

A Workers' Compensation Claim in Plain English

Understanding The Process of a Pennsylvania
Workers' Compensation Claim

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WELCOME

In an effort to help injured workers better understand the workers' compensation process in Pennsylvania, I am providing the following step-by-step guide.

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ABOUT

PAULA ROBINSON, ESQ.



Paula Robinson, Esq. has been practicing for 30 years in a wide variety of jurisdictions within Pennsylvania. Paula has worked for employers and insurance companies, and applies that knowledge of the system to serve her

current clients—disabled and injured workers. Ms. Robinson has vast experience with the inter-workings of the PA workers’ compensation system. Paula Robinson is an aggressive, yet compassionate lawyer who fights for her clients’ rights and is well aware of the strategies of the defense lawyers working for the employers and their big insurance companies. With experience as a defense lawyer in workers’ compensation cases, Paula has first-hand knowledge and experience with the insurance companies. This experience provides Paula a distinct competitive advantage to maximize the recoveries for her current clients—injured and disabled workers. Ms. Robinson enjoys antiques, interior decorating, gardening and caring for her horses, dogs, and chickens.

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WHAT IS A WORK INJURY?

WHAT IS A WORK INJURY?

A work injury is an injury or occupational disease that occurred while the employee is (“working on the job”) in the course of employment, ie. this means while doing any work to further the business of the employer. In the Commonwealth of Pennsylvania, both the employer and injured worker have certain requirements that must be met in order to proceed with a Workers’ Compensation Claim.

WHAT IS WORKERS' COMPENSATION?

Act of Jun. 2, 1915, P.L. 736, No. 338 Cl. 77

*Reenacted and Amended June 21, 1939,
P.L.520, No.281*

AN ACT

Defining the liability of an employer to pay damages for injuries received by an employee in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties. (Title reenacted and amended June 4, 1937, P.L.1552, No.323) (Source)

FINDING EMPLOYEE NOTICES AT WORK

Be familiar with your place of employment's documentation and notice posters.

Employers in Pennsylvania are required to post in plain view a LIBC 500 form. The LIBC stands for **Labor of Industry Bureau of Compensation**, the purpose of the form is to list the workers' compensation carrier information so that the employees will know who to contact in the event of an injury, and to show as proof that the employer has workers' compensation coverage. The form clearly states that *"It is important to tell your employer about your injury."*

All employers in PA, having at least one employee must have workers' compensation insurance. By requiring the form LIBC 500, this ensures that all employees have the information that they need when a work injury happens.

IMPORTANT: Time sensitive deadlines from your date of injury not to miss.

All work injuries must be reported to the employer within 21 days. If not reported within 120 days from the date of injury or the date of having knowledge of a work-related disease, no compensation is allowed.

FIRST REPORT OF INJURY

The employer's responsibility and First Report of Injury.

Employers are required to *immediately* report all employee injuries to their workers' compensation carrier or to the individual responsible for their workers' compensation program, if self-insured.

Employers must also file a **First Report of Injury** in an electronic system referred to as WCAIS (Workers' Compensation Automated Integrated System), within seven (7) days for all injuries that result in disability lasting more than a day or shift, and within forty-eight 48 hours for injuries resulting in death.

NOTICE OF WORKERS' COMPENSATION STATUS

After the employee reports the injury, the employer/workers' compensation carrier has (21) twenty-one days to take action with regard to the reported injury. The new assignment will be sent to the employer's workers' compensation carrier and a claims adjuster will be assigned.

The claims adjuster will do an investigation of how, when, where, and under what circumstances the injury occurred. They will contact the employer, ask questions, and also contact you to do a recorded phone interview, in most cases. They only have the time frame of 21 (twenty-one) days to get this done and make a decision as to what to do with the claim. The claim adjuster's choices are to issue a:

- Denial of the Claim
- Notice of Temporary Compensation Payable, (NTCP)
- Notice of Compensation Payable, (NCP)
- Agreement for Compensation.

**WHAT DOES A
“DENIAL OF THE
CLAIM” MEAN?**

A “DENIAL OF CLAIM”

Let’s look at each and what they all mean. In PA Workers’ Compensation, there is a documentation form for all items pertaining to your case with identifying numbers. In addition, the responsible adjustor must file in WCAIS the appropriate EDI (Electronic Data Information), as well as mail to the claimant the paper form of their decision.

If the claims adjustor decides that the employee was not in the course of employment (which is key to having a chance to have the claim accepted), or that there was an injury, but it was not disabling, or does not believe the injured worker, also referred to as the “claimant”, as the story of how the injury happened does not jive with the “employer’s” story, then the claims adjustor will issue a ***Denial***, which is form LIBC-496. This means that the adjustor closed the file and it is done. When the claimant receives this Denial in the U.S. mail then he or she has *three (3) years from the date of injury to file what is known as a Claim Petition*. In order to successfully proceed with the Claim Petition, the claimant should retain legal counsel, as certain elements must be met, including taking a Doctor’s deposition, where the doctor will testify on behalf of the claimant to prove the work injury and resulting disability that keeps the claimant from working. If a Claim Petition is not timely filed within the three (3) year Statute of Limitations, then there can be no claim, end of story.

ROLE OF A CLAIMS ADJUSTOR

What options does the claim adjustor have when reviewing my case?

Let's say the claims adjustor is not sure whether to deny or accept the claim and needs some more time to make that decision, then they can issue what is known as a **Notice of Temporary Compensation Payable, (NTCP)**. This particular document is form LIBC-501. This gives the adjustor ninety (90) days before accepting or denying full liability for the claim. Within that ninety (90) day period, at any time, once the claims adjustor makes his or her decision, then they must issue a **Notice Stopping Compensation Payable (NSCP)**, form LIBC-502, and at the same time issue a Notice of Workers' Compensation Denial, a Notice of Compensation Payable, or an Agreement for Compensation to the claimant, and send the appropriate EDI transaction to WCAIS.

The best outcome for the claimant is if they receive the **Notice of Compensation Payable (NCP)** accepting the claim in its' entirety into the future with no time limit. This means that while the claimant is kept out of work by a physician because of the work injury, the claimant will receive both wage loss benefits and reasonable, necessary, and causally related medical benefits for the work injury. The accepted work injury will be listed and only medicals for the accepted injury will be paid.

GETTING PAID ON WORKERS' COMPENSATION?

GETTING PAID ON WORKERS' COMP

How much will I receive while on Workers' Compensation?

To know how much to pay the claimant on a weekly basis, the employer must give the gross earnings that the claimant earned at the time of the injury to the claims adjuster so that the compensation rate (the actual net amount sent to the claimant on a weekly or bi-weekly basis) can be calculated. A document called the **Statement of Wages (SOW)** form LIBC-494C must accompany the **Notice of Compensation Payable (NCP)**, so that everyone is on the same page as to how much the claimant is being paid. Please note that if there is a dispute as to the dollar amounts listed on the Statement of Wages (SOW), an experienced workers' compensation lawyer can help the claimant out by filing the appropriate **Petition** to try and correct the same. The claimant will receive either a weekly or bi-weekly check from the workers' compensation carrier, depending on how they were paid by the employer. If paid weekly, they will receive their wage loss check weekly; if bi-weekly, then they will receive the same bi-weekly.

The only other document that could be issued in conjunction with the **Notice Stopping Temporary Compensation (NSTC)** is an Agreement for Compensation, form LIBC 336. This is issued when a claim is being accepted for both wage loss

and medical benefits, for a limited period of time. Again, a Statement of Wages (SOW) has to be sent to claimant, as well as filed in WCAIS as an EDI transaction.

If and when an injured worker returns to his or her pre-injury job, or a modified job with the employer or different employer, the workers' compensation carrier may send out a **Notice of Suspension or Modification (LIBC-751)** within seven (7) days from the return to work. If the injured worker returns to work earning the same wages that he or she earned before the work injury, then the wage loss benefits would be suspended. If the return to work was for lesser wages, than the wage loss benefits would be modified. When the injured worker receives this form, it is important to keep the envelope, as the date listed on the Notice may be different than the postmarked date on the envelope.

A “BACK TO WORK” STATUS

What if there is a disagreement of “Back to Work” status?

If the injured worker disagrees that they are back at work or they try the job and cannot do it because of the work injury, and they go back out of work, then a Challenge to the **Notice of Suspension or Modification** must be filed within twenty (20) days from the date the injured worker received it in the mail.....that is why it is important to keep the envelope. Once the Challenge is appropriately filed, then it will be assigned to a workers’ compensation judge, who will hold a hearing, and in most cases, the wage loss benefits will be reinstated.

A PARTIALLY “BACK TO WORK” STATUS

What if I am partially back to work, will my wages be adjusted?

Although it is in the *PA Workers’ Compensation Act*, one form that is hardly ever sent out to the injured worker is the **Final Statement of Account of Compensation Paid (LIBC-392)**. This document is to be sent to the injured worker and filed in WCAIS as an appropriate EDI transaction after the final payment of compensation. If there are any modifications or changes in the amount of wage loss benefits being paid to the injured worker, then the workers’ compensation adjustor can send and file in WCAIS a form, known as a **Supplemental Agreement (LIBC-337)**. This would be the appropriate form if the injured worker returned back to any type of work, whether full-duty, modified duty, or part-time. If there are partial wage loss benefits due, then it would all be spelled out on the form so that the injured worker would know how much they are to receive in benefits, and in their work wages.

If the injured worker does return back to work, earning the same wages as he or she did before the injury, then the workers’ compensation carrier can also send out **Agreement to Stop Weekly Workers’ Compensation Payments (LIBC-340)** (Final Receipt), as well as file the same in WCAIS.

**DO I NEED A
WORKERS'
COMPENSATION
ATTORNEY?**

SEEKING ATTORNEY HELP

If you are learning more about the PA workers' compensation process for the first time it can seem overwhelming. Please know at no additional cost to you, you may have a workers' compensation attorney represent you in your work injury case.

If you have questions regarding your case please contact Attorney Paula Robinson of Robinson Law, LLC for a free consultation.

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