



TODD J. LEONARD LAW FIRM
NEW JERSEY INJURY ATTORNEYS

Workers' Compensation in New Jersey



As a resident of the state of New Jersey, you are entitled to receive benefits under the provisions of the Workers' Compensation Act.

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New Jersey Workers' Compensation Benefits

For most people, being left unable to do their job as the result of a work-related injury means a lot more than just losing a paycheck or two: in many cases, it can mean an uncertain and frightening future. It can be very difficult to receive authorization by your employer to see a doctor or to receive your wage loss benefits.

However, as a resident of the state of New Jersey, you are entitled to receive benefits under the provisions of the Workers' Compensation Act. If you are eligible, you may receive benefits for:

Medical – authorized medical expenses and health care costs are covered by your employer's workers' compensation insurance

Temporary disability – typically you may receive 70 percent of the wages or salary you were earning before your injury, up to a limit set by New Jersey statute

Permanent disability – benefits for permanent injuries are based on a formula for determining the percentage of your disabilities

There are many misconceptions about filing a workers' compensation claim. Often, the injured employee is concerned that if they file a claim, the company will terminate their employment, or there will be some form of retaliation or retribution against them. However, the law clearly protects the injured employee from such actions.



IF YOU ARE OUT OF WORK, YOU ARE ENTITLED TO:



Being hurt on the job can result in a multitude of different issues, including:

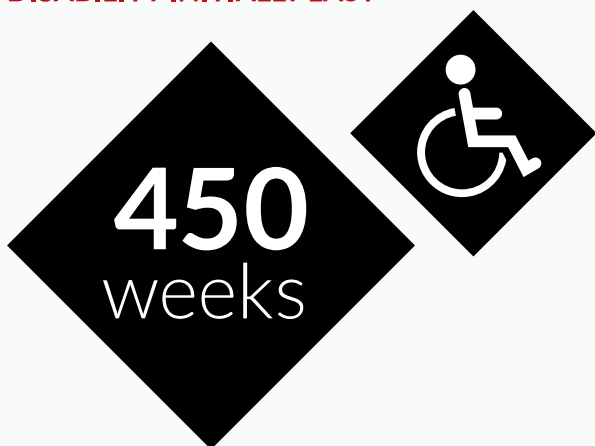
- ☒ Obtaining authorization for treatments, such as surgery
- ☒ Wage loss from temporary disability
- ☒ Determining the nature and extent of any permanent injuries
- ☒ Disability and dependency claims

If you feel the workers' compensation carrier is not providing you with the proper treatment, a workers' compensation attorney can help fight for your rights to obtain the medical treatment you need and are legally entitled to. An attorney can also thoroughly investigate work-related cases and make sure all the required documentation is submitted in a timely manner that guarantees you obtain all the worker's compensation benefits you are entitled to receive after being hurt on the job.

Obtaining Workers' Compensation Benefits

For you or your family to be eligible for workers' compensation benefits, you must give timely notice of your claim to your employer. It is also important for you to be aware that you are not entitled to receive any money for your pain and suffering or your loss of future earning capacity.

WEEKLY BENEFITS FOR TOTAL PERMANENT DISABILITY INITIALLY LAST



Benefits will continue if the injured worker remains totally and permanently disabled beyond 450 weeks.

Available Workers' Compensation Benefits

If you are injured on the job in New Jersey, you are entitled to receive the following benefits:

- ✓ Temporary Disability
- ✓ Permanent Injury
- ✓ Weekly Benefits
- ✓ Medical Treatments
- ✓ Death Benefits

More about each of these benefits on page 5.

Most Common Workplace Injuries in New Jersey

According to the State of New Jersey Department of Health, in the past 20 years there has been over 1.5 million workplace injuries in New Jersey. There is also over 3,000 hospitalizations in New Jersey every year due to work injuries. Due to the nature of some occupations, there can be an increased risk of workplace accidents and injuries. Common work injuries in New Jersey include:

- ✓ Neck and Back Injuries & Disc Herniations
- ✓ Carpal Tunnel, Repetitive Motion & Nerve Injuries
- ✓ Slip, Trips & Falls
- ✓ Motor Vehicle Accidents
- ✓ Rotator Cuff Injuries
- ✓ Knee / Ankle / Foot Injuries
- ✓ Eye Injuries, Vision Issues & Blindness
- ✓ Spinal Cord Injuries
- ✓ Broken or Fractured Bones
- ✓ Head Injuries, Traumatic Brain Injury & Concussions
- ✓ Lacerations and Puncture Wounds
- ✓ Internal Injuries
- ✓ Burns & Electrocution
- ✓ Toxic Exposures

Regardless of the type of work accident that occurred, you may be entitled to workers' compensation benefits.



1 Temporary Disability

If you are out of work, you are entitled to temporary disability of 70 percent of your wages, up to the workers' compensation maximum benefit amount.

This benefit is calculated at a rate of 70 percent of the worker's average weekly wage, not to exceed the statutory maximum rate or fall below the statutory minimum rate established annually by the Commissioner of Labor and Workforce Development. These wage loss benefits will continue until the worker has returned to work, has reached maximum medical improvement (MMI) or has reached the statutory 400-week maximum.

2 Permanent Injury

You are entitled to receive a permanency award for any permanent injury you sustained as a result of your work-related injury.

This can be in terms of permanent partial benefits based on the functional loss. These benefits will be paid weekly and are due after you exhaust your temporary disability benefits payments.



3 Medical Treatments

All your medical treatments, including surgery and vocational rehabilitation, will be paid as long as you go to an authorized doctor from your employer's insurance company.

Medical benefits include all necessary and reasonable medical treatment, prescriptions, and hospital treatment. Your employer and/or its insurance company has a right to designate which medical doctor is authorized for your care and treatment.

4 Weekly Benefits

When an injury or illness related to your employment results in total permanent disability, weekly benefits are initially meant to last a period of 450 weeks.

If the injured worker remains totally and permanently disabled beyond the initial 450 weeks, the benefits will continue. The benefits a worker receives for total disability are paid weekly and are based on 70% of the average weekly wages earned, not to exceed the statutory maximum or fall below the statutory minimum.

5 Death Benefits

Death benefits include funeral expenses up to \$3,500.

Death benefits, also known as dependency benefits, are available in cases where the injury or accident results in the death of the employee. These benefits include funeral expenses up to \$3,500. Also, the weekly benefits are 70 percent of the wages of the deceased worker, not to exceed the statutory maximum.

The New Jersey Workers' Compensation Process

STEP ONE

The injured worker must immediately report their work-related accident to their supervisor (so a workers' compensation claim can be opened for them) and then seek medical attention at a company authorized facility/doctor.

STEP TWO

Workers' compensation benefits are designed to last as long as the injured worker is unable to work. If a New Jersey workplace accident results in a worker's permanent disability or prolonged inability to work, they may be able to collect permanent benefits.

STEP THREE

Upon notice to your employer of the accident, you are entitled to three benefits. They are:

- ✓ All of your medical treatment and bills will be covered as long as you go to an authorized doctor
- ✓ While you are unable to work and healing, you will receive 70% of your wages up to a state maximum
- ✓ You are entitled to a "Permanency Award." This applies to a functional loss or disability that is attributed to your on-the-job injury

STEP FOUR

In addition to your workers' compensation claim, should your work injury also involve a third party, your workers' comp attorney can also help protect your rights and file a liability lawsuit against any third-party contractor that may have caused your accident.



THIRD PARTY INJURY CLAIMS

What is a Third-Party Injury Claim?

Your first line of action in any workplace injury is to report it to your employer and initiate a workers' compensation claim. That is your right under state law. Workers' compensation benefits, however, don't generate full compensation in regards to your lost wages or for such non-economic damages as pain and suffering. If you have a valid third party claim, you can obtain additional compensation.

If you were injured by an individual or entity other than your employer while performing your job, you may be able to obtain additional compensation through a third-party claim.

It is not terribly uncommon for job-related injuries to have a third party that is also responsible for the injuries. In these circumstances, you can file an additional claim or lawsuit against the other party or company that caused your injuries and/or disabilities, as well as continue your claim against your employer. In these claims, you can also receive monies for pain and suffering and other losses sustained that are not recoverable under the Workers' Compensation Act.

Examples of Third-Party Claims

Many types of workplace injuries could involve a third party claim, such as snow and ice accidents where a deliveryman slips on icy areas while working, or a sales representative is rear-ended due to icy streets while driving to a sales appointment.

Other examples of third-party claims include injuries caused by defective equipment such as tools, ladders, earth movers, or defective vehicles or vehicle parts in professionally used vehicles like delivery trucks, dump trucks, garbage trucks, company cars, and more. These involve product liability claims. Also, some people are exposed to dangerous or deadly fumes or vapors and asbestos, and these all can potentially constitute a third-party claim as well.

Third-party claims may also stem from premises liability, such as injuries sustained at construction or industrial sites due to negligence on the part of another contractor, a slip and fall while in the course of one's employment due to a dangerous condition left unhandled by a property owner, or a dog bite suffered by a deliveryman due to a careless pet owner.

For those workers who drive as part of their work duties, any type of traffic accident caused by the negligence of another may be grounds for an injury claim through auto insurance—either through one's own insurance policy or the at-fault driver's.

◆ DEFECTIVE PRODUCTS & EQUIPMENT

Items used on the job may be defective, including:

- Tools & ladders
- Earth movers
- Parts in delivery trucks
- Parts in dump trucks or garbage trucks
- Company cars

◆ PREMISES LIABILITY

Injuries may be caused by third-party neglect, including:

- Snow & ice accidents
- Slips & falls due to dangerous conditions at a worksite or on other private or government property
- Dog bites
- Exposure to deadly chemicals

◆ GENERAL LIABILITY

For those workers who drive as part of their work duties, any type of traffic accident caused by the negligence of another may be grounds for an injury claim.



Fatal New Jersey Workplace Accidents

Most New Jersey workplace accidents result in a major setback to a worker—and their family. However, in the most tragic cases, a worker is killed in an on-the-job accident. In these situations, the deceased employee's family may be entitled to death benefits through a New Jersey workers' compensation claim.

Of course, nothing can bring back a loved one lost in a fatal New Jersey workplace accident. And no amount of compensation can lessen the loss a family experiences when losing a loved one. However, pursuing a workers' compensation claim after a fatal workplace accident can ease the financial burden that grieving families often experience in the wake of such a tragedy.

Under New Jersey workers' compensation law, death benefits are 70 percent of the deceased worker's average weekly wage, subject to a maximum set by the Commission of Labor. Any benefits received are divided among surviving dependents, after the judge overseeing the case conducts a hearing to determine each dependent's share. In addition, families are eligible for up to \$3,500 in funeral and burial expenses.

Potential Third Party Claims on Fatal Workplace Accidents

If a non-employer third party is responsible for an employee's fatality, the deceased worker's estate can bring a lawsuit against that third party for wrongful death.

Examples of third party claims may include fatalities involving the manufacturer of defective equipment, product liability claims, motor vehicle accidents, exposure to deadly fumes or other dangerous working conditions, or the negligence of a third party contractor, such as outside maintenance companies.

Workers' Compensation Frequently Asked Questions



How does workers' compensation work in New Jersey?

The workers' compensation system is a way that injured workers can obtain compensation for their workplace injuries. When a worker is injured on the job, they can file a New Jersey workers' compensation claim. If approved, the employee receives benefits covering their medical expenses and lost income. In many cases, workers' compensation benefits are temporary, lasting only until the injured employee can return to work. If a New Jersey workplace accident caused serious injury or disability, long-term benefits are available. The workers' compensation system will also pay death benefits to families who lost a loved one in a fatal New Jersey workplace accident.

The workers' compensation program in New Jersey is a no-fault system. An injured employee does not need to show that their employer was negligent, or that anyone else was responsible for their injuries.

An injured worker can even recover benefits if they share responsibility for the accident leading to their injuries. The drawback to these claims is that an injured worker cannot obtain non-economic benefits through the workers' compensation system.

To ensure that employers have enough assets to cover the costs of employees' workers' compensation claims, New Jersey law requires employers to either purchase workers' compensation insurance or provide documentation that they are self-insured. As long as an employer is insured, a workers' compensation claim is the employee's sole remedy against their employer. This means that, unless an employee's injury results from an employer's intentional conduct, they cannot bring a New Jersey personal injury claim against an insured employer. If someone other than the employer caused an employee's workplace injury, the injured worker could pursue a personal injury claim against that party.

Workers' Compensation Frequently Asked Questions



Can you be fired if you are on workers' compensation work in New Jersey?

Many workers fear that their employer will fire them if they file a workers' compensation claim after a workplace injury. These fears are largely unfounded. Employers cannot fire an employee for filing for workers' compensation benefits. Under New Jersey law, employees have the right to file for workers' comp benefits without fear that their employer will retaliate against them.

Although an employer cannot fire you because you sought workers' comp benefits, but they could fire you for another reason. This is why it is crucial to work with an experienced New Jersey workers' compensation attorney who will ensure that your claim is well documented and follows all applicable guidelines and rules.



What is a workers' compensation lawyer?

A workers' compensation lawyer helps injured workers get benefits for job-related injuries through a workers' compensation claim. Employees hurt in the workplace are entitled to compensation for medical treatment, lost wages, and permanent disability.

Unfortunately, employers do not always have employees' best interests in mind. Insurance companies may look for ways to deny an injured worker's claim for benefits or pressure them to return to work prematurely.

A workers' compensation lawyer handles all of the potential issues and roadblocks that can crop up during the claims process, allowing the injured worker to focus on getting the necessary medical attention for a smooth recovery.

The job of a New Jersey workers' compensation attorney is to protect their client's legal rights. Getting qualified legal representation gives you the best chance of getting the full extent of benefits you are entitled to.



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Workers' Compensation Frequently Asked Questions



What is covered by workers' compensation?

A workers' compensation claim covers most on-the-job injuries, regardless of the cause of the accident. Benefits are even available for employees whose own conduct contributed to their injuries, provided they did not intentionally hurt themselves. Workers' compensation claims can also cover workplace-related illnesses and repetitive stress injuries.

When it comes to determining benefit eligibility, the question is whether the injury was related to or caused by the worker's employment. If so, then benefits are most likely available.

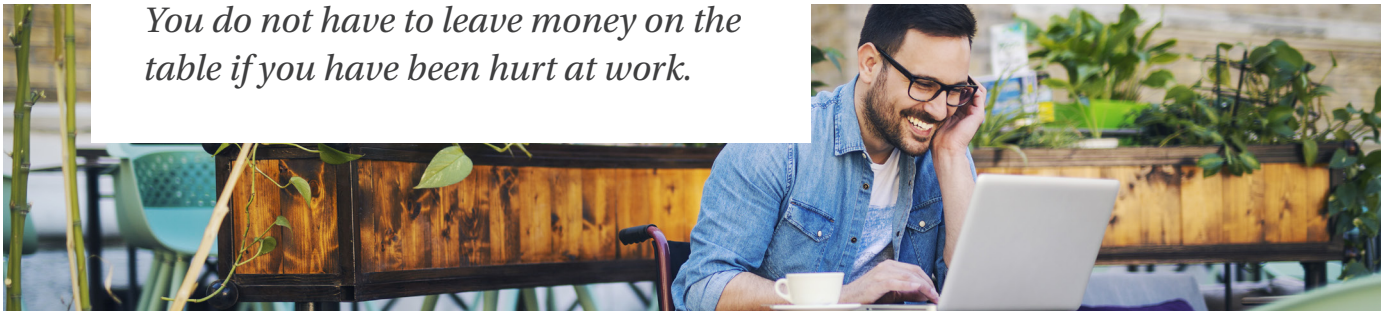
Certain types of injuries are exempted from the workers' compensation system. The following injuries are not covered under the worker's compensation system:

- Idiopathic claims involving a pre-existing condition that is the cause of the injury;
- Personal risk claims involving situations in which the worker's injury is negligibly related to their employment;
- Self-injury claims where an employee intentionally causes their own injury; and
- Injuries involving recreational activity while a worker is on break or goofing off on-the-clock.

While each of these exceptions are slightly different, they all focus on the requirement that a worker's injury is related to or caused by their employment.



You do not have to leave money on the table if you have been hurt at work.



Why should I hire a workers' compensation lawyer?

Hiring a workers' compensation lawyer can increase your chances of getting the full range of benefits you are legally entitled to for your work injury. Attempting to file a workers' compensation claim on your own can raise many different issues.

Employers and their insurance companies will often dispute an employee's claim. For example, an employer may claim that your injuries were not related to your employment, or that your own reckless conduct resulted in your injuries. It is also

common for an insurance company to offer far less than the benefits an injured worker deserves. In either of these cases, an experienced attorney can be an invaluable asset.

An experienced workers' compensation attorney can thoroughly investigate your workplace accident and gather the necessary evidence to support your claim. The lawyer will also ensure paperwork is submitted correctly and on time, avoiding common mistakes that lead to denied applications.



Todd J. Leonard

FOUNDING PARTNER

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I treat clients like family and will not stop until they receive the compensation they deserve.



TODD J. LEONARD LAW FIRM NEW JERSEY INJURY ATTORNEYS

At the Todd J. Leonard Firm, our New Jersey workers' compensation lawyers will ensure your rights are protected. There are never any legal fees incurred unless we obtain a recovery for you. All initial consultations are free of charge and are kept strictly confidential. The attorneys at the Todd J. Leonard Law Firm have over 30 years experience handling all types of serious personal injury and workers' compensation cases.

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