

Law Offices Of
W.J. "Bill" Morris Inc.
8080 N. Central Expressway
Suite 1430
Compass Bank Building
Dallas, TX 75206
(214) 696-2301
FAX (214) 696-3674

WORKERS' COMPENSATION RIGHTS AND RESPONSIBILITIES

1. You must tell your employer if you have been injured at work or in the scope of employment.
 - A. Notice to the employer must be given within 30 days of:
 - 1) the date you were injured; or
 - 2) the date you knew your injury or illness might be work related.
 - B. Notice to your employer should be given in writing by some verifiable means (stamped copy or facsimile).
 - C. Notice should be give to your Employer's workers' compensation insurance carrier, if known.
2. You must file a form DWC-41 (Notice of Injury and Claim for Compensation) with the Division of Workers' Compensation within 1 year after you were injured or first knew that the injury or illness might be work related.
3. Unless your employer has elected to join a Workers' Compensation Health Network, you have the right to choose any doctor that is on the Division of Workers' Compensation's Approved Doctors List.
 - A. Contact your employer to determine whether you are part of a network.
 - B. If you are in a network, your employer must give you a copy of the Texas Department of Insurance network rules.
4. It is imperative that you tell your doctor:
 - A. that the injury is work-related;
 - B. how the injury occurred; and
 - C. all the injured and affected body parts.
5. You have the right to receive benefits.
 - A. Temporary Income Benefits (TIBs) are to replace your lost wages. You are entitled to receive TIBs if a doctor has you off work or has you on light duty and your employer cannot accommodate your light duty restrictions; and you are not placed at Maximum Medical Improvement (MMI).
 - B. Impairment Income Benefits (IIBs) are to compensate you for your injuries, once you have reached Maximum Medical Improvement. You will receive 3 weeks of benefits for every percentage point of impairment, e.g., 15 weeks of IIBs for a 5%, 21 weeks of IIBs for a 7%.
 - C. Supplemental Income Benefits (SIBs) are to compensate (supplement) you if you are unable to earn as much money as you made before the injury. SIBs are paid on a monthly basis and you must qualify for the benefits every three months. To qualify you must have received a 15% impairment rating or higher, not taken your IIBs in lump sum; and
 - 1) have no ability to work (this way to qualify is by far the most difficult and is usually reserved for the most sever of injuries or claimants who have recently had surgery);
 - 2) you have returned to work in a position relatively equal to your ability to work and are earning less than 80% as a direct result of your impairment; or
 - 3) you have made a good faith effort to seek and find employment within your ability to work. Good faith effort can be accomplished by:
 - a) Enrolling with the Department of Assistive Rehabilitative Services and complying with an Individualized Plan for Employment (IPE); and/or
 - b) Making a daily job search for employment.

- D. Medical Benefits—the insurance carrier is responsible for all reasonable and necessary treatment for a compensable injury for the lifetime of the claimant. However, this is not a beneficial as it may seem.
- 1) The insurance carrier can always deny a claim or portion of a claim and not be required to pay for medical benefits. In this situation you will have to win the claim before any medical benefits are paid.
 - 2) The insurance carrier can obtain a report from one of their doctor's saying that certain treatment or medication is not reasonable or necessary. In this situation, a medical dispute will have to be filed, which is a time consuming process that many doctors won't do.
 - 3) Under the current workers' compensation law, an aggravation of a preexisting condition is a NEW injury. As such, a new injury will allow a claimant can receive benefits for being off work, for an impairment rating, and medical treatment. However, if a claimant pursues lifetime medical under an old injury, there is usually no means for the claimant to receive money for being off work.
6. You have the responsibility to keep all parties apprised of your current situation. This means that you should notify the Division of Workers' Compensation and your insurance carrier of any changes in your address, telephone number, and work status or wages.
7. You have the right to have any dispute be resolved by the Division of Workers' Compensation.
- A. Most disputes involve entitlement to money, either denied claims or owed benefits. These disputes are resolved at the local field office through an administrative process.
 - 1) Benefit Review Conference—an informal mediation hearing to identify the issues, discuss resolutions, and if no agreement is reached, to schedule a hearing before a judge.
 - 2) Contested Case Hearing—a formal hearing before an administrative law judge. The hearing officer will admit evidence and hear testimony; make findings of fact and conclusions of law; and render a decision on the disputed issues.
 - 3) Appeals Panel—a hearing officer's decision and order can be appealed to the appeals panel. However, due to recent changes, the Appeals Panel only renders decisions in a small number of appeals actually filed. Almost always the decisions of the Appeals Panel involve legal questions, and rarely does the Appeals Panel overturn a hearing officer's finding.
 - B. Medical dispute follow a different administrative process and must be filed in Austin. Once filed, the Division of Workers' Compensation will appoint a Independent Review Organization to make a determination.
8. You have the right to hire an attorney at any time to help you with your claim, and there are several reasons to seek the advice and assistance of an attorney:
- A. As previously explained, the Contested Case Hearing is a claimant's one true opportunity to win a case. Due to the current appeals process, the Appeals Panel will generally affirm the hearing officer's decision.
 - B. Approximately 90% of the time, the insurance carrier will have an attorney representing their interest at the Contested Case Hearing. And if it is not an attorney, it will be an adjuster or a hearing representative that has have numerous years of experience in the workers' compensation system.
 - C. There are numerous defenses an insurance carrier can raise in deny a worker's compensation claim (intoxication, horseplay, act of God, etc.). However, there are just as many exceptions to these defenses that will allow for a claimant to win his case. The crucial factor is knowing how the facts relate to a claim, and making the appropriate arguments.
 - D. Although the Office of Injured Employee Counsel provides free assistance to unrepresented employees through their ombudsman program, an ombudsmen is not an attorney. Further, an ombudsman cannot sign documents for a claimant, cannot make decisions, or give legal advice.

If you have any questions regarding a workers' compensation claim or any other legal issue, please do not hesitate to contact our office and schedule an appointment to come in. If you notify our staff that you are a union member, there will be no charge to come in and talk to us.

Sincerely Yours,

W.J. "Bill" Morris

Kyle D. Morris