



# Workers' Compensation

## Decision Guide

*What you should know if you've been injured on the job*

### Worker's Compensation At a Glance<sup>1</sup>

Sprains and strains are the most commonly reported type of injury.

Workers ages 20-24 have the highest incidence rate of non-fatal injury and illness. Those ages 65+ have the lowest rates.

Laborers and freight, stock and material movers show the highest number of days away from work due to injury.

The median number of days away from work in 2007 was seven.

Twenty-six percent of all days-away-from-work cases were more than 31 days.

In the U.S., the 2007 rate of non-fatal occupational injury and illness requiring days away from work was 122 cases per 10,000 workers.

<sup>1</sup> *US Department of Labor, [www.bls.gov/iif/oshcdnew.htm](http://www.bls.gov/iif/oshcdnew.htm).*

### What is Workers' Compensation?

The North Carolina Workers' Compensation Act provides protection for employees injured by a specific event, afflicted by occupational disease, or killed during the course of their employment. This Act defines the procedures by which a claim should be reported to the employer and the State of North Carolina, how a worker should be compensated while recovering and, if a permanent injury, the compensation for the permanent injury. All employers with three or more employees are covered under this law.

### What do I do if I'm injured on the job?

There are several steps to take if you are injured on the job. Generally you will advise your employer you have been hurt and they will help you seek medical treatment. If your injury requires immediate medical attention, make sure to notify your employer as soon as possible after treatment. If you are unable to make the notification, have a family member do so. In addition, you must confirm the injury to your employer in writing within 30 days of the injury. A statement with the date and description of the injury is sufficient. Keep a copy for your records. When you visit the doctor or hospital, make certain to tell them your injury is work-related so it may be coded and billed appropriately. Make certain you follow your doctor's treatment plan and instructions and keep complete copies of all your records. Depending upon the severity of the injury, any incapacity or permanent disability, you may also wish to consult with an attorney to learn more about your rights. We offer a free initial consultation in workers' compensation cases.

### Can my employer demote me or fire me for filing a claim?

Employers cannot legally retaliate against you for filing an injury claim; however it is sometimes difficult to prove that your termination or demotion was due to the claim being filed. This is one instance where you may wish to consult an attorney to discuss your specific situation.



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### **Will I be paid while I'm out of work? Will it be at full pay?**

No compensation is due for the first seven days of lost time unless the total time out-of-work exceeds 21 days. Disability payments are generally made weekly at a rate of 66 2/3% of your normal wages, up to a maximum of \$816/week (2009 rate). The payments are not taxable.

### **What if I'm permanently and totally disabled?**

The law requires payment of lost wages and medical compensation during the life of the injured worker.

### **I just got a notice that they denied my Workers' Compensation claim. What do I do?**

When payment of compensation is denied, the injured employee and all parties must be given an explicit reason. The employee or his/her attorney may then file a request for hearing before the N.C. Industrial Commission. Make sure you have your complete records available for the hearing.

### **What kind of longer-term illnesses are job related?**

A worker can be injured not only by a specific event but by certain conditions that arise as a result of the worker's environment over a period of time. This can range from exposure to certain chemicals to repetitive motions that cause a permanent injury. Failing to get adequate advice if you suspect this type of claim can cause serious harm. Some occupational diseases might be certain cancers, carpal tunnel syndrome, or hearing loss. These are only a few examples.

### **How do I prove the illness is job related?**

There are a number of illnesses and injuries that are generally accepted as job-related. One example would be a case of carpal tunnel syndrome where the employee repetitively performs a specific motion in the course of doing his or her job. Long-term exposure to chemicals and dangerous materials, like asbestos, are now accepted as causing injury. If you think you may have a job-related illness or injury, you may wish to consult an attorney to see if he or she believes you have a case.

### **My spouse was killed on the job. Am I entitled to benefits?**

It is tragic to hear that someone has been killed during the course of their employment. Not only is there the emotional burden for the family but often a financial one as well. The North Carolina Workers' Compensation Act provides lost wages compensation to the dependents of a deceased worker and payment toward burial expenses. Brinkley Walser deals with the death of an injured worker with compassion for those left behind and as an advocate to help the surviving spouse and children. There is no charge for a consultation concerning any potential claims you believe you have due to the death of someone you loved.

In North Carolina in 2008, there were 56 fatal work related accidents, with the highest incidences in Mecklenburg (6), Dare and Wake (3 each) counties.<sup>2</sup>

<sup>2</sup> North Carolina Industrial Commission, [www.ic.nc.gov](http://www.ic.nc.gov)

### **Do I need an attorney?**

It depends on your specific situation. For injuries that do not result in a lot of away-from-work time or where the situation is clear, you may not need representation. In some cases, however, there may be disagreement about the severity of your injury or disability or you may be denied correct compensation. An experienced attorney can deal with the complexity of the Act and can work within the system to ensure that all rights and benefits are paid to the injured worker. Many times we find that the injured employee was denied payment of correct wages while out of work, put back to work before ready, or otherwise treated unfairly. Brinkley Walser is a strong advocate for the injured worker in North Carolina. There is no charge for an initial consultation and most cases are accepted on a contingency basis.



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