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Workers' Compensation

The purpose of workers' compensation insurance is to provide benefits to injured workers for work place injuries and occupational diseases. KRS 342.0011 reads



What is an occupational disease?

Occupational diseases are covered by the worker's compensation law. An occupational disease is a condition caused by an exposure to a hazard in the work place, and usually develops over a period of time. The most common occupational disease in Kentucky is coal worker's pneumoconiosis, often called black lung.

What is a work related injury?

The purpose of worker's compensation insurance is to provide benefits to injured workers for work place injuries and occupational diseases. KRS §342.0011 reads, "Injury means any work related traumatic event or series of events, including cumulative trauma, arising out of and in the course of employment, which is the approximate cause producing a harmful change in the human organism evidenced by objective medical findings." If an employee is injured while performing normal duties during working hours, the employee is entitled to workers compensation benefits.

How much are the attorney's fees?

Attorney's fees are charged in worker's compensation cases only if the claim is successful. By statute, fees are 20% of the first \$25,000.00, 15% of the next \$10,000.00 and 5% of the remainder, subject to a maximum of \$12,000.00. All attorney fees must be approved by a worker's compensation Administrative Law Judge.

When do you need a lawyer's help?

You should seek advice from an attorney when you have suffered a work related injury to obtain specific information about your claim. In particular, you should seek a lawyer's help when the following occurs:

- > Your doctor and the company/insurance doctor disagree.
- > The insurance company asks you to give a statement.
- > You cannot return to work because of your injury.
- > You are asked to sign a settlement document.
- > It is more than two (2) weeks since you injury and you have no benefits.
- > You were fired after your injury.
- > The Insurance company denies medical treatment.

Do you lose by benefits because you did something unsafe?

No. You do not lose your benefits. But, your benefits may be reduced by 15 % for a safety violation.

What happens if the company does something unsafe?

"If an accident is caused in any degree by the intentional failure of the employer to comply with any specific statute or lawful administrative regulation, an employee's compensation shall be increased by 30%."

Can you receive worker's compensation benefits and Social Security disability benefits at the same time?

Yes. There is a formula that entitles you to a specific amount of money each month. That may involve some reduction to your Social Security benefits.

Is an injured employee entitled to weekly benefits following a work related injury?

The worker's compensation law recognizes three types of disability-temporary total, permanent partial, and permanent total-and establishes disability income benefits payable for each type. Temporary Total Disability. Temporary Total Disability (TTD) benefits are paid to an employee who is recovering from an injury or disease and is unable to return to work. Once the disabled worker has been unable to work for more than seven (7) days, the employee is entitled to TTD benefits for each day thereafter. If the disability exceeds two (2) weeks of lost time from work, the employee is then entitled to payment of benefits for the first seven (7) days. TTD benefits are paid at the rate of 2/3 of the employee's average weekly wage, but not more than the Commonwealth's average weekly wage. For example, an employee who had an average weekly wage of \$300.00 would receive \$200.00 per week in temporary total disability benefits. Permanent Partial Disability (PPD) benefits are payable when "an employee . . . has a permanent disability rating but retains the ability to work." A disability rating means the percentage of whole body functional impairment caused by the injury. This is determined by a physician using the most recent edition of the American Medical Association Guides to Permanent Impairment as the basis. This generally causes much dispute in worker's compensation cases because doctors disagree on the amount of the rating. Benefits generally last for 425 weeks or 520 weeks depending upon various circumstances. Permanent Total Disability (PTD) benefits are payable when "an employee . . . has a complete and permanent inability to perform any type of work as a result of an injury." PTD benefits are paid when the worker is so severely injured that he or she cannot obtain and maintain a job. Permanent Total Disability benefits are paid so long as the total disability continues, but terminate when the injured worker qualifies for normal Social Security benefits or two (2) years after the last injury or last exposure, whichever occurs last.

Is an employee entitled to mileage expense for traveling to and from medical treatment?

Yes. An employee is entitled to received mileage for travel to and from medical treatments. The rate of the reimbursement varies but generally is posted on the worker's compensation web page.

Is an employee entitled to medical benefits for a work related injury?

Yes, The employee may choose the treating physician and can change that selection one time, no questions asked. If the employer has entered into an authorized managed care program, the employee must choose from among the participating medical providers. The employer or insurance carrier should deliver to the employee a physician designation and identification card once it is known that the employee requires continued medical care. The employer or its worker's compensation carrier shall pay for the cure and relief from the effects of an injury or occupational disease, such medical, surgical, and hospital treatment, including medical, and surgical supplies and appliances as may reasonably be required at the time of the injury and thereafter during disability.

What should an employee do if he or she suffers a work related injury?

An employee must immediately or "as soon as practicable" notify his or her supervisor of any injury. Notification should include information about the work occurrence and the body part affected. If you have a cumulative trauma injury, such as carpal tunnel, an employee should give notice to his or her supervisor, as soon as the employee learns that the condition may be work related. Generally, an employee would acquire this knowledge from a physician who advises the employee of the work connection.



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