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# PENNSYLVANIA WORKERS' COMPENSATION



## Pennsylvania Workers' Compensation Background

Work-related injuries occur every year throughout workplaces in Pennsylvania. In 2018, the Pennsylvania Bureau of Workers' Compensation received 173,267 work-related illnesses and workplace injury reports. In 2017, 172 fatal work injuries were reported, with the majority occurring in the transportation, utilities and construction industries.

In Pennsylvania, injured workers can file a workers' compensation claim to receive payments for medical care, lost wages and specific loss benefits. To file a claim correctly, an injured employee must complete several steps on time. The process can feel overwhelming, especially for workers who cannot perform their jobs due to the injury but still need to support themselves. If this sounds like you, know that you don't have to handle the process alone. At Frommer D'Amico, we specialize in helping injured workers file claims successfully and get the compensation they deserve.

### What You'll Learn in This Guide

Here at Frommer D'Amico, we've assembled this guide to workers' compensation in Pennsylvania to help you navigate the process. We'll cover essential topics and answer common questions such as:

- What is workers' compensation?
- What injuries qualify for workers' comp?
- How do I file a claim?
- How do I appeal a denied claim?
- What are the types of benefits available?
- Should I hire a lawyer?

We will also provide tips, settlement information, mistakes to avoid and much more. If your question isn't answered here, feel free to contact us for a consultation and advice.

## CHAPTER 1

# What Is Workers' Compensation?

When Pennsylvania employees are injured on the job, they're protected by workers' compensation, but there can be many questions and much confusion around these benefits. If you develop a work-related illness or sustain an injury on the job, you are generally covered by the Pennsylvania Workers' Compensation Act, unless you belong to one of the classes of workers not covered.

If you cannot work and you qualify for benefits, workers' compensation pays for your medical costs and offers compensation amounting to two-thirds of your weekly wage (in most cases) to replace lost income until you return to work. For workers who are killed on the job, the Pennsylvania Workers' Compensation Act may provide death benefits for surviving dependents.

## Pennsylvania Workers' Compensation Law

The Pennsylvania Legislature instituted the Pennsylvania Workers' Compensation Act in 1915, which states employees who have been injured on the job should receive compensation, regardless of fault. Even if you were at fault for the accident that caused your work-related injury, you are still eligible to receive workers' compensation benefits under the Pennsylvania Workers' Compensation Law.

Both employees and employers are protected under the workers' compensation system. In exchange for the injured employee receiving compensation for medical treatment and lost wages, the employer is protected from most lawsuits filed by injured employees.

Under Pennsylvania law, workers' compensation is mandatory coverage for almost every employer. Employers without workers' compensation coverage can be sued by employees and criminally prosecuted.

Employees are covered under the Pennsylvania Workers' Compensation Law for the entire time they are employed, meaning coverage will begin your first day working for your new employer.

## Pennsylvania Workers' Compensation Act Overview

Workers' compensation in Pennsylvania is a type of insurance offered under the Pennsylvania Workers' Compensation Act. Almost every employee in Pennsylvania qualifies for workers' compensation through the Act.



Under Pennsylvania law, workers' compensation is **mandatory coverage** for almost every employer.

**CHAPTER 1:**  
WHAT IS WORKERS' COMPENSATION?



Employers must carry workers' compensation insurance coverage for all eligible workers and must pay for this coverage themselves. You, the worker, do not pay for this insurance. Most employers get workers' compensation benefits through private insurance carriers or self-insurance. Some also get coverage through a state-run insurance carrier, such as the State Workers' Insurance Fund. If your employer violates the law and does not provide coverage, you may be eligible for benefits from the Uninsured Employer Guaranty Fund in the event you are injured.

For some employees, like federal civilian workers, their workers' compensation coverage comes from other laws.

## What Are the Requirements for Workers' Compensation Eligibility?

To be eligible for Pennsylvania workers' compensation, you must:

Be an employee and not have sought exemption from workers' compensation insurance.

Have been injured while performing work duties.

Have an injury that's resulted in medical treatment or time lost at work.

Report your injury to your employer within 120 days of becoming ill or sustaining your injury.

Have sustained an injury that was not self-inflicted or caused by any illegal activity, such as illegal drug use or drinking on the job.

Alternatively, you may be eligible if a family member has sustained a fatal injury in the workplace.

Under Pennsylvania law, even part-time and seasonal workers must be covered by employer-paid workers' comp coverage. There are a few exceptions. Employees in these fields cannot apply for workers' compensation:

- Federal workers and military, who are covered by federal legislation for workplace injuries.
- Railroad workers, who are covered under a separate act.
- Longshoremen and harbor workers, who also have their own system of workers' compensation.
- Independent contractors or casual workers, whose work is casual in nature and not related to the regular business activities of the person who employs them.
- Seasonal agricultural workers who earn no more than \$1,200 during a calendar year and work no more than 30 days in a calendar year.
- The spouse and children of farmers who perform agricultural labor.
- Domestic workers who have decided not to be covered by the Workers' Compensation Act.
- The sole proprietor of a business or a general partner.
- People who have been granted exceptions by the Department of Labor and Industry because of their religious beliefs.
- Executive officers granted an exclusion by the Department.
- Licensed real estate salespeople or real estate brokers who are paid on a commission-only basis and thus qualify as independent contractors for tax purposes.

## How Long Do You Have to Work for a Company to Be Eligible for Workers' Comp?

There are generally not any limits to how long you must work to be eligible. You should be covered from your date of hire. If you're injured, your medical benefits should start on the day of the injury.

## Which Injuries Do Not Qualify?

An employer may not be held responsible for every minor injury an employee receives on the job. An employer also isn't responsible for injuries that occur outside of work hours when an employee is not at the workplace. Here are a few examples of injuries you shouldn't expect to be compensated for:

- Paper cuts
- Intentional injuries
- Injuries sustained while playing a prank on a fellow employee
- Injuries from a car accident during your commute home from work
- Injuries during a non-mandatory social event outside of business hours

Fortunately, most on-site injuries do qualify for workers' comp, including pre-existing conditions.

## What Types of Work Injuries Happen Most Often in Pennsylvania?

In Pennsylvania, the most common work-related injuries are musculoskeletal – especially strains and sprains.

# TYPES OF WORKERS' COMPENSATION BENEFITS

Workers' compensation laws in Pennsylvania provide several different types of benefits, which include:



**Wage-Loss  
Benefits**



**Medical Care**



**Death Benefits**



**Specific Loss  
Benefits**



**Disfigurement  
Benefits**

## Types of Workers' Compensation Benefits

Workers' compensation laws in Pennsylvania provide several different types of benefits, which include:

### 1. Wage-Loss Benefits

These benefits pay up to two-thirds of your average weekly wages after you have suffered a work-related illness or an on-the-job injury up to a weekly maximum. In Pennsylvania, a cost-of-living increase is not allowed for your wage-loss benefits payments.

### 2. Medical Care

Workers' compensation benefits pay for reasonable medical and surgical services related to your injury or illness. Other necessary medical services covered include:

- Medicine
- Hospital treatment
- Orthopedic appliances
- Prosthetics

If you choose to receive treatment outside of Pennsylvania, your costs may not be covered, so you will want to discuss your benefits and medical needs with your healthcare provider before agreeing to a specific treatment.

### 3. Death Benefits

If a worker is killed on the job, their surviving dependents may be entitled to workers' compensation death benefits. Dependents can include:

- Spouse
- Children under the age of 18
- Parents
- Siblings

Should your child be older than 18, they must either be a full-time student under the age of 23 or be a disabled dependent to qualify for benefits.



The amount issued to your dependents is based on their role. Your spouse is entitled to 51% of your average wage at the time of injury or illness. That percentage can increase to 60% if your spouse has at least one dependent and up to 66 and two-thirds if they have two or more dependents. Payments will not go over Pennsylvania's average weekly wage.

#### 4. Specific Loss Benefits

Specific loss benefits entail the permanent loss or loss of use of your extremities. Fingers and toes – as well as your arms, hands, feet and legs – qualify. Specific loss benefits also include loss of vision and impairment of hearing.

#### 5. Disfigurement Benefits

These benefits are provided for the permanent disfigurement of your face, neck or head area.

### Process Overview for Receiving Benefits

If you are injured at your workplace, the process for receiving benefits is as follows:

Notify your employer or supervisor of your injury or illness and the date and place in which it occurred.

Ensure your employer files a First Report of Injury (FROI) to the Bureau of Workers' Compensation.

Receive an acceptance or denial of your workers' compensation claim.

Should your employer deny your request, a claim petition may be filed with the Bureau of Workers' Compensation, which allows you a hearing before a workers' compensation judge. Many employees opt to file with the assistance of an attorney, as well as have that attorney represent their interests at the hearing.

Reporting your injury as soon as you miss a day, shift or turn of work is key to getting your benefits. If you do not notify your supervisor or employer within 120 days of your injury, you cannot receive your workers' compensation benefits.

#### When Will I Get a Check for My Injuries?

In most cases, you can get your first check within 21 days of being away from work, and you will start receiving your checks regularly after that. Receiving your first check is dependent on whether you filed your injury report quickly, whether your insurance carrier accepted the claim and if you missed more than seven days of work.

In other cases, the timeline to receive your first check may vary. Temporary compensation may be made for up to 90 days, even if your employer or insurance carrier doesn't accept your claim. If they deny your request, you can seek a hearing to petition it.



## Can I Sue My Employer?

Sometimes, safety violations or other instances of negligence cause workplace injuries. Since workers' compensation is a no-fault system, workers' compensation laws in Pennsylvania minimize the lawsuit risk for employers and coworkers. If you accidentally caused your injury due to carelessness, for example, you will still be eligible for workers' compensation. Alternatively, if your workplace was negligent, and this led to your injury, you may not be able to sue. This allows employers to avoid expensive lawsuits filed by injured workers.

If a third party, like the manufacturer of your facility's equipment or vehicle, caused your injuries, you may have a claim. To review all your options after a workplace injury, talk to an attorney. A workers' compensation lawyer can review your case and offer advice about the legal steps you can take.

## What Happens to My Workers' Compensation Benefits If I Return to Work?

If you return to your job and are earning as much as, or more than, you did before the injury, your wage-loss benefits will stop.

Other reasons for the end of your workers' compensation benefits include signing a supplemental agreement or a ruling by a workers' compensation judge. Temporary compensation benefits will stop when your carrier or employer denies your claim, which would happen within 90 days after reporting your injury.

Partnering with an attorney, like the Frommer D'Amico team, ensures you get answers about your questions about workers' compensation laws in Pennsylvania. You also make sure your rights and benefits are protected.

## CHAPTER 2

# How to File a Workers' Compensation Claim

Each state has its own guidelines about how employees should file workers' compensation claims. If you've been injured at work in Pennsylvania, there are several things you need to know to file a claim correctly. In this chapter, we'll discuss when and how to file a workers' compensation claim and how the process works.

### When to File a Workers' Comp Complaint

Timing is important. You will start the Pennsylvania workers' compensation process by reporting your injury or work-related illness to your employer. In Pennsylvania, you must do this within 120 days of sustaining your injury or falling ill. If you wait longer, you may lose the right to seek workers' comp benefits.

Although 120 days may seem like plenty of time to file your claim, you will want to inform your employer as soon as you can. Delays can increase the risk of challenges to your claim, and waiting can hurt your case.

### How to File a Workers' Compensation Claim in Pennsylvania

To start the workers' compensation claims process in Pennsylvania, you will need to:

#### 1. Inform Your Employer of Your Injury

Within 120 days of your injury or illness, you will need to tell your employer you have suffered a work-related illness or injury. Ideally, you will want to report your injury sooner than this deadline. If you report your injury within the first 21 days of sustaining your injury, you can receive your benefits from the date you were injured. Waiting until after the first 21 days will mean you'll instead receive your benefits from the time you made the report of your injury.

#### 2. Seek Immediate Medical Attention

Visit a doctor as soon as possible for your illness or injury. When seeking medical attention, be sure to mention that the injury was job-related, so the process of documentation can start. Within the first 90 days, you may be required to choose a doctor from a list provided by your employer. Beyond 90 days, you can select your own physician.

Medical records are an important part of the evidence presented in the workers' compensation claims process in Pennsylvania, so it is essential to seek medical attention. Even if you are not sure you are injured, obtaining a medical opinion can also ensure you get the treatment you need.





In Pennsylvania, you must do this within **120 days of sustaining your injury or falling ill**. If you wait longer, you may lose the right to seek workers' comp benefits.

#### WHEN TO FILE A WORKERS' COMP COMPLAINT

## What Your Employer Must Do

Your employer has certain responsibilities to fulfill after you report a work-related injury. Here's what your employer must do to continue the process. If you feel your employer and its insurance company mishandled your claim, our firm of knowledgeable and experienced attorneys can assist you.

### 1. Report Injury to the Workers' Compensation Bureau

Once you have reported your injury to your employer and you miss a full day of work or a shift, your company is required to file a First Report of Injury (FROI) with the Workers' Compensation Bureau. It must do so within seven days of your missing work. If a work-related accident results in a death, the employer must notify the bureau within 48 hours.

A workers' compensation claim may be harder to file until your employer has filed the FROI. If you have been injured on the job and your employer refuses to file an FROI, contact a workers' compensation attorney immediately.

If your employer has reported your injury to the bureau, you can start to receive benefits eight days after you are forced to miss work because of an injury or an illness — this is why it is so important to report your injury immediately.

### 2. Report Injury to the Insurance Carrier

As soon as you notify your employer that you have suffered a work-related injury, your employer must report it to its insurance carrier. The insurance carrier then has 21 days to either accept or deny your claim.

If you miss more than seven days, and your employer's insurance company agrees that your claim is valid and accepts it, you should receive your first payment 21 days after you have suffered your injury. When you've been off work for 14 days, the insurance company will send you a payment for the first seven days that you missed.

## What to Do If Your Employer Fails to Act

If your employer does not submit a First Report of Injury to the state to start the process, you will need to file a claim with the Workers' Compensation Bureau. You have up to three years from the date of the injury to file a claim petition. Remember, the three-year period starts when you first know about the injury.



If the insurance carrier accepts your claim, it will issue you a Notice of Compensation Payable and **start providing you with workers' compensation benefits,**

## What Happens Next?

If the insurance carrier accepts your claim, it will issue you a Notice of Compensation Payable and start providing you with workers' compensation benefits, including medical costs and wage loss benefits and possibly others. Occasionally, the insurance company will issue a Notice of Temporary Compensation Payable. In this case, it has not necessarily accepted liability but will pay some benefits. This insurance carrier can revoke this notice within 90 days.

If the insurance carrier refuses to accept liability for your claim, it will send you a Notice of Workers' Compensation Denial. If your employer and its insurance company denies your claim, you have three years from the date of your injury to appeal it.

It would be preferable if insurance carriers would pay legitimately injured workers immediately when they are hurt, but this is not always the case. Insurance carriers will look for any kind of a loophole to deny an injured worker's claim. Some of the reasons they may cite in their denial include:

- **You did not meet the statute of limitations to report your injury.** If you don't report your injury promptly, the insurer could deny your claim. This is particularly the case with an injury like carpal tunnel syndrome or some other injury that does not manifest itself immediately. Insurance companies will argue you waited too long to report the injury.
- **Your employer says it is not responsible for your injury.** Your company may claim that your injury was a result of not following workplace rules or that it took place outside of regular work hours.
- **Your employer says you're not hurt as badly as you claim.** In this case, your employer or the insurance company will claim your injuries are not severe, and you had no reason to miss time or see a doctor.



- **Your employer says you were intoxicated on the job or using drugs.** This is a popular excuse used by employers and their insurance companies. If medical records indicate that you had drugs or alcohol in your system while at work, your workers' compensation claim will likely be denied.
- **The insurance company says workers' compensation does not cover your injury.** This is often the case with pre-existing issues in the same part of your body, or with stress-related injuries that may lead to a heart attack or a mental health condition.
- **You did not seek medical help for your injury.** This is why we encourage you to find medical care as soon as possible. As we noted above, the insurance company will pounce on the fact that you did not seek medical help right away to deny your claim. As soon as you notice pain or discomfort, see a doctor.
- **Your employer says your accident was not job-related.** The insurance carrier will argue that your injury happened during a lunch break or took place off-site at an unrelated work activity.

Remember, your employer's insurance company is not your friend, and it does not always have your best interests at heart. Its goal is to pay out as little as possible to you if you suffer a work-related accident or illness.

### If You Are Denied, Seek Legal Counsel

If your employer and its insurance company refused to accept liability for your work-related injury or the Workers' Compensation Board denies your eligibility, contact a Pennsylvania workers' compensation attorney immediately.

Even though you have three years from the date of your injury to file a workers' compensation claim, don't wait until the last second to seek legal help if your insurer has denied your benefits. The workers' compensation claim process can sometimes be a lengthy one, and waiting too long to file a workers' compensation claim can put you and your family in a tight financial situation.

A workers' compensation attorney can help you prepare your claim appeal, gather all medical evidence that supports this claim and even find witnesses who can testify as to how your work-related injury has affected you. Your attorney can make sure your claim appeals are filed on time and filled out correctly, leaving out no important evidence. Hiring a workers' compensation attorney can often make the difference between your claim appeal being approved or denied by a workers' compensation judge.

Let the experienced attorneys at Frommer D'Amico help you with your workers' compensation claim. We offer a free initial consultation and free case management if you decide to work with us. You can contact us at 717-400-1000, or get in touch with us online. A member of our team will get back to you as soon as possible.

## CHAPTER 3

# How Are Weekly Benefits Calculated?

If you are out of work due to an injury suffered on the job and will receive workers' compensation, your first question is probably, "How much do I get paid on workers' compensation?" You need to plan your budget for the coming months, so that's a critical question.

In Pennsylvania, if your workers' compensation claim is approved, whether initially or upon appeal, your employer's workers' compensation insurance company should pay for medical costs and wage loss benefits that amount to two-thirds of your average weekly wage as calculated over the past year. Depending upon the severity of your injury, you may also be eligible for partial permanent disability benefits, which can last up to 500 weeks, or total permanent disability benefits, which can last a lifetime. If your injury resulted in the permanent loss of the use of a body part, you might also be eligible to receive a specific loss benefit.

You will not receive your full salary while you're on workers' compensation. These benefits will pay a part of your salary. The payments are designed to help you get through a difficult time but not to compensate you as though you were working full time.

What percentage of your pay do you get for workers' compensation? It depends on when you applied for benefits. Read on to learn how workers' comp weekly benefits are calculated in 2020 and previous years.

## How Are Workers' Comp Benefits Calculated in Pennsylvania for 2020?

In many cases, workers who are injured on the job are entitled to two-thirds of their average weekly salary. But your benefits depend on where your salary falls within the weekly minimums and maximums established by Pennsylvania each year. That is based on the statewide average weekly wage. Rates are calculated based on a formula set up by the state. While the formula is the same for every worker, the amount they receive will be different since it's based on salary.

The 2020 payments apply to anyone who is injured on January 1, 2020, or after. In 2020, the maximum amount paid out to anyone in the state has risen compared with 2019. The high end is \$1,081. The statewide average weekly wage rose 3.1% in 2020.





If your injury resulted in the permanent loss of the use of a body part, you might also be **eligible to receive a specific loss benefit.**

### CHAPTER 3: HOW ARE WEEKLY BENEFITS CALCULATED?

If the employee makes \$600.55 or less per week, then they are entitled to 90% of their weekly average salary. The less you make, the higher the percentage of income you will receive while you are injured. If your salary is high, somewhere between \$810.76 and \$1,621.50 per week, then you will receive two-thirds of that for your workers' compensation benefits. Workers' comp will pay \$540.50 each week if your pre-injury earnings were between \$600.55 to \$810.75 a week in 2020.

The maximums and minimums are based on statewide average weekly wages, as calculated by the Department of Labor and Industry. Pennsylvania recalculates these benefits every year. For instance, in 2014, the weekly maximum wage you could receive for workers' compensation was \$932. In just five years, that amount rose by more than \$100.

Of course, if you settle a workers' compensation case for a lump sum, you will not receive weekly workers' compensation payments. Instead, you'll agree to a total that may also cover your medical bills. The terms of every settlement are different, so your experience won't be the same as someone else, even if they suffered an identical on-the-job injury. Before accepting any settlement, you should always consult with a workers' comp attorney to make sure you get a fair amount.

## Pennsylvania Workers' Compensation Rates in 2019

To figure out how much you'll get paid, grab a pay stub, and use our directions to find the number.

Here's how Pennsylvania's workers' compensation benefits are calculated for 2019. First, figure out your average weekly salary from the year when the injury occurred. Then, see which category you fall into. If your average weekly salary is:

- Above \$1,573.50, then your weekly benefit will be \$1,049.00. That's the maximum weekly benefit available to anyone in the state.
- Between \$1,573.50 and \$786.76, multiply that number by 2/3. The number you get will be your weekly benefit.
- Between \$786.75 and \$582.78, then your weekly benefit will be \$524.50.
- Below \$582.77, then multiply it by 0.9. The number you get will be your weekly benefit.

## 2018 Pennsylvania Workers' Compensation Rates

The maximum payout in 2018 was less than it is in 2020. Workers could bring home a maximum of \$1,025 each week, no matter what they made at their job. The payout was once again adjusted based on your average income level. The more you made, the lower the percentage of your salary you retained. But if you made a lower salary, you got to keep more of it.


2018's maximum payout meant that if two-thirds of your salary were above \$1,025, you wouldn't get any more money — your workers' compensation was capped.

Workers making between \$768.76 to \$1,537.50 per week in 2018 received two-thirds of that as their weekly benefit. Those who made \$569.44 to \$768.75 received \$512.50 per week. And those who made less than \$569.43 per week earned 90% of their salary in 2018.

## 2017 Pennsylvania Workers' Compensation Rates

In 2017, maximum workers' compensation benefits were below 2018's rates. They have risen year-to-year dating back to at least 2015. In 2017, the maximum benefit a worker could bring home each week was \$995. 2018 marked the first time that number rose above \$1,000.

Workers' comp pays those making \$746.26 to \$1,492.50 two-thirds. If you made \$552.78 to \$746.25, you earned weekly benefits of \$497.50. And workers whose weekly compensation fell below \$552.77 were entitled to 90% of that salary for workers' compensation.



Are you concerned about your workers' compensation payments or other aspects of your situation? **Frommer D'Amico can help.**

## PENNSYLVANIA WORKERS' COMPENSATION CALCULATOR

### Pennsylvania Workers' Compensation Calculator

If you're still not sure about Pennsylvania workers' compensation rates, you can refer to the Department of Labor and Industry's rate schedules. Here you'll find the yearly compensation maximums and minimums.

Are you concerned about your workers' compensation payments or other aspects of your situation? Frommer D'Amico can help. Get in touch with us today to discuss your case by calling 717-400-1000 or contacting us online — we look forward to assisting you.



## CHAPTER 4

# Pennsylvania Workers' Compensation Settlements

In some cases in Pennsylvania, injured workers can receive a settlement. Not every worker gets a settlement offer, but if there is a permanent injury, it may make sense for both the employer and the employee.

Before a case can be settled, a judge must approve it. The workers' compensation judge will review the proposed settlement to ensure you understand the terms and legal implications of the settlement. If the judge approves, you'll receive your settlement offer. If they don't approve, the case will return to negotiations or any pending litigation will continue.

## Types of Workers' Compensation Settlements and How They Work

In Pennsylvania, injured workers can receive a settlement in one of two forms – lump-sum or structured. Both types come with their benefits and disadvantages:

### 1. Lump-Sum Settlement

A lump-sum settlement occurs when you and your employer agree on the value of your claim, and your employer then provides a payout for your injury. A lump-sum settlement in Pennsylvania – called a Compromise and Release Agreement – must be approved by a Pennsylvania workers' compensation judge before your employer can pay it.


In return for a lump-sum payout, you can waive rights to future wage loss or medical benefits for your work injury. You may be able to settle only your wage loss claim, only your medical claim or both. If you settle both your wage loss and medical claims, you will be paid the lump-sum amount and no longer receive workers' comp payments from your employer. If your injury takes longer to heal than expected or becomes worse, you won't receive any additional compensation.

### 2. Structured Settlement

You may want to consider a structured settlement if:

- You're concerned you may quickly spend a lump-sum payment and not have enough money to cover all your future expenses.
- You're concerned about the tax implications or the effect on your Social Security Disability Insurance benefits from receiving a lump-sum payment.





In Pennsylvania, injured workers can receive a settlement in one of two forms — **lump-sum or structured**. Both types come with their benefits and disadvantages.

TYPES OF WORKERS' COMPENSATION SETTLEMENTS AND HOW THEY WORK

If you're worried you'll spend your lump-sum workers' comp settlement too quickly, you may work with your lawyer to restructure it. You can adjust it in a way that allows you to receive payments according to a schedule agreed upon by you and the insurance company.

If you're receiving Social Security benefits along with your workers' compensation benefits, you may also worry about what that could mean for your taxes or the impact of a settlement on your disability payments. Though workers' comp benefits are not taxed at the federal or state level, receiving Social Security benefits along with your workers' comp could create tax problems for you.

Your combined Social Security Disability Insurance and workers' compensation benefits can't be more than 80% of your pre-injury income. If they are greater than the limit, the Social Security Administration will cut them by the amount above 80%. However, you will still be taxed on your original total Social Security Disability Insurance benefits, including the amount you're no longer receiving.

By accepting a settlement, you are making a trade-off. You receive money to help with expenses and avoid any risks of litigation from your employer, but you also lose the possibility of long-term compensation. If you're unsure whether to accept a settlement offer or make one yourself, discuss your situation with a workers' compensation lawyer. They can help you determine which type of settlement is best for you and what amount you should ask for from an offer.

## Will I Be Offered a Settlement?

How do you get a settlement from workers' comp? Receiving workers' comp benefits does not necessarily mean you will receive a settlement offer. Instead, numerous factors play into this decision. Your company may think you'll be back on the job quickly or that you're able to do some work, which can determine whether you receive a workers' comp settlement offer. Circumstances under which you may want to take the settlement include:

- When you're tired of waiting for the workers' compensation process to finish.
- When your doctor doesn't think you'll recover further.
- When you're no longer progressing in your recovery.
- When you're in litigation against your employer.
- When either you or your employer no longer get along and want to part ways.
- When your injury requires you to start over.
- When you're worried you may lose your claim.

If you've reached Maximum Medical Improvement (MMI), you may want to consider a settlement. You've reached MMI when your physician informs you that you've healed as much as possible, and you'll see no further recovery. Waiting until you've reached MMI will allow you to anticipate your future medical expenses so that you can negotiate a settlement.

You may also prefer to have the money accessible to you now instead of having it paid out over weeks or months. Dealing with the insurance company can sometimes feel like a hassle on top of your recovery. If you do receive a settlement offer, you'll no longer have to worry about the insurance company keeping tabs on you or trying to prove you're faking your injury, which can feel invasive and upsetting for many people.

You may receive a settlement offer at any point. Sometimes, companies propose an initial settlement amount when you first make a claim. If you suffered a severe injury and may be out of work for several months, your company may be eager to lay the matter to rest quickly. Other times, it can take longer for an employer to put a settlement on the table. You may fight for months or even a year before you get a settlement offer – every case is different.

So, when will you get a workers' comp settlement? Overall the timing may vary. You could be offered a workers' comp settlement at any time during your case. It may come early on or when you are filing an appeal. Your lawyer can advise you on timing.

## Why Do Employers and Insurers Offer Settlements?

When you file a workers' comp claim, the employer and insurer will likely attempt to find grounds for denying it. Perhaps you didn't follow all filing or reporting procedures to the letter, or maybe they'll try to say your injury wasn't related to your job. In other situations, they may determine their best recourse is to offer you a lump-sum cash amount to settle your claim.

Upon first inspection, a settlement from workers' compensation insurance might seem like a financial windfall, especially if the amount reaches six figures. In truth, the insurer is probably offering you a settlement to mitigate its costs.

A settlement may help an employer save money over time. If your employer fights against your claim and wins the case during a hearing in front of a workers' compensation judge, then they may no longer have to continue paying your workers' compensation. If your employer fights against you and loses, however, they lose money from the expenses leading up to the hearing and from your workers' comp benefits after. Settling your workers' compensation case is often better for the employer's long-term finances.

## What Is a Fair Amount for a Settlement?

In the typical workers' comp settlement, amounts originate from two-thirds of your average weekly pay and the 500 weeks that injured workers in Pennsylvania are eligible for benefits. For example, if two-thirds of your average weekly pay was \$500, then you'll multiply \$500 by 500 weeks for a total of \$250,000. You aren't likely to receive this entire amount, though, because your employer or their attorneys will not likely agree with your evaluation if they feel you will recover from the injury. You'll need to negotiate in the hope of reaching an agreement. If you have ongoing medical treatment, you'll also have to account for medical expenses.

To get an idea of an average workers' comp settlement in Pennsylvania you may receive, you can check out our case results. For example, for lower back injuries, our clients have received award amounts ranging from \$52,000 to \$439,677. Please note that what you receive from your settlement depends on the specific circumstances of your situation.



If you receive a workers' compensation offer of settlement, the first thing you should do is contact an experienced workers' comp attorney. Your attorney will have the expertise to evaluate the offer and determine its fairness based on your situation. This entails determining the expected costs of ongoing medical treatment and the number of lost wages you may need to recapture over time.



**You may wish to accept a settlement** if you want to move on from a workers' comp case.

### Should I Accept a Settlement?

What should you do when you receive a workers' compensation settlement offer? Ultimately, the answer lies in your circumstances. You may want to take the offer if your recovery is on hold, and your health is not improving. You may wish to accept a settlement if you want to move on from a workers' comp case. You may prefer a settlement to the hassles and uncertainties of litigation that often occur in Pennsylvania workers' comp cases. You should consider these factors before making your decision:

- Will you need more surgery?
- Does the settlement provide enough for financial peace of mind?
- How challenging is it to deal with the insurance company?
- Will you be out of work for months or years?

### What Happens If I Settle?

When you accept a workers' comp settlement, you receive a one-time lump-sum payment or agree to a structured payout. That means you won't get any more money from your employer for this injury. You waive your rights to any future claims.

If you need another surgery after you accept the deal, you can't get compensation for it from your employer. Ideally, the settlement will give you financial security. Think about it before you accept any deal. Better yet, consult a lawyer, so you can discuss the merits of the offer and what it would mean for you down the road.

If you've received a workers' comp settlement offer in Pennsylvania, contact Frommer D'Amico to schedule a no-obligation initial consultation. Our team of attorneys consists of workers' compensation experts who can review your situation and help you determine whether you should accept the offer or pursue further legal action.



## CHAPTER 5

# Mistakes to Avoid

Injured employees who are placed on workers' compensation without the benefit of experienced lawyers on their side are left to rely upon human resource managers, workers' compensation insurance adjusters and others for advice and information regarding their workers' compensation rights. Dealing with insurance adjusters can be difficult, but we make it our goal to give you the resources you need. Reading this chapter will help you avoid mistakes and survive the system. If you need more tips or advice, check out our complete Survival Guide.

### Common Workers' Compensation Mistakes to Avoid

When you get hurt at work, there's no playbook to guide you through the process. You may not realize that some mistakes can hurt your workers' compensation case.

We've made a list of common workers' comp claim mistakes to help you navigate the process and avoid doing anything that might hurt your case.

#### 1. Posting Your Activities on Social Media

Your employer or their insurance company will often conduct surveillance on injured workers to see how active they are in their daily lives. Often, they will contact your coworkers, who may be "friends" with you, or hire a company that will conduct a search of your social media accounts looking for pictures that you posted of your activities, statements that you posted or even search your friends to see what they posted about you and your activities. Anything you post or anything posted about you can and will be used against you!

#### 2. Allowing Your Doctor to Talk to an Insurance Nurse

The insurance company often sends a "Rehab Nurse" to your medical appointments or wants you to let them call your doctor. Even without your permission, many such "nurses" will call your doctor to do their best to encourage the physician to release you from care, permit you to work full duty or question whether a diagnostic or medical procedure is needed. You are well within your rights to ask your doctor whether the insurance nurse is contacting them and what is being said.

Statements that you posted or even search your friends to see what they posted about you and your activities. Anything you post or anything posted about you **can and will be used against you!**

COMMON WORKERS' COMPENSATION  
MISTAKES TO AVOID



### 3. Paying Your Own Litigation Costs in Court

You can hire many law firms under the no-recovery-no-fee arrangement. But what about litigation costs? These are the expenses that must be paid if your case is in court and include the costs of obtaining medical evidence or witnesses. These costs often add up to thousands of dollars. When you hire a lawyer, you must ask if you are responsible for these costs or not.

### 4. Assuming Your Job or Health Insurance Is Protected

The Pennsylvania Workers' Compensation Act does not require your employer to hold your job open for you or continue to pay for your health insurance after a work injury. This is a common misconception. Some employers will voluntarily hold your job or pay for insurance for a while if they believe you may be back to work shortly, but many employers will not and may send you a bill after a work injury.

### 5. Not Reporting Your Injury to Your Employer

Trying to work through your injury is one of the mistakes that can hurt a workers' compensation case. You compromise your ability to file a claim if you don't inform your employer about what happened. With no official record of the injury, your employer or its insurance company may accuse you of lying about your condition. You have 120 days from the day of your injury to report it to your employer, but the sooner, the better.

### 6. Missing Deadlines Related to Your Case

When you miss deadlines, you give your employer's insurance company a reason to reject your claims on a technicality. You can avoid one of the most common workers' comp claim mistakes by meeting all paperwork deadlines and going to every medical appointment scheduled by the insurance company.

Deadlines also include appeals. If you plan to appeal a decision in your case, you only have a limited window to file. Ask an attorney to keep you on track to meet all your deadlines.



You can avoid one of the most common workers' comp claim mistakes by **meeting all paperwork deadlines** and going to every medical appointment scheduled by the insurance company.

COMMON WORKERS' COMPENSATION  
MISTAKES TO AVOID

## 7. Submitting the Wrong Paperwork or Filling It out Incorrectly

Workers' comp claims are often rejected on technicalities, such as filling out the wrong paperwork or forgetting to sign a claim. Look over your paperwork to catch any mistakes and sign along all the dotted lines. Consulting with a workers' compensation attorney can ensure you get the right forms and turn them in to the right place.

## 8. Not Doing What the Doctor Tells You

Take your physician's advice seriously. If you fail to follow it — such as returning to work without crutches if your doctor has required them — your claim could be denied. Your doctor should write down what you are supposed to do.

If you have questions about your workers' compensation case or think you may have made some mistakes throughout the process, contact Frommer D'Amico. Our team of workers' compensation specialists will work with you to help you save thousands and get the compensation you deserve.



## CHAPTER 6

# Denied Claims and Appeals

Sometimes, workers' compensation claims are denied. If you file an appeal for a denied claim, that might get rejected, too. If this sounds familiar, don't lose hope. There are still steps you can take to protect your rights as an injured worker and obtain compensation. In this chapter, we'll show you how to handle a denied claim or appeal.

## Why Did My Workers' Compensation Claim Get Denied?

If your workers' compensation claim was denied, the first thing you need to do is determine why. Some of the reasons that your claim may be denied include the following:

### 1. You Did Not Report Your Injury Promptly

As noted in previous chapters, Pennsylvania law says you need to report your injury to your employer within 120 days or when you first realize you were injured. If you wait longer than 120 days to report your injury, you will not receive compensation. The moment you get injured or believe you have suffered a work-related injury, report it immediately to your employer.

The process for notifying your employer may vary based on where you work. If you're not sure about the correct procedure, speak to the human resources department at your place of employment. They will tell you the proper steps to formally report the injury. Ask questions about anything you don't understand, as you want this process to be as smooth as possible.

### 2. Your Employer Disputes the Reason for Your Injury

Your employer may deny responsibility for your injury. Your employer could say your injury was the result of carelessness on your part, some form of horseplay on the job or happened outside of the workplace or regular work hours. Employers who want to dispute your claim will try every excuse in the book to avoid paying you the benefits to which you are legally entitled.

### 3. Your Employer Disputes the Severity of Your Injury

Another reason your workers' compensation claim may get denied is if your employer or the employer's insurance company state that your injury is not as severe as you say, and that there was no reason for you to miss time on the job or to see a doctor.

## 4. Your Employer Claims You Engaged in Illegal Activities

Employers and their insurance companies frequently try to use the excuse that you were doing something illegal to persuade the judge to deny your claim. For example, your employer may suggest that you were using drugs or intoxicated while on the job. Unfortunately, this is a popular excuse for employers and insurance companies to use.

If you go to the emergency room after your injury and your medical records do indicate that you had illegal drugs present in your system, you will almost certainly get denied your workers' compensation benefits.

## 5. Your Injury Does Not Fall Into the Category of Injuries That Qualify for Compensation

Another reason you may face a workers' comp denial is that your injury doesn't fall into the category of compensated injuries.

Sometimes, it can be challenging to prove that injuries, conditions or even diseases are job-related. For instance, a stress-related injury can be hard to prove. Your employer's insurance company may also cite a pre-existing condition or issue as the result of your injury to avoid liability.

## 6. You Did Not Receive Any Medical Treatment for Your Injury

You should see a doctor as soon as possible after sustaining your injury. Mention to your health care provider that this injury is job-related so the documentation process can begin. You may need to select from an employer-approved list of doctors within 90 days after you received your injury. Beyond these 90 days, you may go to your physician.

Some companies have health care providers on staff. If you are injured on the job, you may be able to visit the on-staff nurse and immediately notify them of the injury. If your injury is severe, you may need to go to the emergency room. Notify the medical providers there that you were injured at work.

Sometimes, we don't notice any pain until a few days after sustaining an injury. As soon as you begin to feel discomfort or pain, visit your doctor. Let your physician know about the injury you received at work and how it happened.

If you do not receive any medical treatment after you've been injured or delay a visit to the doctor, your claim will likely get denied. Your employer's insurance provider may fight your claim, arguing that you aren't injured as badly as you are alleging. That's why it's crucial to see your doctor or to go to an emergency room after you have suffered a work-related injury that does not require immediate hospitalization.


## 7. A Lack of Evidence That the Injury Was Job-Related

Sometimes, it is not completely clear that an accident happened during work-related tasks. Your employer may argue that your injury occurred during your lunch break, for example.

If you don't have any witnesses of the incident, your employer and their insurance company can have an easier time claiming you lack evidence. Inform your supervisor and coworkers about your injury as soon as possible and ensure you tell each person exactly the same thing about how you received your injury.

Again, if you're injured, and if it is job-related, make sure you see a doctor. It will help your claim.





## WHEN YOU'LL KNOW IF YOUR WORKERS' COMP CLAIM GOT DENIED

Within 21 days of when you report your injury, your employer can deny the company is liable for your injury.

### When You'll Know If Your Workers' Comp Claim Got Denied

Within 21 days of when you report your injury, your employer can deny the company is liable for your injury. They will provide you with a Notice of Workers' Compensation Denial and send a copy of the denial to the Workers' Compensation Board. You can then file a claim petition with the Workers' Compensation Board. You have up to three years from the date of the injury to file a claim petition.

After you file the petition, it will get assigned to a workers' compensation judge who handles local cases. The judge will then call a hearing and take evidence from both parties. Often, the judge will attempt to settle any dispute over a claim through mediation. If mediation is unsuccessful, and all evidence is in, the judge will render a decision.

### What If My Claim Petition Gets Denied?

If your claim petition gets denied, you can appeal the judge's decision to the Workers' Compensation Appeal Board, using form LICB – 25/26, Appeal from the Judge's Findings of Fact and Conclusions of Law. You have 20 days from the postmark of the letter informing you of the judge's decision to submit your appeal. Here are some crucial things to know about the appeals process:

- **Include a copy of the judge's decision:** Make sure you attach a copy of the judge's denial of your claim, also known as a circulation sheet.
- **Complete the Proof of Service step:** You need to complete the Proof of Service page on the form listed above. You must list all the names and addresses that appear on the copy of the judge's decision you received, including the judge. You then need to mail a copy of your appeal to all these parties.
- **Double-check the details:** Before you send your appeal, double-check the form to ensure all your data and facts are correct. This includes the type of petition – which will be on the judge's decision letter – the date you received the judge's decision, the claim number assigned to you by the Workers' Compensation Board, and the original date of your injuries.
- **Summarize your case:** This last item is vital. You need to concisely summarize why you feel the judge made a mistake in denying your claim. Working with an experienced attorney can help you accurately articulate your reasons for disputing the judge's decision.

The Workers' Compensation Appeal Board doesn't overturn a judge's decision very often. But if you can argue successfully that the judge overlooked a valuable piece of evidence or did not appropriately consider all the facts of the case, the Appeal Board can direct the judge to rehear the case.



## WHAT IF THE APPEAL BOARD DENIES MY APPEAL?

If the Appeal Board denies your appeal, your next step is to file a workers' compensation appeal with the Commonwealth Court.

### What If the Appeal Board Denies My Appeal?

If the Appeal Board denies your appeal, your next step is to file a workers' compensation appeal with the Commonwealth Court. Either you or your employer has 30 days to appeal the Appeal Board's decision.

The Commonwealth Court in Harrisburg is one of Pennsylvania's two intermediate appellate courts. It is the job of the court to review your case and decide if someone has made a mistake or an error, and whether the evidence presented supported the judge's ruling. The court will then issue a written decision.

Many workers' compensation appeals do not go beyond the Commonwealth Court. However, there is one step left, and that is to file an appeal with the state's Supreme Court.

### How Do I Send an Appeal to the Pennsylvania Supreme Court?

If the Commonwealth Court denies your appeal, you have 30 days to file an appeal with the state Supreme Court. The Supreme Court then decides whether or not to hear your case. If they opt not to hear it, the decision of the Commonwealth Court stands as final.

If they do, however, decide to hear your case, your lawyer and your employer's attorney will submit briefs to the court, and there is a chance they will have to appear in front of the court to argue your case. The court will then issue a decision, which will be the end of the process.

### Do I Need a Lawyer to Help Me With My Denied Claim Appeal?

Hiring a lawyer is highly recommended. You can see that the workers' compensation appeals process in Pennsylvania is not an easy one. It requires you to gather evidence that supports your claim, keep records of all your medical expenses and lost wages, perhaps get statements from witnesses who may have seen you be injured on the job, fill out a lot of forms and meet a lot of filing deadlines.

It can be overwhelming, especially if your injury is severe, and the last thing in the world you feel like doing is spending all your time preparing a workers' compensation appeal. A workers' comp lawyer's job is to help you through this process. While you're recovering, they are preparing all the paperwork, gathering all the evidence, filing all the correct forms on time and letting you know where and when you have to make an appearance to support your claim.



The other reason you want to hire a lawyer who knows how to appeal a workers' compensation denied claim is that they have years of experience in helping people like you. And let's face it, the lawyers for your employer's insurance companies also have plenty of experience in using every trick in the book to deny you the benefits to which the law entitles you. Working with a trusted workers' comp lawyer is the best way you can stand up to the lawyers for the insurance company and win your initial claim or, if need be, your appeal.

When you are looking for a trusted lawyer to help you with your workers' compensation claim or appeal, contact Frommer D'Amico. Leave us details about your case or call us at 717-400-1000. A member of our team will be in touch with you as soon as possible.

## CHAPTER 7

# Hiring an Attorney: Should You Get One?

After suffering an injury in the workplace, one of the first questions you may have is, "When should I hire a workers' comp lawyer?" You may also wonder if an attorney is necessary, what assistance they can provide and how much it will all cost. With so much uncertainty on top of an injury, filing a workers' compensation claim may feel overwhelming.

In this chapter, we'll explore reasons to ask a workers' compensation attorney for help. If you have any questions or concerns, please do not hesitate to contact us at Frommer D'Amico.

## Why Should You Hire a Workers' Comp Lawyer?

In an ideal workers' compensation case, your injury is relatively minor, and there is no question you will get benefits. But not every workplace accident occurs in an ideal situation. Depending on your scenario, you may need an advocate to make sure you receive the compensation you deserve. You'll want to consider hiring a workers' compensation attorney if any of the following apply to you:

## WHY SHOULD YOU HIRE A WORKERS' COMP LAWYER?

Depending on your scenario, you may need an advocate to make sure you receive the compensation you deserve.



### 1. You Have a Pre-Existing Condition

If you have a serious underlying health condition, it may be used as an excuse to deny your compensation benefits. Insurance companies and employers may claim your pre-existing condition is what caused your current ailment, and that your injury is not related to a workplace accident. But a pre-existing condition does not disqualify you from receiving benefits.

### 2. Your Employer Denies an Injury Occurred in the Workplace

Issues may arise if your employer refuses to acknowledge your injury occurred in the workplace or is due to your work duties. A workers' compensation attorney can clearly establish the link between your injury and your work. Without this link, you may be denied benefits that are rightfully yours.

### 3. Your Benefits Are Denied or Delayed

Even if you have been denied or you find your benefits are delayed, you can appeal or turn to other legal remedies. A workers' compensation attorney can guide you through the process and can secure the medical documents that may be needed to prove your case.

### 4. Your Benefits Do Not Cover All of Your Medical Bills and Lost Wages

In some cases, you may have concerns about the way your wage loss benefits are calculated. Incorrect calculations could leave you with less wage loss benefits than you should be getting, which may be an issue if all of your medical bills are not covered. A workers' compensation attorney can ensure you get the benefits you need to pay for quality medical care.

### 5. You Have Been Seriously Injured and Cannot Work for an Extended Period

If your injury is permanent or long-term, your medical costs and treatment needs might be considerable. In these cases, it's more likely your employer or its insurance company will fight to reduce your benefits, so they don't have to pay monumental costs. When you have a permanent or severe injury and cannot work, you shouldn't have to worry about finances. A workers' compensation attorney can work to secure the long-term benefits you deserve.



## 6. You May Have a Claim Against a Third Party

Part of the workers' compensation program is designed to shield employers from civil claims. However, some cases may still warrant civil claims. If a defective piece of machinery caused your injuries, you might have a claim against the manufacturer of that machinery. Civil claims may result in larger settlements. An experienced workers' compensation attorney can help you determine the best way to proceed in these cases.

## 7. You Face Retaliation in the Workplace Because You Have Been Injured

If you file a workers' compensation claim and your employer seems to be retaliating against you, you should speak to a workers' compensation attorney immediately. This retaliation could take many forms, including reducing your hours, demoting you, harassing you, terminating your employment or engaging in other retaliatory behavior.

In Pennsylvania, employees have the right to collect workers' compensation benefits. When an employer retaliates against a worker for exercising their rights and filing a workers' compensation claim, that employer violates public policy. Hiring an attorney can help you right the wrongs invoked through employer retaliation after a workplace injury.

## 8. You and Your Employer Disagree About Your Ability to Work

Your employer or their insurance company may claim you can return to work with modified duties so they can minimize, reduce or suspend your benefits. If you disagree or think you cannot return to work because of the severity of your injury, a workers' compensation attorney can review your situation and present evidence of your serious medical condition.

## 9. Your Employer Claims You're Not Covered by Workers' Compensation

A small number of workers do not qualify for workers' compensation. Under Pennsylvania law, employees in the following fields may not be covered:

- Federal workers
- Longshoremen
- Railroad workers
- Casual employees
- Domestic workers
- Agricultural laborers
- Employees with a personal religious exemption
- Volunteer workers

If your employer claims you work as an independent contractor and otherwise do not qualify for workers' compensation – even though you perform the job duties of a full-time employee – contact an attorney. An attorney can look at your employment agreement and field of work to determine whether you qualify for benefits.

## 10. Your Employer Has Not Paid for Workers' Compensation Insurance

By law, Pennsylvania employers are required to pay for workers' compensation coverage for all qualified workers. This is the case even in small and non-profit organizations. Employers may fulfill this insurance requirement through self-insurance or by going through an insurance company.



## YOUR EMPLOYER OR ITS INSURANCE COMPANY REQUESTS A MEDICAL REEVALUATION

Even if you have been approved for benefits, your employer or its insurance company may try to get you reevaluated to see whether your injury has become less severe.

If your employer has allowed the insurance to lapse or has never secured coverage for you as required by law, you may still qualify for benefits under the Uninsured Employer Guaranty Fund. Consult with an attorney to find out what options exist for you.

### 11. You Do Not Understand the Workers' Compensation Process

Workers' compensation can be an intimidating process if you're unfamiliar with it. You may have questions about ways to fill out forms, your rights, what you can and can't say, your settlement and more. Even in ideal cases, a qualified attorney can help you with all of these concerns.

### 12. You're Being Accused of Fraud

Workers' compensation fraud occurs when an employee intentionally receives wages while also receiving total or partial disability benefits that exceed the permitted amount for their situation. While workers' compensation fraud is a real concern, you shouldn't be denied benefits if you are legitimately injured. If your employer or their insurance company alleges you aren't really injured or you are trying to defraud the system, it's important to consult with an attorney.

### 13. Your Employer Disagrees With or Disputes a Decision Made by the State Workers' Compensation Division

If your employer and insurer are trying to avoid honoring a decision made by a judge, you may not receive your due benefits. Consider hiring a workers' compensation attorney to represent you as you navigate the necessary legal measures to secure your benefits.

### 14. Your Employer or Its Insurance Company Requests a Medical Reevaluation

Even if you have been approved for benefits, your employer or its insurance company may try to get you reevaluated to see whether your injury has become less severe. This is known as an independent medical examination (IME), and it may be performed by a company doctor to show that your injury no longer exists or is not as severe.

Often, an IME is a precursor to terminating, reducing or eliminating your benefits. If you are being asked to submit to additional tests or a labor market survey, get legal advice to ensure your benefits aren't reduced or cut off unfairly.

## 15. The First Doctor You See Has Cleared You for Work Quickly or Did Not Refer You to a Specialist

Sometimes, if you see an employer-approved physician, they will clear you for work quickly – even if you don't agree that you can return to work. They also may not refer you to a specialist, even if you request it. If you are released to go back to work and decide not to return, you could lose your claim to workers' compensation.

Your return to work and workers' compensation claim should support your healing while also complying with relevant laws. An experienced attorney can help you get a second opinion or reach a more suitable agreement.

## 16. You Don't Understand What Could Hurt Your Claim

Many small things, like social media posts, can hurt your claim. If you show yourself at a special event on your social media, insurance companies can use this to claim you are not as injured as you reported. A workers' compensation attorney can advise you of the seemingly minor incidents that could hurt your claim and can coach you on how to strengthen your claim instead. In many cases, these are issues injured workers don't even think about.

## 17. You're Not Sure Which Doctor You Need to See

In Pennsylvania, for the first 90 days after an injury, you must see a doctor approved by your employer or its insurance company. But this is only the case if your employer posts a list of at least six approved medical providers and meets other requirements. Often, there is confusion about whether you do need to see an approved medical provider or whether you have more options.

If you are required to see an approved medical provider, workers' compensation may not cover the costs if you see your own doctor. On the other hand, if your employer does not meet the requirements, you may have the option of visiting your own medical provider, which may be more beneficial. A workers' compensation attorney can ensure you understand which doctor you need to see and when.

## 18. You Develop Symptoms Gradually Over Time

Sometimes, workplace injuries don't create symptoms right away. If you suffer a herniated disc or a soft tissue injury, you may develop symptoms over days or weeks. Even if you suffer a serious head injury, symptoms may not become apparent for hours or days.

This can make it harder to prove a specific injury is related to work. It can also mean an initial medical consultation will determine you were not seriously injured. A workers' compensation lawyer understands not all injuries show symptoms right away. They can help you get a thorough medical evaluation to ensure your complete physical situation is clear.

## 19. You Are Eligible for Medicare or Will Become Eligible Within 30 Months

If you file a workers' compensation claim and are Medicare-eligible, your settlement may be submitted to Medicare. In these cases, you may enter into a Workers' Compensation Medicare Set-Aside Arrangement (WCMSA). A WCMSA designates part of a workers' compensation settlement to cover future medical expenses for your workplace injury. Under a WCMSA, the allocated portion has to be used up before Medicare pays for your workplace injury treatments.

Medicare may deny some of your medical costs unless you proceed carefully. An attorney can work with you to ensure your medical expenses are covered and that you benefit as much as possible from any agreements.



## 20. You May Need Medical Treatment Much Later After Your Injury

Some injuries will result in a lifetime of care. If you have suffered an injury at work that requires amputation, you may need to replace your prosthetic regularly for the rest of your life. You need to ensure your settlement covers these additional costs. An attorney can review your case and your injuries to help you understand how much money you need to cover all of your current and future medical expenses.

## 21. Your Injury Is Hard to Quantify Medically

Some injuries are very clear. If you have suffered a crushing injury, a severe laceration or require surgery, it may be easy to prove you have been severely injured. Other injuries are harder to prove. If you have suffered severe mental trauma as a result of your injury, it may prevent you from working. It can be challenging to quantify the effects of that trauma using medical tests. Soft tissue injuries can be difficult to prove as well because they do not always show up on X-rays. A workers' compensation attorney can ensure you are evaluated by qualified specialists who can submit compelling medical evidence about your injury.

## What Does a Pennsylvania Workers' Compensation Attorney Do?

A workers' compensation attorney can:

- Secure evidence that your injury or condition is caused by your work.
- Secure medical documentation to prove your injury.
- Help you understand how to file a claim.
- Ensure you fill out the paperwork correctly and on time to qualify for benefits.
- Help you understand which doctors you need to visit and when.
- Answer any questions you have about the workers' compensation process.
- Advocate for you if your claim is denied or delayed.
- Prepare you for any discussions with an insurer or any appearance before a judge.
- Help you understand how much your claim is worth and help you evaluate any settlement offers, so you get the fairest compensation possible.
- Help offset any evidence presented by "independent" medical professionals approved by your employer or their insurance company.

In short, a Pennsylvania workers' compensation attorney represents you and your best interests. A legal team can ensure you avoid some of the most common pitfalls associated with a workers' compensation claim and can improve your chances of securing fair compensation. An initial consultation with a certified Pennsylvania workers' compensation specialist at Frommer D'Amico is free and allows you to ask about your claim.



**Contact Frommer D'Amico** today and find out what our firm can do for you and your workers' compensation case.

[CONTACT US](#)

## Making Workers' Comp Benefits Work for You

If you have been injured in the workplace or have a medical condition or illness caused by your job, you may wonder how you will pay the bills and how you will support your family. You may be concerned about your situation and future career prospects. Workers' compensation is designed to protect you by offering you benefits while you heal.

Applying for workers' compensation can be a complicated legal process. The skill, expertise and compassion of our team at Frommer D'Amico can make the process easier for you and your family. Our firm is committed to handling workplace injuries and workers' compensation cases, which is why the Pennsylvania Supreme Court has certified each of our attorneys as a workers' compensation specialist.

At Frommer D'Amico, we treat you with care, professionalism and dignity. We don't put you on hold or make you talk to administrative assistants. When you work with us, you get a team that's willing to travel to Allentown, Altoona, Scranton and other surrounding areas to meet with you.

We also respond to emails and phone calls promptly because we value your time, and Frommer D'Amico is proud to offer free case management as well as free initial consultations. If you'd like support as well as conscientious client care, contact Frommer D'Amico today and find out what our firm can do for you and your workers' compensation case.



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### Conclusion:

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