

**An Injured Workers' Guide to
Benefits Provided by The Illinois
Workers' Compensation Act**

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THE FITZ LAW GROUP, LLC

Here at the **Fitz Law Group, LLC.**, we dedicate ourselves to protecting the legal rights of our clients. Although the foundation of our practice deals with work related injuries, no matter how they may occur, the firm also provides solutions to most legal problems that arise during the ordinary course of living, such as domestic matters, and real estate disputes. Our firm has access to experienced attorneys in each of these areas allowing us to serve the needs of most clients including clients with Social Security disability claims. With offices on Washington Street near the State of Illinois Center and the Daley Center, where the Illinois Workers' Compensation Commission and the Circuit Court of Cook County are headquartered, the firm has immediate access to important legal resources.

In addition to our main office in Chicago, we have several other locations where we are available to handle claims throughout the state of Illinois. The firm also provides in-home consultations for elderly and disabled clients and can meet the needs of Spanish speaking clients.

If you have suffered an injury at work or at home and have any general questions about this booklet or our law firm, call us at **(312) 726- 2400**. Remember, the call does not make you obligated to retain our services.

INJURED WORKER'S GUIDE TO BENEFITS

INTRODUCTION

This booklet acts to inform all workers who have suffered an injury during work of their legal rights and the means that allow them to protect those rights under the Illinois Workers' Compensation Act. If you suffer an injury, it is important that you possess a general understanding of the steps necessary to protect those rights under the Act. Often, neither your employer nor your Workers' Compensation Insurance company will explain these rights to you. Therefore, keeping this booklet with you will help to avoid many of the common mistakes that may prevent you from receiving your full benefits under the Act.

The information in this booklet briefly summarizes the general provisions of the Workers' Compensation Act. This booklet is not meant to be a substitute for legal advice from an experienced Workers' Compensation attorney. Nor should it be used to attempt to settle your own claim. Doing so leaves you vulnerable to coercion by people not interested in your wellbeing. Numerous injured workers have settled their cases for far less than the law allows based upon the advice of an insurance adjuster or employer. Use this booklet as a guide to assist you until you are able to contact our offices.

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A. BASIC QUESTIONS CONCERNING THE ILLINOIS WORKERS' COMPENSATION ACT

1. Am I covered by the Illinois Workers' Compensation Act?

If you are a worker who is hired or injured in the State of Illinois, or your employment is principally located in Illinois, you are most likely covered by the Illinois Workers' Compensation Act. **If you have questions as to whether you are covered under the Act, you should contact our offices immediately to protect your rights.**

2. What types of benefits will I receive?

Generally, your employer will pay for all medical expenses which you incur as a result of any **work-related disease or injury**, including prescription medication and necessary mental, physical, and vocational rehabilitation.

Moreover, your employer must pay you Temporary Total Disability (TTD) benefits if your doctor has prescribed that you take time off from work to recover. If you qualify for (TTD) benefits, you will be paid (2/3) of your average weekly wage during your authorized recovery period. While an injured worker can legally receive (TTD) for an unlimited amount of time, no (TTD) is paid for the first three workdays missed unless the total time lost exceeds fourteen calendar days.

3. Will my employer provide my Workers' Compensation benefits?

Generally, your employer or your employer's Workers' Compensation Insurance Carrier will provide the benefits. You will not have to pay the costs for Workers' Compensation benefits personally. Even if your employer does not carry Workers' Compensation Insurance or is self-insured, you are still entitled to the benefits by law.

4. What types of injuries or illnesses does Workers' Compensation cover?

Workers' Compensation will cover almost every job-related injury or disease. If the injury occurred without an obvious accident, the worker may still be covered by the Workers' Compensation Act if it can be proven that his job increased the likelihood of injury in comparison with that of the general public. You may also recover from an old injury or a preexisting condition if it was aggravated by a work-related accident. An injured worker may even be eligible to receive full benefits from Workers' Compensation if he causes the accident through his own fault.

5. What happens if I aggravate a previous injury or preexisting physical condition?

You are still entitled to receive full benefits even if you aggravate a previous injury or a preexisting physical condition. It is important to note that you should always remember to describe to your doctor where, how and why the aggravation took place. As injuries involving aggravation of preexisting conditions can be legally

complicated. You should contact our offices immediately to ensure that your rights are protected.

6. What if I am injured by constantly performing repetitive motions while at work?

Generally, you can recover for injuries that are caused by repetitive motions during work. These repetitive trauma cases usually develop over a long period of time and thus many symptoms will go unreported until you have been severely affected. These repetitive trauma cases generally manifest themselves in the form of the injuries entitled: Carpal Tunnel Syndrome, Impingement Syndrome and Degeneration of the Joints. If you believe that you have sustained such an injury, contact our offices immediately to protect your rights.

B. ESSENTIAL STEPS TO RECOVER UNDER THE ACT

1. Why Should I hire an attorney?

It is very important that you hire an attorney that concentrates his practice in Workers' Compensation Law in order to protect your legal rights under the Act. Your employer or their Workers' Compensation Insurance Company employs hundreds of adjusters, lawyers and staff members who solely represent the interests of your employer or the insurance company. These insurance lawyers and adjusters are all very knowledgeable concerning Workers' Compensation cases and are compensated based on their ability to save your employer or his insurance company money. Therefore, the only way to protect yourself is to have the same type of experienced

and knowledgeable attorneys working for you to ensure that you receive the full benefits that you are entitled to under the law.

2. What do I have to do to receive my benefits?

The first and most important step to receiving your benefits is to notify your employer of the injury as soon as possible. You must report your injury to a person in authority such as a supervisor, foreman, or personnel manager within (45) days of the accident. Telling a co-worker does not constitute notice to your employer. **You should report all injuries even if they do not seem like they are too serious at the time. Do not lose your benefits by failing to immediately report an accident to your employer.**

3. Is there a time within which I must file a claim?

There is a time limit within which you must file your claim. If you sustain a work related injury, you must file a claim with the Illinois Workers' Compensation Commission within (3) years from the date of the accident or within (2) years of the date that you last received Workers' Compensation benefits, whichever is later. **It is important to remember that if you do not file your claim within these periods of time, all of your legal rights to Workers' Compensation benefits will expire.** Therefore, always contact an experienced attorney as soon as possible after you are involved in a work-related injury in order to protect your interests.

4. Will I get fired if I file a claim?

It is unlawful for any employer to discharge or refuse to rehire any worker because he files a Workers' Compensation claim. Therefore, if you feel that this section applies to you, contact our offices immediately to protect your rights

5. What happens if my employer refuses to give me my benefits?

First, you should contact our offices immediately to ensure that your legal rights will be protected. Second, you are entitled to have a hearing on your case before an Arbitrator of the Illinois Workers' Compensation Commission. If a decision is made in your favor, a judgement will be entered against your employer for the amount of benefits that are owed to you including any applicable penalties for failing to provide you your benefits in a timely manner. **These types of Workers' Compensation cases present numerous complex issues and you should always be represented by an experienced Workers' Compensation attorney to protect your rights.**

6. What if my employer asks me to give a recorded statement or sign something other than an accident report?

Do not give a recorded statement or generally sign anything other than an accident report. Recorded statements and other documents can be misconstrued and used against you by your employer or his Workers' Compensation Insurance Company at a later date. If you

have any questions regarding whether to sign a particular document, contact our offices immediately.

C. MEDICAL BENEFITS

1. Where do I go to receive medical treatment?

We generally advise you to go to your own doctor, and you have the right to choose up to two medical providers. Your employer, furthermore, is responsible to pay for reasonable charges made by your chosen doctor, doctors or hospitals to which you are referred by either of your first two choices. If you want a third doctor of your own choosing not referred by your first two doctors, you must pay for the third doctor's service yourself. Recent changes to the law, however, have impacted an employee's right to choose his own doctor in certain cases. For injuries occurring on or after June 28, 2011, if your employer has an approved preferred provider program in place on the date of your accident, and your employer notified you, in writing, of your right to be treated by a physician of your choice from this preferred provider program, you then may choose, in writing, not to go to a doctor in this program. If you decide not to go to a doctor in the employer's preferred provider program, that choice will actually be considered one of your choices of doctors. (Also, if you receive non-emergency care for your work injury from a doctor not in the preferred provider program prior to reporting your work injury to your employer, that treatment will count as one choice of doctors. Keep in mind, however that in most cases, emergency first-aid care will not be considered one of your two choice of doctors.)

Should you receive a form from your employer regarding a preferred provider program after

giving notice of your work injury, contact our offices immediately before making your decision about taking part in the program and before filing out any form regarding this decision. It is also very important to always tell any hospital or doctor specifically how your injury arose out of a job-related accident.

2. What if my choice of medical was collectively contracted?

If you are one of the few union members whose union has collectively bargained with your employer to limit your choice of medical, you must choose very carefully from the list of approved medical providers. Although some medical providers on these lists are patient advocates, other are very conservative and will directly affect the benefits you receive under the Act. Should you be affected by this limited choice of medical providers, contact our offices immediately before making your first choice in order to help ensure the best protection of your rights.

3. Why do I have to go to a doctor selected by my employer or his Workers' Compensation Insurance Company, when I already have my own doctor?

Your employer is entitled to have you attend an examination at his request if you are an employee entitled to receive Workers' Compensation Benefits. Your employer must pay sufficient money to generally offset your travel expenses in advance of the examination. It is important to note that these doctors represent only your employer's or its

insurance company's interests. Employers or their insurance companies use these medical examinations to determine whether they will continue to pay medical, lost time, or permanent disability benefits. **Therefore, it is important to fully convey the extent of your pain and/or injury and bring all relevant medical documents such as reports and X-rays, MRI's to support your injury claim.**

D. DISABILITY BENEFITS

1. Other than medical treatment, what exactly are the benefits I can receive?

Generally, you may receive what is called Total Temporary Disability Benefits. This allows you to recover (2/3) of your average weekly wage for the time that your doctor has authorized you not to work. Your (TTD) rate is based on your earnings during the 52 weeks before your injury. In the event that you held two jobs before the injury, you will receive (TTD) based upon the income earned from both jobs as long as your employer was aware that you held both jobs. You must also lose more than (3) consecutive workdays in order to qualify for (TTD) benefits. If you are required to be off work for more than three consecutive work days, you are entitled to (TTD) benefits beginning on the 4th day of your temporary total incapacity. If your lost time continues for 14 days or more from your date of the accident, you are then entitled to (TTD) benefits as of the day after the accident. Some workers' (TTD) rates are subject to maximums and minimums that your attorney will explain if it applies to you. **It is important to note that you must generally get a note or letter from your doctor specifying the dates that you will be**

required to be off work in order for your lost time to be paid.

2. What if my disability is not temporary but permanent?

If you are wholly and permanently unable to participate in any kind of work, you are considered permanently and totally disabled. If you are permanently and totally disabled, you may be entitled to weekly benefits for life or until you are able to engage in some type of gainful employment. These benefits are calculated at two-thirds (2/3) of your weekly wage earned before the injury, subject to certain minimums and maximums.

3. What happens if I die as a result of a work-related injury?

Your spouse, children (subject to age and other restrictions), or your totally dependent parents who qualified for death benefits may be entitled to weekly payments at your (TTD) rate, subject to certain limitations. For instance, in the event that a widow or widower remarries and there are no children entitled to benefits under the law at the time of the remarriage, then the widow or widower is entitled to a lump-sum payment that equals two full years of compensation after which all other rights to benefits end. Generally, however, the maximum death benefit to which your survivors may be entitled is 25 years of weekly benefits at your (TTD) rate, or \$500,000.00, whichever is greater.

4. What are Permanent Partial Disability benefits?

Permanent Partial Disability benefits are provided for permanent injuries to your body resulting in partial or complete loss of use of a particular body part or percentage of your body as a whole. In the event that you injure a part of your body not specifically listed in the Workers' Compensation Act, you are still eligible to receive up to five hundred weeks of compensation for Permanent Partial Disability for your person. The Permanent Partial Disability benefits that you are entitled to are based upon your (PPD) rate multiplied by your percentage of loss. Your PPD rate is (60%) of your average week wage. Your average weekly wage generally does not include overtime pay subject to certain exceptions and your (PPD) rate is subject to certain maximums and minimums.

Determining the actual percentage of loss, you have sustained from a particular work-related injury is a complex and highly specialized process. In fact, for injuries on or after September 1, 2011, this process has become even more complex. Every work-related injury is unique in its own way and you will require the expertise of an experienced attorney to ensure that you receive the full benefits that you are entitled to under the Act. **It is important to note that many workers mistakenly attempt to settle their own claims for far less compensation than they are entitled to by law because they failed to contact an experienced Workers' Compensation Attorney to handle their case.**

5. What if my body is permanently disfigured or scarred?

If you suffer serious and permanent disfigurement to the head, face, hands, neck, arms, legs (below the knee), or chest above the axillary line as a result of a work-related injury, you may be entitled to compensation. Although the law mandates a six (6) month waiting period before the settlement of these cases, you should still file your case with the Illinois Workers' Compensation Commission immediately. **You should also have your attorney take photographs of the scar or any other type of disfigurement as soon as possible to ensure that you receive the full amount of benefits that you are entitled to under the Act.**

E.SOCIAL SECURITY DISABILITY BENEFITS

1. Am I entitled to any other benefits or recovery based upon my work-related injuries?

Yes, you may also be entitled to Social Security Disability benefits. A worker may receive both Social Security benefits and Workers' Compensation benefits at the same time. **However, the amount a worker receives from Social Security will be offset by the Workers' Compensation benefits.**

2. How and when do I apply for Social Security Disability benefits?

You or your attorney should file a written application with the Social Security Administration in your area requesting disability benefits when it appears based upon your medical treatment that you will be able to work for at least (12) months or have a condition that may result in death.

3. If I am required to attend a Social Security Hearing, should I have my attorney present?

You should always have an attorney present at any hearing. A Social Security hearing, although sometimes informal, is still a legal proceeding. Therefore, you should have an experienced attorney represent you always to ensure that your rights are protected.

F. THIRD-PARTY LIABILITY CASES

1. What is a third-party case?

A third-party case is a case or lawsuit against someone other than your immediate employer. The Workers' Compensation Act generally prevents an employee from filing a lawsuit against their employer for work-related injuries. However, under certain circumstances, other parties besides your employer may also be liable for your injury. **It is important to note that if the facts in your case support a third-party case, you could be entitled to significant monetary damages in excess of your Workers' Compensation benefits.**

2. Who would be a typical third party?

Typical third parties who may be liable for your injuries generally include those who have been in some way entrusted with your safety. These third parties could include anyone from a product manufacturer to a general contractor. Therefore, when you are injured by defective equipment or the negligence of other subcontractors, a general contractor, an owner, or even an architect, you may have a third-party case.

One example is if you were a carpenter, employed by a subcontractor, and the subcontractor was, in turn, hired by a general contractor. Your employer, the subcontractor, is covered by the Workers' Compensation Act and can only be liable to the extent the Act allows. However, the general contractor is not protected by the Act, and thus a third-party lawsuit may be filed against the general contractor if he was negligent. **If you have any questions as to whether you may have a third-party case, you should contact our offices immediately to protect your rights.**

3. Is there a time in which I must file a third-party case?

Generally, you must file most third-party cases within (2) years from the date of your injury. In some cases, when workplace injuries happen as a result of the construction related incident, the time limit for filing can be extended to four years. **If you fail to file a lawsuit within the statute of limitations time period, any and all rights you may have had against a third party will be terminated by law.**

4. Why should I file a third-party claim?

It is very important to remember that when someone is injured, their rights of recovery are limited. No one can ever physically return the identical position that they were in before they were injured. Therefore, our system has determined that they should be compensated monetarily. Your employer's liability is limited to the statutory maximums set forth in the Workers' Compensation Act. What happens when your injury permanently affects your income, and the benefits that are provided by the act cannot provide you and your family with the same type of lifestyle that you enjoyed before your injury? The law allows for these third-party cases so that those who are liable for your injuries compensate you where Workers' Compensation benefits cannot. Therefore, you should file a third-party claim if possible because Workers' Compensation is limited and may not provide you with sufficient benefits to properly provide for you and your family.

5. What should I do to protect my legal rights against a third-party?

First, you should remember not to give any recorded or written statements to anyone other than your attorneys or an investigator sent from your attorneys' office that has some identification that he is actually from your attorneys' office. Second, you should try to get the names, addresses, and phone numbers of all possible witnesses to your accident. Third, try to prevent the immediate destruction of any materials or equipment that may have caused your injury.

Finally, contact our offices immediately so that our investigators may take pictures, collect information, and protect your legal rights before anything can be lost or be destroyed by the third-party or their employees.

G. MISCELLANEOUS

1. Can I get the same benefits from Group Insurance?

The benefits from Group Insurance are not as great as the benefits that you are entitled to receive under the Workers' Compensation Act. **Remember, you are entitled to Workers' Compensation benefits under the law.** Therefore, do not let anyone convince you to let your Group Insurance pay for your medical bills when you may be entitled to a great deal more under the Illinois Workers' Compensation Act.

2. Should I also get Unemployment Compensation after my work-related injury?

No. In order to receive Unemployment Compensating benefits, you must state in writing that you are willing and able to work. If you state this, it could easily be argued by your employer or his Workers' Compensation Insurance Company that you are not entitled to weekly (TTD) benefits because you were able to return to work. Therefore, in order to avoid any issues regarding your ability to return to work and your right to receive weekly (TTD) benefits, you should not apply for Unemployment Compensation while pursuing a Workers' Compensation Claim.

H. CONCLUSION

Remember this booklet only briefly summarizes some of the general issues commonly covered by the Workers' Compensation Act and third-party cases. This information is provided solely to help you gain a greater understanding of your legal rights and the necessity to retain experienced attorneys to protect those rights. **Unlike you, your employers and their insurance companies retain hundreds of experienced attorneys to look solely after their interests.**

Moreover, remember that Workers' Compensation Benefits are limited because they are primarily based on your average weekly wage at the time of your injury and the percentage of loss that you sustained. If applicable to you, third party cases bridge the gap between what you receive from Workers' Compensation and what you need to maintain the lifestyle that you have worked so hard to achieve. If you are injured, please do not hesitate to contact our offices immediately to protect your rights.

JOB LOG CALENDAR

2020 Yearly Wall Calendar

JANUARY							FEBRUARY							MARCH							
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CONCENTRATES Its PRACTICE IN:

Workers' Compensation Cases
Construction Accidents
Trucking Accidents
Auto Accidents
Motorcycle Accidents
Product Liability Cases
Occupational Disease Cases
Dog Bite Cases
Chemical Exposure Cases
Medical Malpractice Cases
Airplane Crash Cases
Train Injury Cases

WE CAN ALSO PROVIDE ASSISTANCE WITH THE FOLLOWING LEGAL MATTERS:

Traffic Citations
Social Security Cases
Drunk Driving Cases
Real Estate Cases
Divorce Cases
Child Custody Cases
Wrongful Discharge Cases
Property Tax Cases

If you have questions regarding any of the foregoing matters call our office immediately for a free consultation with no obligation to retain any Attorney.

**IF YOU HAVE SUSTAINED A
SERIOUS INJURY
CALL OUR OFFICE
IMMEDIATELY
FOR A FREE
CONSULTATION WITH
NO OBLIGATION TO
RETAIN US**

**CALL NOW:
(312) 726-2400**

THIS BOOK IS INTENDED TO PROVIDE ONLY
GENERAL INFORMATION SO THAT AN INJURED
WORKER MAY AVOID MANY OF THE COMMON
MISTAKES THAT MAY PREVENT THEM FROM
RECEIVING THEIR BENEFITS UNDER THE WORKERS'
COMPENSATION ACT PRIOR
TO CONTACTING AN EXPERIENCED WORKERS'
COMPENSATION ATTORNEY