

WORK-RELATED INJURIES SPECIAL REPORT

Dear Friend:

If you have been involved in a work-related accident, there are a lot of things that you absolutely need to know.

Workers' compensation is a statutory right given to employees of the United States. In New Jersey, you are afforded certain rights. You are afforded temporary benefits in the form of a percent of your weekly wage, reasonable medical care and a permanency award for the permanent injuries you sustained in this work-related accident. These will be explained in detail below.

If you have been involved in a work-related injury, it is important that you advise your employer of that injury immediately. Your employer has an obligation to fill out a form to provide notice to the Department of Labor at the State of New Jersey indicating the injuries you sustained and how they were sustained on the job.

Did you know that one of the most stressful aspects of living in modern life is dealing with problems associated with the aftermath of a work-related accident? Not only do you have to worry about how you are going to supplement your income, but to obtain treatment for your injuries. This report will advise you on your rights within the State of New Jersey under the Workers' Compensation Statute. It is important to know your rights so that you don't make the mistake of not pursuing your rights under the Workers' Compensation Statute. Most employers may be reluctant to provide those benefits to you even though you were hurt on the job.

My name is Ronald DeSimone, Esquire. I have been representing employees who have sustained work-related injuries for over 20 years now. My office is located at 900 North Kings Highway, Suite 302, Cherry Hill, New Jersey.

I have represented literally hundreds of employees just like you who have been injured on the job. I am trained in workers' compensation litigation and dealing with employers and employers' insurance companies to obtain the maximum benefits for my clients who sustained work-related injuries.

I have the finest, courteous staff you will ever meet who is trained in handling these types of cases. If you are injured in a work-related accident, it is imperative that you receive legal representation by a firm who will protect your rights and insure that they are compensated for the injuries you have sustained in this work-related accident. This would include maximizing your benefits that are afforded to you through the New Jersey Workers' Compensation Statute,

which would include maximum temporary benefits, maximum medical benefits and maximum permanency benefits. Before you make some important decisions on your work-related injury and whom you may retain to represent you in this matter, you should review some commonly asked questions.

Q: What should I do when I sustain an injury at work?

A: It is important that you immediately report the work-related injury to your employer. Your employer should immediately fill out an injury report and mail that to the Division of Labor within the State of New Jersey.

Q: Do I need an attorney to represent me in a work-related accident?

A: Yes. Having an attorney represent your interests through a work-related accident will ensure that you maximize your three benefits to which you are entitled. They are your temporary benefits, medical benefits and permanency benefits.

Q: If I were at fault for my work-related injury, do I will have a claim?

A: Yes. Under the New Jersey Workers' Compensation Statute, it does not matter who caused the accident. Even if the employee caused the accident, as long as the accident occurred during the course of your employment, you are entitled to benefits under the New Jersey Workers' Compensation Statute.

Q: What will an attorney cost me to represent my interests through a work-related injury in Workers' Compensation Court?

A: All legal fees must be Court awarded by a Workers' Compensation Judge. Those legal fees are based on the award that the attorney receives on your behalf. The Judge will not always assess the entire legal fee against your award. In most cases, the employee will only be responsible for 8% of a 20% awarded attorney's fee to your attorney. The remaining 12% will be the responsibility of the employer or their insurance carrier. In some cases, where an employer refuses to provide medical benefits and/or temporary benefits, the Judge has the ability to assess the entire legal fee against the employer causing the employee to sustain no legal fee to those portions of his award.

Q: If I were injured on the job, how much of my wage am I entitled to until I am able to return to my job?

A: This is known as your temporary benefits. You are entitled to 70% of your gross average weekly wage, including overtime, which is capped at the state average. This cap is different for each injury year. For the year 2000, an employee's temporary benefits are capped at \$568.00. For example, if you were earning a gross average weekly wage of \$500.00 per week, you would be

entitled to temporary benefits in the amount of \$350.00 per week for the time you were out of work as a result of your work-related injury. However, there is a waiting period of seven days. The first seven days, the employer does not have to pay if you return to work within that time period. However, if your work-related injury causes you to be out of work beyond seven days, then you will be entitled to your temporary benefits from the date that you stopped work as a result of this work-related injury until a doctor provides that you are able to return to work, either at fully duty or light duty. If the doctor provides that you must return to work under light duty, your employer must have light duty work available to you. If the employer does not have light duty work available to you and you are still under active medical care for the injuries that you sustained, then you should continue to receive your temporary benefits until either you are able to return to full duty work or light duty work becomes available through the employer. If the doctor provides that you have reached a medical maximum benefit, then the employer can legally stop your temporary benefits. If your employer does not pay you your temporary benefits when due, then I suggest that you immediately obtain legal representation to file a motion for temporary benefits so that you may obtain your benefits in a timely fashion.

Q: If I am injured in a work-related injury, what type of medical care am I entitled to?

A: You are entitled to reasonable medical care which will render you a benefit and otherwise make you better. The employer must provide you with a doctor to treat you for your work-related injuries. Your treatment should be such that will make you better. You are entitled to that treatment so long as you are getting better. Treatment can cease if you have reached the medical maximum benefit. What that means is that if your medical treatment will no longer make you any better than what you are, then the employer has not further obligation to provide you with said medical treatment. If your employer does not provide you with a doctor to treat you for the injuries you sustained in this work-related accident, then I suggest that you seek appropriate treatment for the injuries that you have sustained. You should obtain legal representation immediately to pursue a motion for medical benefits to cause the employer to pay for the medical treatment that is required for the injuries that you have sustained.

Q: If I sustained a work-related injury and I have received medical care, but the medical care is no longer making me any better and I still have limitations, what am I entitled to?

A: You are entitled to a permanency award for the year of your injury. The Division of Labor each year establishes an injury chart based off of percents of disability for different body parts including whole body, which is broken down into monies per week pursuant to that percent of limitation. An employer may make a voluntarily offer of permanency award to you. Through my experience, if an employer does so, their voluntarily offer is substantially less than what you are

actually entitled under the New Jersey Workers' Compensation Statutes. It is imperative that you have legal representation who will have you evaluated by a petitioner's physician to determine what your percent of disabilities are as a result of the injuries you sustained in this work-related accident. Based upon your physician's report and the employer's physician's report, your attorney will be able to negotiate a maximum settlement on your behalf for permanency benefits. Once awarded, these are provided in weekly installments. If those weeks of benefits that have accrued where you have received no benefits, then you will receive a lump sum payment for those weeks that have elapsed. Thereafter, the benefit will be paid weekly until the award of permanency benefits has been exhausted.

Q: If the employer, through their insurance company, provides me with a check for temporary benefits or permanency benefits, can I cash that check without waiving any rights?

A: Yes. You have not waived any rights if you cash a check from a workers' compensation insurance carrier. A workers' compensation case can only be resolved before a Workers' Compensation Judge. That Judge must sign an Order for the award that you are entitled to. That award must be either ordered by the Judge or approved by the Judge.

Q: What is the statute of limitations for a work-related accident?

A: The statute of limitations for a work-related accident is two years from the last date of any benefit received. The employee has two years from the last date he receives a benefit from the employer or the employer's insurance company to file a workers' compensation Claim Petition with the State of New Jersey Division of Labor. If the employee fails to file that Claim Petition within that two-year period, then the employee will be precluded from obtaining any further benefits than what he has already received from the employer in reference to that work-related accident. As a result, the employee could have jeopardized additional temporary benefits, additional medical benefits and a permanency award. It is imperative for an employee to file a Claim Petition with the Division of Labor within that two-year period to ensure that he maximizes his benefits of temporary benefits, medical benefits and permanency benefits.

Q: If my case has been resolved by a Workers' Compensation Judge, does that bring my case to an end?

A: In most cases, no. The only time that your case has been resolved in full is if you come to a settlement with your employer and/or workers' compensation insurance company under Section 20 of the statute. Under this section, if the employee has difficulty maintaining his case for causal relationship of the injury or the injury was not sustained during the course of employment, etc., and the employee settles the case before the Workers' Compensation Judge for a lump

sum settlement, then that settlement will be made with prejudice. This means that the employee will never be able to reopen his workers' compensation case again with reference to those injuries he sustained, which are the source of that lump sum award. If a case is resolved by a Judge, either through Order or by an Order Approving Settlement, then the employee will have the ability to reopen their case within two years from the last date of benefit. This will occur so long as that employee can prove that the injury that they sustained in reference to the work-related accident has gotten worse. If it has gotten worse, the employee could be entitled to additional temporary benefits, additional medical benefits and an additional permanency award. The permanency award would be granted at a higher rate less than what he has been paid for in the past. The employee's case can be reopened as many times as he can sustain his burdens as provided above so long as he files a reopening petition within that two-year period from the last date of benefit.

Q: If my injury causes me to be unable to ever return to work, what rights do I have?

A: The employee may pursue a case against his employer and/or against the Second Injury Fund to allow him to receive benefits up until the date that the employee expires. However, a Second Injury Fund application must be filed with the Court in those situations through a New Jersey licensed attorney.

Q: If I am receiving social security disability, does this affect my workers' compensation award?

A: Yes. The employee may only receive 80% of his gross monthly salary from all benefits received. What this means is that you must calculate what you are receiving in workers' compensation benefits and add to it your social security disability benefits. That total must be equal to or less than 80% of your gross average weekly wage just prior to injury. If it is greater, then social security shall seek a setoff reducing your social security benefits so that they will equal the 80% gross monthly wage.

Q: If I am receiving Medicare benefits through my social security disability, does that affect my workers' compensation benefits?

A: Yes. Medicaid must be paid back all funds expended on the injury you received in the workers' compensation matter for medical benefits. If Medicaid has paid for the employee's medical as it surrounds the injury that was sustained in workers' compensation, then the employee must take from his benefits and pay back Medicaid those sums that they have expended for those medical services. However, Medicaid sometimes attempts to receive more than what they are entitled to and you must appeal their request for payment so that you only pay back Medicaid for those medical services which were rendered to your work-related accident.

After reviewing these questions and answers and you feel that you wish to be represented by the Law Offices of Ronald DeSimone, P.C., then kindly give my office a call at (856) 667-7600. Your initial consultation is free. If you allow the Law Offices of Ronald DeSimone, P.C. to represent you in this work-related accident, the legal fee will be awarded by a Workers' Compensation Judge on a contingency basis, which is based off of what I receive for you as an employee. In most cases, you will not sustain any costs associated with a workers' compensation Claim Petition.

It is always a pleasure to be of assistance to you. I remain,

Very truly yours,

RONALD DeSIMONE
For the Firm