

Lowcountry Injury Law

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Workers' Compensation Cases – General Information

The South Carolina Workers' Compensation Act provides a system for workers injured on the job to receive medical care and financial benefits without having to prove anyone was at fault.

If an employee is hurt on the job, benefits provided by the laws are the worker's sole remedy. Under most circumstances, employees cannot sue an employer for injuries received on the job. However, if a third party, such as the manufacturer of a defective machine, or a driver of a non-company vehicle, is responsible for the injury, then the employee can sue the third party and also file a workers' compensation claim. But in the event of a recovery against the third party, the law requires that the workers' compensation insurance company be reimbursed for any benefits the employee received.

The primary benefits provided to an injured worker are:

- (1) payment of two-thirds of his/her average weekly wages (“Compensation Rate”) for the time he or she is out of work (“Temporary Total” payments);
- (2) payment of medical expenses by the employer or the employer's insurance company;
- (3) compensation for future lost earning capacity due to the accidental injury (“Permanent Award”).

The employee may be entitled to compensation, for a certain number of weeks, when certain parts of the body are permanently injured, even if the worker can still perform the job requirements. This type of compensation is called a “Scheduled” award and does not require any proof that the injury has caused a loss of earning capacity. For example, a worker who suffers a back injury on the job is entitled to compensation for the permanent back injury - even where there is only a partial loss of use and the injury does not keep the worker from returning to the job.

The injured worker should notify the doctor recommended by the employer about their accident and injury. The employer has the right to designate the treating physician. The employee must accept the treatment provided or lose the right to receive compensation.

Our contingent fees are paid only from your award or settlement, and the fees must be approved by the South Carolina Workers' Compensation Commission.

Client's Do's and Don'ts

1. **DO NOT** discuss your damages, injuries, or the accident with any insurance adjuster, including your own. Refer all inquiries from insurance agents to your attorney for handling.
2. **DO NOT** discuss your case with anyone other than your spouse, attorney or your doctors.
3. **DO** bring to our office any documents you receive from your employer or any insurance company relating to your claim for damages.
4. **DO NOT** sign any documents relative to this claim without first submitting them to your attorney for review.
5. **DO** keep records of the dates and mileage to and from any doctor=s office or other health care provider. You will be provided a form for this purpose so that you can be reimbursed for your travel expenses.
6. **DO** keep us advised of the progress in your medical treatment, i.e., you were referred to a new doctor; started physical therapy; had to go to the hospital for a condition arising from the accident-related injuries, etc.
9. **DO** notify us when you have been released from all medical treatment. If you are released to light duty only, report to work with a copy of the doctor's orders stating your physical restrictions.
10. **DO NOT** resign or quit your job without talking to your attorney first. This could make you ineligible for weekly compensation benefits.
11. **DO** notify us at once of any change of address, phone numbers, employment or any other fact which might affect your case.
12. **DO NOT** request that this office advance you funds based on your potential recovery. This practice has been specifically defined as unethical by the South Carolina Supreme Court and attorneys can no longer lend or advance funds to clients in this fashion.

FREQUENTLY ASKED QUESTIONS

What medical treatment am I entitled to receive?

You are entitled to all necessary medical treatment that is likely to lessen your disability. Workers' compensation generally pays for surgery, hospitalization, medical supplies, prosthetic devices, and prescriptions. Keep in mind that in order to receive these benefits you must go to the doctor chosen by your employer or its insurance representative.

How is the compensation rate determined?

You are entitled to compensation at the rate of 66 2/3 percent of your average weekly wage based on the four quarters prior to your injury, but no more than the maximum average weekly wage

determined each year by the South Carolina Employment Security Commission. If you were working two or more jobs at the time of accident, those wages may be included as part of the average weekly wage and compensation rate.

Will I get compensated for missing time from work because of my injury?

There is a seven-day waiting period before benefits can be paid. If you are out of work for more than seven days, payments will come from your employer's insurance representative. If you are out of work for more than 14 days, you will receive compensation even for the first seven days.

You can expect payments to be made directly to you and these should continue until the doctor releases you to return to work.

When are my benefits terminated?

After the doctor releases you to return to work with or without restrictions, within 150 days of notification of the accident, you should receive two copies of Form 15 with Section II completed indicating that compensation has been stopped and for what reasons.

If the insurance carrier stops your compensation, and if you disagree, complete Section III of the Form 15 and send it to the Commission's Judicial Department. This is your way to request a hearing to be held in sixty days.

If the Doctor releases you to return to work after the 150-day notification period, your employer or insurance representative will ask you to sign a Form 17, (receipt of compensation) after you have been back to work for fifteen days.

What if the doctor releases me to light duty?

You must accept light work if it's offered. If you do not accept, all compensation may cease as long as you refuse to return to work. You have a right to a hearing if you believe that you are not able to do the work assigned to you.

If you return to light work before you are fully discharged by the doctor at a wage less than you were earning at the time of your original injury, you are entitled to weekly compensation at the rate of the sixty-six and two-thirds (66 2/3%) percent of the difference between your average weekly wage and your new wage.

What if I receive an impairment rating or have a scar?

When the doctor releases you with an impairment rating or if you have a non-surgical scar that can be seen at least eight feet away, the insurance carrier will request an informal conference/viewing. This is an opportunity for you to meet with a representative from the commission and the insurance carrier to determine the amount of compensation due.

What is a hearing?

The workers' compensation commissioners conduct a hearing to resolve disputes between you and your employer's representative. You may apply for a hearing if your employer does not report your accident, denies your injury by accident, or if you believe that you did not receive all your benefits.

Do I get reimbursed for my travel expenses when I go to the doctor?

Yes, if the round trip distance is more than ten miles from your home. You should be reimbursed for the round trip mileage at the rate allowed state employees for mileage.

Can I get a second opinion if I am not happy with the doctor to whom the insurance carrier refers me?

You can talk to the insurance carrier and see if he or she will allow you to go to another doctor, or you can request a hearing by completing Form 50 and have a Commissioner make a determination on the case.

Who sends me my weekly check?

Your employer is required to have workers' compensation insurance if they have four or more employees and the insurance carrier will be responsible to pay compensation to you if you are out of work for more than seven days.