

6. Compensation

WORKERS' COMPENSATION

If someone gets sick or hurt on the job, the employer is legally required to pay workers' compensation benefits, which may include payment of one or more of these:



- Medical benefits for reasonable and necessary medical treatment provided by an employer-authorized physician.
- Partial wages – in New Jersey this is 70 percent of the gross weekly wages lost while out, subject to a cap of 70 percent of the state average weekly wage, which is adjusted annually. In 2007, the maximum is \$711 a week.
- Permanent partial disability benefits.
- Permanent total disability benefits.
- Death benefits to surviving spouses and dependent children of workers killed on the job.

Workers should not have to use their own health insurance, sick time, or vacation time while healing from work-related injuries and illnesses. Workers and unions should keep in touch with those who are hurt on the job, especially if they are not back to work. These workers need to see that their co-workers are concerned about their treatment and recovery. Such solidarity often helps with recovery and demonstrates that no worker is “disposable.”

IS THERE EVER ADDITIONAL COMPENSATION?

Some public employees have additional compensation benefits. School employees are covered by NJSA 18A:30-2.1 which provides them with their full salary from the day of the incident without the absences being charged to sick leave. The State of New Jersey provides sick leave injury (SLI) benefits to employees for injury or illness directly caused by and arising from state employment.

Workers' compensation was designed to be a no-fault system. Unfortunately, employers may delay compensation by arguing that injuries and illnesses are not work-related. Employers contest most occupational disease cases. Therefore, the safest way to ensure eligibility for benefits is to have a lawyer on the worker's side who understands the compensation system. Lawyers are not permitted to charge a fee in advance for handling these cases. Fees will be fixed by the judge only if a compensation award is made. Fees are capped at 20 percent of the award.

ACTIONS WORKERS CAN TAKE

- Report any work-related injury immediately to a supervisor. This notification is not required for occupational illness.
- Request immediate medical attention from an employer-approved physician.
- Request that an incident report be prepared. Keep a copy for your records.
- Submit notes from the physician to your supervisor. Keep a copy for your records.
- Keep your supervisor and union, if any, up-to-date on your ongoing absences.
- Return to work when released by the physician.

If an employer does not voluntarily pay workers' compensation, injured workers should promptly contact an attorney to file a claim with the Division of Workers' Compensation.

WHAT INJURIES AND ILLNESSES CAN BE COMPENSATED?

Injury or illness that can be shown to be caused or made worse by a worker's job is compensable in New Jersey. The injury or exposure must take place at the workplace during the workday or while engaged in an activity incidental to those duties, such as traveling from one worksite to another or certain union functions like bargaining.

Injuries may include sprains, strains, fractures, cuts, lacerations, punctures, bruises, contusions, heat burns, welding flash, chemical burns, amputations, repetitive strain injuries such as carpal tunnel syndrome, and soreness or pain, including back pain. Hearing loss or ringing in the ears is covered in some circumstances.

There is no list of covered illnesses; all work-related illnesses are potentially covered. Illnesses commonly found to be work-related include asthma, asbestosis, silicosis or other lung diseases; hepatitis, HIV, TB, Lyme disease or other infectious diseases; skin diseases; malignant or benign tumors; occupational reproductive disorders; heat stroke and heat exhaustion; frostbite; and poisonings.

Conditions such as diabetes and heart disease that are sometimes work-related can be covered if they can be shown to be work-related in individual cases.

Division of Workers' Compensation
New Jersey Department of Labor and Workforce Development
Phone: 609-292-2515
www.nj.gov/labor/wc/wcindex.html

PUBLICATIONS WITH MORE INFORMATION



A Worker's Guide to Workers' Compensation in New Jersey

Phone: 609-292-2515, New Jersey Department of Labor and Workforce Development

www.nj.gov/labor/wc/forms.htm#brochures

REFERRALS TO WORKERS' COMPENSATION ATTORNEYS

The best way to find a good lawyer is to ask co-workers, family, friends, or the union, if there is one. You can also contact one of the following:

- New Jersey State Bar Association, 732-249-5000, listing of County Bar Associations, www.njsba.com/lawyer_referral/.
- American Bar Association, 800-285-2221, Consumers' Guide to Legal Help, www.abanet.org/legalservices/findlegalhelp/home.cfm.

THIRD PARTY LAWSUITS

A third party lawsuit is a special type of personal injury lawsuit in which a worker or group of workers claims that exposure to a chemical, machine, or device caused their injury or illness and the responsible party is someone other than their employer. This is an important distinction because workers' compensation laws severely restrict the possibility of lawsuits directly against the employer.

Third party cases arise from work but must be brought against "third parties," that is, people or entities other than the employer – usually manufacturers or distributors of toxic chemicals or dangerous machines or devices, and the owners and lessors of premises where the worker is exposed to the toxic chemicals, or contractors that may have installed or maintained equipment improperly.

When the lawsuit involves chemical exposure it is called a "toxic tort." Most of the law in this area arises from asbestos exposure, but benzene, beryllium, pesticides, silica, and manganese are also common toxic injury cases.

ASBESTOS VICTIM RESOURCES

White Lung Association
PO Box 1483
Baltimore, MD 21203
Phone: 410-243-5864
www.whitelung.org

NYCOSH Asbestos Page
www.nycosh.org/workplace_hazards/Asbestos/asbestos.html

If a worker has been exposed to asbestos products manufactured by the Manville Corporation, he or she may be eligible for financial compensation from the *Manville Personal Injury Trust*.

Phone: 703-204-9300, Claims Resolution Management Corporation
www.mantrust.org