asks you for payment to take on your case. If the judge rules that your claim is not compensable, the attorney will generally not receive a fee; he or she is paid only when there is a successful recovery on your behalf.

**POINT**



## **THE FORMAL CLAIM PETITION MUST BE FILED EITHER:**

- Before two years from the date you were injured, or
- Before the last payment made on your behalf for medical bills or lost wages.

If you and your employer cannot agree on these issues before the hearing, a workers' compensation judge will resolve the dispute in court.

## POINT



As explained above, in addition to payment of your medical expenses and lost wages, you will be entitled to a “permanency award” if your work related injury has permanent residual effects. However, a formal demand for this permanency award must be filed with the worker’s compensation court and will require medical proof. Don’t expect the insurance company to voluntarily offer to make this payment.

After receiving a permanency award you will have the right to re-open your claim if further treatment is needed or if the degree of your permanent injury increases. This is called “post-judgment relief.”

However, a request to re-open the claim must be made within two years of the most recent payment. So it is very important to be aware of time restrictions and initiate the claim before it is too late.

If you do not think you have been treated fairly by your company or its insurance company, you should discuss this with an experienced and skilled workers’ compensation law attorney.

These seven items should begin to help you understand and navigate the system when filing a workers' compensation claim in New Jersey. However, every claim has its own unique aspects.



Although you may have a good relationship with your employer and trust the person you work for, it is the insurance company that you will be dealing with, and which will make decisions that affect your health and finances. Bear in mind the insurance company is interested in making a profit and its best interests are likely to conflict with yours.

That's why we recommend that you talk to an attorney, even if it's just for a free consultation to learn your legal rights. We represent injured workers and know what it takes to help you get a full recovery.

We hope this guide has helped you to understand the workers' compensation process in New Jersey.

**SCHEDULE A FREE  
CONSULTATION TO  
LEARN MORE ABOUT  
YOUR RIGHTS.**



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