

WORKERS COMPENSATION SECRETS REVEALED

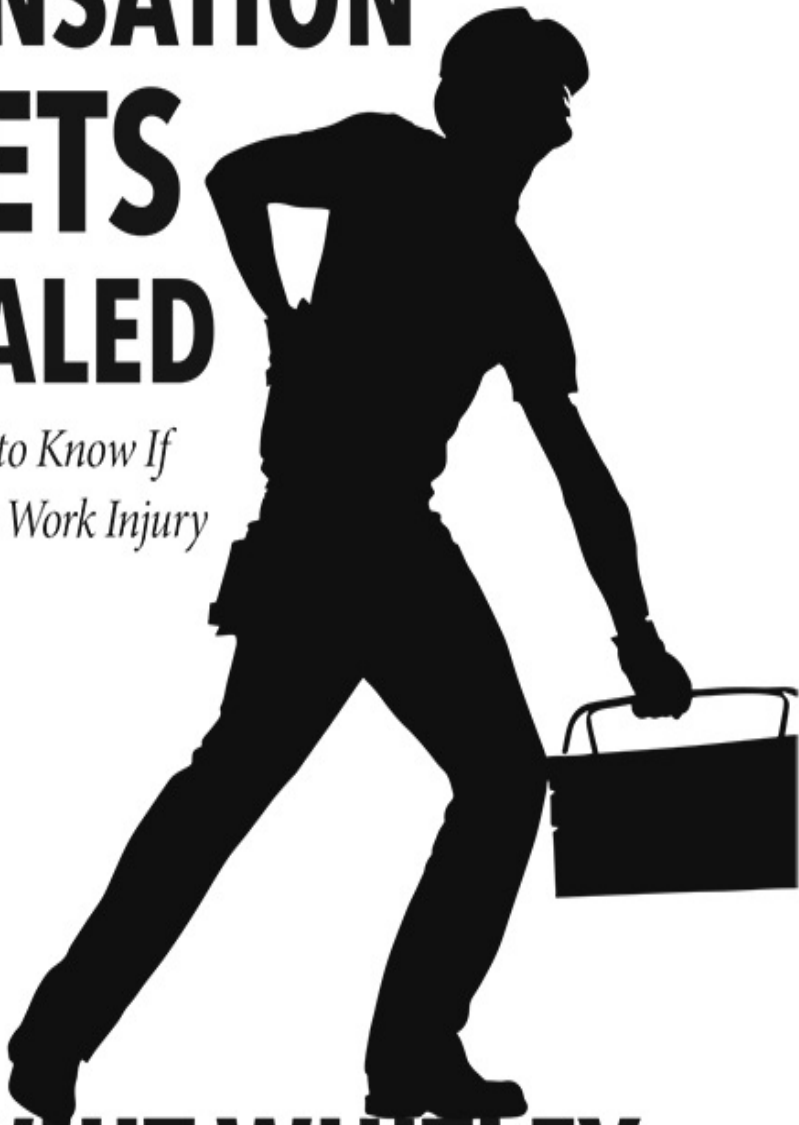
*What You Need to Know If
You Have Had a Work Injury*

A blue silhouette of a worker in profile, pushing a cart or trolley. The worker is wearing a hard hat and is captured in a dynamic, forward-leaning pose, suggesting physical labor. The cart is partially visible on the right side of the frame.

WHIT WHITLEY

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Workers Compensation Secrets Revealed
What You Need to Know If You Have Had a Work Injury

Whit Whitley

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ABOUT THE AUTHOR



Whit's firm, Whitley law Firm L.L.P. based in New Bern and Raleigh North Carolina, exemplifies a passionate belief that all clients deserve to be treated with dignity and respect and have the right to receive the benefits and compensation they deserve. Mr. Whitley is Board Certified in Workers Compensation and has received the distinguished AV rating by Martindale Hubbell®. He was selected in the Nation's Top One Percent by the National Association of Distinguished Counsel and is a member of NOSSCR (National Organization of Social Security Claimants' Representatives). His hard work for clients has resulted in his selection to the Top One Hundred Injured Workers Attorneys by Worker's Injury Law Advocacy Group. In addition to being a highly respected attorney Mr. Whitley participates in many community service and charitable organizations.

INTRODUCTION

For the past 21 years had the honor and privilege of representing injured workers in North Carolina. I practice law with my father, Bob Whitley, who has been representing injured workers since 1974. Together we been the voice for thousands of injured workers and their families having to navigate the workers compensation system. Its been our job to make sure they are not pushed around by insurance companies and are treated fairly. Injured employees only want to be treated with dignity and receive what our workers compensation statute allows.

Over the years I have learned the many mistakes injured workers can unknowingly make which can sabotage their claim.. For example not providing written notice to your employer of the injury can cause the claim to be denied. I will discuss this issue in Chapter 2.

A worker who does not understand the rules after he or she is hurt on the job can be taken advantage of by a knowledgeable insurance adjuster who's allegiance is with the insurance company responsible for paying benefits. I will discuss the role of the adjuster in Chapter 3. It is the goal of this book to answers questions and give information to the injured worker so they will be armed with information and better prepared to be treated fairly.

Obtaining basic information is needed whether you decide to hire an attorney to represent you or not. In fact, in many cases an injured worker does not need to hire an attorney but still needs information. To eliminate confusion, I will discuss in Chapter 8 those types of cases

where I strongly believe a worker would benefit from hiring an expert workers compensation attorney.

I will answer these issues and more in the material that follows. I will let you know what you need to know if you are hurt on the job. The information is provided free of charge because of my sincere conviction that an injured worker should not lose valuable financial benefits simply because they do not understand the process. Simply stated by Francis Bacon, “Knowledge is Power” and I want to give you knowledge of workers compensation. This knowledge could be the difference in having enough money to pay the bills at the end of the month or not.

Please read through the information carefully. Give this book to a friend or family member who is going through the process. After doing so, if additional information is needed, I invite you to call or email me anytime of the day.

I wish you the very best,

Whit Whitley

1-855-WhitLaw

whit@whitleylawfirm.com

Board Certified in North Carolina

Worker's Compensation

CHAPTER 1- HOW IS A WORKERS COMPENSATION CLAIM TRIGGERED?

A. Injury by Accident

An on the job **injury by accident** triggers a Workers Compensation claim. Generally, Workers Compensation covers on the job accidents with a few exceptions which I will discuss below. Fault is generally irrelevant. Meaning, it does not matter who caused the injury, you, a co-worker, or your employer. If an accident occurred, it is covered under Workers Compensation.

An accident is defined as an “unusual event or occurrence”. A clear example of an unusual event or occurrence is falling down at or being hit by a piece of equipment. If you are injured performing a function which is a “normal and expected” part of your job, then Workers Compensation will not cover. For example, if a tractor trailer driver injures his shoulder while he is pulling his or herself in the drivers cab, then workers compensation will not cover as this is a “normal and expected” part of the job.

So the decision of an on the job **injury by accident** is a case by case question and small details about the accident and injury become very important. Your choice of words used to describe an incident could be the difference in a claim being accepted or denied.

For this reason, it is very important to understand this rule **BEFORE** you agree to give a recorded statement to your employer or the insurance company (See Chapter 2). An experienced adjuster understands this injury by accident rule so when they ask you questions

during a recorded statement they could ask you to address what is and is not a normal and customary job duty. If you are vague, unclear, or non-specific during a recorded interview, that statement could be used against you to deny your claim.

I have talked to many upset injured workers because they were hurt on the job and thought the injury would be covered under Workers Compensation. They gladly gave a recorded statement to the insurance adjuster, only to find out later their claim was denied because the adjuster concluded that the injury did not occur because of an accident. I have had to explain to these upset workers that just because you were injured on the job in North Carolina does not mean Workers Compensation will cover the injury. (There are many states that do not have the “injury by accident” criteria).

My very clear and simple advice to you is to speak to an attorney **BEFORE** you give a recorded statement. Many attorneys like myself, will provide a free consultation. Take advantage of this consultation as you have too much at stake to unknowingly provide information which could cause your claim to be denied resulting in lost wage replacement benefits and medical care.

As mentioned there are several exceptions to the injury by accident rule. These are situations where it is not necessary to show that something unusual occurred causing injury.

B. Specific Traumatic Event for Back and Neck

If your on the job work injury is to your back or neck it is **not** necessary that it occur because of an accident. For these body parts, Workers Compensation will trigger only if the injury is due to a “specific

traumatic event “ occurring on the job. In other words, if you injure your back while performing your normal job in the normal way, it will be covered. The criteria is whether the injury was caused from **one specific traumatic event occurring at a specific time and on a specific date.**

Therefore, describing back pain as “occurring at work last week” or due to my job” is not enough. A specific incident occurring at a specific moment in time at work should be a covered claim. For example, “I felt immediate pain in my lower back at 3:30 pm on 1/1/2017 while I lifted a box off the assembly line” is describing a specific traumatic event. For this reason it is very important that you immediately report your injury to the proper company personnel so you can document the specific time and place where the injury occurred.

Let me provide another example which will illustrate the difference between “**injury by accident**” and “**specific traumatic event.**” In high school I had a job stocking groceries at a local supermarket. The job required me to bend down and pick up boxes, lift the boxes and place them on the shelf. If I injured my shoulder while lifting a box, my injury would **not** be covered under workers compensation because an injury to my shoulder performing my regular job in the regular way means nothing unusual occurred. However, if I were to fall down injuring my shoulder **while** lifting the box, it would be covered under workers compensation because I sustained an injury by accident.

However, if the injury was to my back and not my shoulder, it would **not** be necessary that I was injured by accident. If I injured my back while lifting the same box it would be covered as long as I could show that I injured my back **while lifting the box.** In this event I would want to immediately report the incident to my supervisor in case it becomes

necessary for me to document the specific incident, with time and location, that caused the back injury.

C. Occupational Illness

An occupational illness or disease triggers a Workers Compensation claim. An occupational illness or disease can best be defined as exposure to a harmful substance at work which over time results in a illness or disease. For example, one might be exposed to chemicals or harmful toxins while working on the job. If that exposure causes a disease, impairment, or disability then this should be an accepted Workers Compensation claim. This is true as long as the injured worker was placed at a **greater risk** than members of general public of developing the condition.

For example, a boat manufacturing worker who is exposed daily to fiberglass and beryllium is at a greater risk of being diagnosed with a occupational disease than a member of the general public. On the other hand, a lawn maintenance worker who is injured as a result of a heatstroke will have a difficult time claiming an occupational disease because he will have to prove he was placed at a greater risk than public. (This because the general public also spends time outside in the elements).

D. Repetitive Use Injury

An injury that occurs over time due to the repetitive use of a body part could be covered under workers compensation. However, these claims are difficult because the injured worker has to prove that the specific functions of their job, performed repetitively, placed them at a

greater risk than a member of general public of developing the same condition.

To start, the treating physician has to offer a medical opinion that 1) the job function caused injury, and 2) the job function put the worker at a greater risk of repetitive use injury. The physician will necessarily have to be provided a detailed written or sometimes video description of the job in question.

An assembly line worker who is made to use their hands and fingers for fine manipulation tasks on small items for eight hours a day, can likely prove a compensable repetitive use injury to their hands. The assembly line worker is at a **greater risk** than a member of general public who is not exposed to that amount of repetitive hand use. However, a worker claiming that chronic back pain is a result of repetitive heavy lifting at work, has a much more difficult claim because some members of the general public also have chronic back pain as a result of life events.

CHAPTER 2 - INJURED WORKER'S RESPONSIBILITY

It is critical that the injured worker do everything they are legally required to do following an injury at work otherwise the claim could be denied or benefits lost.

A. Report Injury in Writing

Once an injury occurs, it is very important to report the injury in writing to your supervisor. This is true regardless of how minor you think the injury may be. The N.C.G.S. 97-12 specifically states that the injured worker provide written notice to their employer **as soon as practicable** and no later than 30 days following the injury. The written notice should provide the following information: 1) name of injured worker, 2) name of employer, 3) date of injury, and 4) how the injury occurred. This written notice should be done no matter how insignificant you think the injury may be.

A written notice of injury is the best way to document the specific time, event, and location of the injury. It also satisfies the employees statutory reporting requirement.

Unfortunately, I have seen hundreds of legitimate claims denied simply because a injured worker could not produce documentation of written notice to employer. In fact, lack of written documentation of an injury is the top reason why claims are denied, with the next being no proof on injury by accident. Insurance companies will use lack of timely written notice as a technical defense even when they know a work injury occurred. In other words, an injured worker can be denied medical care

and wage replacement benefits for an injury occurring at work due to a lack of notice requirement.

An insurance adjuster will likely not explain this rule to an injured worker because the adjuster works for the insurance company. An injured worker is often left to find this out on their own when they get a denial notice (Form 61) in the mail.

This is a very important step in protecting your claim. A copy of the notice should be given to the injured worker's immediate supervisor or someone in the human resources department. Remember to **KEEP A COPY** of this document. Some employers might mysteriously lose the document and then claim no knowledge of any accident. Don't give them the chance!

B. Seek Medical Treatment

It is very important to receive medical treatment for the injury, if needed, and to do so as soon as you can following the injury. An employee must prove an accident occurred at work which **caused** the injury. The way the injury is documented is through medical records. A medical record is your proof of the injury. A medical record can not be created without a visit to a medical provider such as the Emergency Room, an urgent care facility, or your family physician.

If you think you need medical treatment, ask your supervisor or employer where to go to be seen. If there is a company nurse on site, ask this nurse where to go for treatment. If your claim has already been assigned to an adjuster, ask the adjuster where to go for treatment. In the event there is a delay in finding out from your employer whom to go see for the treatment, go to your own physician or to the Emergency Room

and file the claim under your health insurance. Again, this is the initial visit for medical treatment following the injury when the facts of the claim will be noted in a medical record, so it is very important to be seen as quickly as possible.

At your first appointment for medical treatment, it is very important to state, **in detail**, how the injury occurred, and what body parts were injured. This history you provide is sometimes taken by a nurse or you may be asked to file out an intake form. Be as detailed as possible with regard to how the injury occurred and what body parts were injured. The information you give **will be put in your medical record** and reviewed by the adjuster when making a decision about your claim.

I have seen valid claims denied because the history noted in the initial medical record did not describe an injury by accident.

Being clear, detailed, and accurate also applies to each time you see the physician. Be as specific as you can about your complaints of pain. Do not be vague. Do not leave out body parts even if you think injury is minor. Remember, workers compensation adjusters and attorneys will be reviewing the medical records to look for evidence to possibly deny the claim.

CHAPTER 3 - WHO IS THE INSURANCE ADJUSTER AND WHO DO THEY WORK FOR? NOT YOU!

Once an employer has notice of the work-related injury they have to provide notice of the claim to the North Carolina Industrial Commission and to the insurance company or administrator providing workers compensation coverage. The employer will not start the claim process until they have actual or written notice of injury provided by employee.

Once a claim is made an insurance adjuster is assigned for handling. It is the adjusters job to, 1) investigate the claim and 2) make a decision to deny or accept the claim.

Investigation of the claim means a file is opened and documentation is gathered. Documentation includes incident reports, employees notice of injury reports, and initial medical records. If there are witnesses to the injury, the adjuster will likely take a recorded interview from the witnesses. The adjuster often requests recorded statements from the injured worker as well before making a decision whether to accept or deny claim.

Once the requested documents have been reviewed, the adjuster has a certain period of time to inform the injured worker of the decision whether to accept or deny the claim. Often an adjuster will consult with their attorney to review all available defenses and reasons to deny a claim. If a legitimate reason exists to legally deny a claim, the insurance adjuster will likely do so.

If the claim is accepted, the adjusters next step is to begin payment of benefits. (Benefits are explained in Chapter 5). Benefits will not be paid on a denied claim. The adjuster is responsible for issuing the checks for wage replacement benefits and authorizing medical care.

The adjusters final responsibility is to settle the claim and close the file. The adjuster is tasked with investigating the claim and ultimately deciding how the claim will be settled.

Let me make make several important points about adjusters. Adjuster are trained professionals. They understand and know the laws of Workers Compensation in North Carolina. They understand what benefits are owed and how much to offer to resolve a claim. **The adjuster does not work for you. They work for the insurance company and your employer. Their allegiance is with them, not you and your family. They are under no legal or ethical obligation to explain each and every benefits you are entitled to receive. They are motivated to settle the claim for as little as possible.**

Some adjusters are much better than others and can be forthcoming about an injured workers rights. My point though is that they don't have to be. This is why it is important for you to obtain your own information, like this book, or to get a free consultation with an experienced workers compensation attorney. Scrutinize everything the adjuster tells you remembering that they don't work for you. They work for the insurance company.

CHAPTER 4 - WHAT BENEFITS IS AN INJURED WORKER ENTITLED TO RECEIVE?

A. Medical Treatment

The employer is responsible to provide medical treatment that is responsibly related to the injury. The employer has to identify an approved treating physician and authorize the treatment ordered by the treating physician. The employer has the right to direct care, meaning they have to authorize the treatment being sought. An injured worker does not have the right to pick their own doctor in an accepted workers compensation claim.

There are a few exception to this rule. The worker is entitled to a second opinion with regard to the assigned permanent work restrictions and the impairment rating. The injured worker also has the right to request transfer of care if the authorized treating physician is not prescribing reasonable medical care. Transfer of care can be done either by consent with the employer or by a Motion to Transfer filed with the Industrial Commission.

B. Wage Replacement Benefits.

The entitled is entitled to wage replacement benefits if they are unable to work due to the injury. In order to receive wages, the authorized treating physician must place you on an out of work status or give you work restrictions that the employer is unable to comply with.

The wage replacement amount, or the the compensation rate, is $\frac{2}{3}$ of your yearly average gross earnings before the injury occurred. For example, if the injured worker earned \$600.00 a week before the injury, the compensation rate would be \$400.00 a week.

In North Carolina once the compensation rate is fixed, it does not increase, no matter how long an injured worker remains out of work. This is a harsh result if someone is out of work for two to three years as they will receive the same amount each week without a cost of living increase.

This is why it is **critical** that the compensation rate be calculated correctly. Our firm audits each of our clients past earnings to make sure they are being paid based on the correct average weekly wage. I will discuss how the adjuster often miscalculates wages resulting in underpayments to the injured worker in Chapter 7.

C. Permanent Injury

If the authorized treating physician determines the injured worker sustained a percent injury to the injured body part, the worker has a claim for payment. This represents limited compensation for the loss of earning potential because of the permanent injury or limitation. This is not compensation for pain and suffering as there are no monies awarded for pain and suffering in workers compensation.

The amount owed for a permanent injury is determined by state statute. Each body part is assigned a certain number of weeks. For example, the upper extremity (arm) is worth 200 weeks.

A 10% permanent injury to the arm is worth 20 weeks. It is calculated by taking the total weeks (200) x the assigned percentage

(10%) and then multiplied by the compensation rate. Example: Upper Extremity = 200 weeks. 10% impairment to upper arm = 20 weeks. 20 x the compensation rate will give you the total dollar amount owed for the injury.

This is another reason why it is critical that the compensation rate is calculated correctly. Not only will an injured worker be living off this pay check for months or years to come, but also the permanent injury entitlement is based on the compensation rate.

CHAPTER 5 - HIDDEN BENEFITS IN A CLAIM

There are lesser known benefits that an injured worker is entitled to receive on an accepted claim that, in my experience, often go overlooked by the adjuster. I call these **hidden benefits** and often adjusters do a poor job explaining them, if they explain them at all. These benefits may be small but when you are out of work and receiving a limited wage replacement check, every small amount counts.

A. Mileage

The injured worker is entitled to be reimbursed for mileage if having to drive their own car to authorized medical and vocational appointments. This benefit is owed when the drive is at least 20 miles **round trip**. As of 2017 the reimbursement rate is 55 cents per mile.

When representing a client, we will check whether mileage has been paid and often learn the employee had no idea they were entitled to this benefit because the adjuster never informed them. If mileage has not been paid, we help fill out necessary forms and forward them to the adjuster with a request for payment.

B. Incorrect Compensation Rate

After auditing our clients wages, we often find that the adjuster incorrectly calculated the weekly compensation rate. The most common error is not including overtime in weekly gross earnings.

Overtime wages should be included in calculating total gross earnings. Adjusters often forget this rule and will calculate wages based

pay rate per hour multiplied by a 40 hour week. This is incorrect. If the injured worker typically worked additional overtime, these gross earnings should be added.

The same is true for any benefits paid in lieu of wages. The value of those benefits should be included in the gross wage figure. For example, if the employer provided a car payment and insurance in addition to a salary, the value of the car payment should be added to the gross salary. This makes sense because if the worker is out of work due to the injury, he is losing the value of that benefit.

Adjusters often make the mistake of dividing the yearly gross earnings by too many days resulting in a lower compensation rate. If the worker had periods of time that he or she did not work exceeding eight days, those days missed should not be divided in the yearly gross earnings figure.

For this reason, we request earnings documents from employers which include a statement listing days actually worked for the year prior to the date of injury.

C. Attendant Care

Attendant Care is defined as in-home professional care needed to help a patient heal from injuries or help take care of basic activities of daily living such as bathing, cooking, cleaning, and driving . Attendant care is often needed following a major surgery when the patient is released to return home but unable to fully take care of his or herself. For example, attendant care is appropriate if the patient is unable to walk or take care of wounds once released from the hospital Typically, the

treating physician will order in-home attendant care on discharge from the hospital.

Like other related medical treatment, attendant care should be covered by workers compensation. If a family member or another friend provides attendant care then the responsible insurance company has to reimburse that family member for time just like they would if an outside professional came in the home to provide this service. This applies **if** the treating physician orders in-home attendant care.

Unless a worker understands this rule, they often leave the hospital without a written attendant care order. This could be because they did not ask and physicians and nurses are busy and they often assume in-home care will be handled by the insurance company. This is not true. Physicians often will not consider in-home care unless asked.

So an injured worker should ask if attendant care is appropriate **before they leave the hospital** and, if so, don't leave before they get a written note. If a family member provides that service consistent to the doctors note, then that family member can get reimbursed at approximately \$11.00 per hour.

In 21 years of practicing law, I have never seen an adjuster volunteer this information to an injured worker. Why? Because they don't have to as they work for the insurance company and their job is to pay as little as possible on the claim.

D. 10% Penalty

If an injury occurred as a result of employers safety rule violation, a 10% penalty could be added to a workers weekly disability payment. (N.C.G.S 97-12).

For example, if OSHA conducted an investigation following an injury and found the employer to be in breach of an OSHA regulation and the breach caused the injury, then the worker has a claim for the 10% penalty to be added to their weekly wage replacement check. The reverse is also true. If an OSHA investigation reveals that a regulation breach was the cause of the injury, or the employee did not follow a safety regulation, their weekly wage replacement check can be reduced by 10%.

If there was a government agency investigation to the facts surrounding the injury, you should bring that to the attention of your attorney.

CHAPTER 6 - LATE WAGE REPLACEMENT BENEFIT CHECKS

If is very frustrating to the injured worker when their weekly wage replacement checks arrive late. Your household bills continue to come and you need to be able to depend on your check being sent timely so you can receive it timely.

Unfortunately, North Carolina's Workers Compensation statute does not have a favorable late payment provision. Only after 25 days of the date that the payment was due can an injured worker file a Motion with the Industrial Commission requesting penalties for late payment. And the penalty is only 10% of the late check. In my opinion, this does not provide a deterrent to adjusters to get the checks issued on time.

We put a priority on our clients receiving checks in a timely matter. We will make immediate contact with the adjuster to inquire on the late check and push to get it released as quickly as possible. We understand that you count on receiving this weekly check on time in order to pay your living expenses.

CHAPTER 7 - WHEN DO YOU NEED AN ATTORNEY?

There are many types of workers compensation claims where an attorney is not needed. In fact, I tell a majority of callers that they do not need an attorney and, with some basic information, can handle their claim on their own. Such cases include claims with limited medical treatment, claims with no permanent restrictions or impairment rating, or a successful return to work with the employer. But even for these types of cases, a consultation with an attorney can be very beneficial.

On the other hand, there are certain types of claims when the injured workers needs to not only consult with an attorney, but hire an attorney. Based on my experience, a knowledgeable attorney can help maximize settlement and ensure the worker obtains a fair result. An experienced workers compensation attorney understands the rules and all the benefits their clients are entitled to receive when they are hurt on the job.

A. Permanent Restrictions

When a worker is finished with medical treatment and has been assigned at **Maximum Medical Improvement**, the treating physician may conclude that the worker has permanent work restrictions. For example, a worker may be given permanent lifting restrictions because of a back surgery. If these restrictions prevent the worker from performing his or her old job, then returning to work with the employer may not be possible.

If the worker can not return to work with the employer due to permanent work restrictions, they can be terminated. The insurance carrier will then have the right to attempt to return the worker to work with another employer as long as that work is within the permanent work restrictions assigned by the authorized treating physician. Finding the worker another job is the only way the weekly wage replacement checks can be stopped. This process is called Vocational Rehabilitation. Vocational Rehabilitation starts with meeting a vocational counselor who's job is to find the worker another job, with another employer, that complies with the assigned permanent work restrictions.

If the worker does not participate with vocational rehabilitation, their benefits could be terminated. Vocational rehabilitation involves a set of rules which is beyond the scope of this book. However, I can describe it as an unpleasant process which puts a burden on the worker to document a job search for a suitable position.

B. Settlement by Clincher Agreement

More serious Workers Compensation claims involving permanent work restrictions and future medical care are typically resolved by a Full and Final Settlement, or by a "Clincher Agreement." A Clincher Agreement is an agreement the injured worker and the employer reach that resolves all pending issues and claims in exchange for a lump sum payment. In other words, the worker in exchange for receiving a one time lump sum payment, agrees to close all future claims they have against the employer, for this date of injury, including future medical treatment and wage replacement benefit checks.

Before a worker agrees to close his or her claim forever, they need to make sure settlement is sufficient and consistent with workers compensation law. The Clincher Agreement is a document entered into by negotiation. The insurance adjuster or their attorney, will provide a settlement proposal to the injured worker and the worker agrees to accept or not.

I strongly believe the injured worker needs to have an attorney negotiate this clincher settlement on their behalf. An experienced Workers Compensation attorney understands how a claim is valued and what the insurance company should pay in exchange for an agreement to close the file forever. We will not let the insurance company get a bargain on a settlement. They need to pay what is fair and to cover future expenses or we will not enter into a settlement agreement.

We do not take cases unless we think we can obtain a larger settlement amount than they could otherwise obtain for themselves after our fee is taken out. We charge 25% of the settlement amount which is the normal rate for Workers Compensation attorneys. If we can't improve our clients net recovery after our fee, we inform the potential client that they can handle settlement on their own. However, with most Clincher Agreements, an experienced Workers Compensation attorney can make a big difference.

C. Third-Party Claim

A third-party claim is an injury that occurred both on the job and as a result of another parties negligence. In other words, the on the job accident was caused by someone other than a co-worker or the employer. For example, if a tractor trailer driver is rear-ended by another

driver while on the road delivering freight, then that driver will have a workers compensation claim, because he was injured on the job, and a negligence claim against the other driver because that driver was at fault. In this event, the injured worker has two insurance claims involving the same injury, one against the employer for workers compensation and the other against the liability insurance carrier covering the at-fault driver.

In this example, if the worker obtains a settlement from the at-fault drivers insurance company then that settlement may have to be paid back to the workers compensation provider. This gets complicated so an experienced attorney is needed to negotiate not only the workers compensation settlement, but also the amount to be paid back from the “third-party” settlement. We require that the workers compensation provider pay their share of the attorney fees before being paid back.

D. Social Security Disability

Often in serious claims an injured worker could receive both wage replacement benefits under Workers Compensation and Social Security Disability (SSD) benefits because the injury caused an inability to perform any job for a period of 12 months. In this event, Social Security subtracts the Workers Compensation replacement benefit amount from the amount due for the Social Security rate.

For example, if a worker is receiving \$1,200.00 a month under Workers Compensation and is approved for SSD at a rate of \$1,500.00 a month, the worker will receive \$300.00 a month from SSD. With a Clincher Agreement, the worker has an opportunity to reduce the amount of the offset taken by SSD such that the SSD rate will increase after the workers compensation claim is settled.

However, specific language has to be used in the Clincher Agreement to accomplish this result. An experienced Workers Compensation attorney knows what specific language needs to be included in the Clincher Agreement to protect the SSD claim.

In summary, the more serious and long-term the injury is, the more likely it is that you need an attorney representing you.

CONCLUSION

I wrote this book to provide information to the person who has been hurt on the job and needs information how to proceed. Most workers do not need an attorney representing them, but still need the information in this book to protect themselves. I sincerely believe the information I have provided in this book will help make sure an injured worker is treated fairly no matter what the situation. This is why I have provided this information for free because I have represented injured workers and their families for over 20 years and I do not like to see them being taken advantage of by adjusters who know the rules of Workers Compensation. I also do not like to see claims get denied simply because of a technicality, like not filing written notice of claim. Too much is at stake to make a mistake.

If I can provide additional information or clarify any statement made in this book please e-mail me directly at whit@whitleylawfirm.com or call my direct phone line at 252-639-5700. You can also come and see me for a free consultation as I will be happy to go over your situation and let you know if I can help.

I wish you the very best,
Whit Whitley