



Frequently Asked Questions About New Jersey's Workers' Compensation Benefits



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What is the New Jersey Workers' Compensation Act?

The New Jersey Workers' Compensation Act is a State law that provides a remedy to employees who are injured on the job, regardless of whether they negligently caused their injury to occur.

What types of benefits are provided to an injured employee?

The NJ Workers' Compensation Act provides for only three (3) basic types of benefits: (1) medical benefits; (2) temporary disability benefits; (3) permanent disability benefits.

What types of medical benefits are provided for in the NJ Workers' Compensation Act?

Medical benefits include office evaluations, physical therapy, diagnostic studies, surgery, and prescription medications, provided by a physician selected by the employer or the employer's workers' compensation insurance carrier.

What happens if the employer says an injured worker does not need further medical treatment, and the injured worker disagrees?

The Workers' Compensation Act gives the employer (or his workers' compensation insurance carrier) the right to control the

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medical treatment provided to an injured employee. If the employer's designated physician determines that an injured employee has "plateaued" he may terminate treatment. If the injured worker believes additional treatment is necessary, he may file a motion in Workers' Compensation Court to request that additional treatment be provided. If the worker seeks additional medical treatment without the employer's or the Court's authorization to do so, the worker will be responsible to pay for the additional treatment himself.

What are temporary disability benefits?

Temporary disability benefits are paid to an injured worker who is out of work for at least seven (7) consecutive days as a result of a work-related injury. Temporary disability benefits are approximately 70% of the injured employee's weekly wage, but may not exceed 75% of the Statewide Average Weekly Wage or fall below a minimum rate of 20% of the Statewide Average Weekly Wage.

What are permanent disability benefits?

Permanent disability benefits may be paid to a worker, who has completed medical treatment, is capable of returning to his prior employment, or other employment, and who has a permanent limitation or residual that affects his ability to work. The amount of permanent disability benefits which may be awarded to an injured employee is based on a percentage of certain "scheduled" or "non-scheduled" body parts.

How are permanent disability benefits determined?

When an injured employee has completed treatment, he undergoes two "permanency evaluations" by (1) a physician who performs permanency evaluations on behalf

of petitioners (employees who file a claim for workers' compensation benefits), and (2) a physician who performs permanency evaluations on behalf of the employer or the employers' insurance carrier. The two permanency evaluations are then reviewed by the parties' attorneys and the Judge of Workers' Compensation, and settlement recommendations are made.

Is an injured employee entitled to receive payment for the pain and suffering aspect of his injury?

No. New Jersey's Workers' Compensation Act does not provide for any payments beyond medical treatment, temporary disability, and permanent disability. Pain and suffering type damages are awarded in lawsuits filed in the civil courts against parties other than employers. Injured workers often mistakenly believe they are entitled to pain and suffering damages in Workers' Compensation Court.

May an injured employee choose to sue his employer in civil court rather than in Workers' Compensation Court?

The New Jersey Workers' Compensation Act provides an exclusive remedy to injured employees, which means that, in general, an employee may not sue his employer in civil court for a job-related injury. An employer may only be sued in civil court when the employer intentionally injures an employee; the legal standard to prove an intentional injury is very high.

What types of issues are decided in Workers' Compensation Court?

Workers' Compensation Judges have the power to resolve disputes between the employer and the employee regarding medical treatment to be provided, the

extent of temporary disability benefits to be paid, and the amount of permanent disability benefits to be paid to an injured employee.

Workers' Compensation Courts do not address issues regarding reinstatement of discharged employees, an employers' obligation to provide light duty work for an employee, or an employers' obligation to reimburse an injured employee sick, personal or vacation time.

Are injured employees entitled to a jury trial?

No. If the injured employee and the employer are unable to agree to a settlement of a workers' compensation claim, either party is entitled to a trial before a Judge of Workers' Compensation only. No jury trials are provided for in the New Jersey Workers' Compensation Act.

Must an injured employee have an attorney in order to pursue a claim for Workers' Compensation benefits?

An injured employee is not

required to have an attorney in order to pursue a claim for benefits under the New Jersey Workers' Compensation Act. However, legal representation is recommended, as every situation is unique.

Legal fees can only be awarded by a Workers' Compensation Judge, and only if the worker is awarded compensation benefits. Attorney fees for successful claimants are usually 20% of the total settlement award.

Please feel free to contact Sharon Ferrucci of Basile & Testa at (856) 691-2300. A consultation about your Workers' Compensation case is free.

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