

Colorado Workers' Compensation



Compliments of:

ALVERSON + O'BRIEN, P.C.

Specializing in Workers' Compensation and Social Security Disability

Employee Union and Association Handbook

EMPLOYEE UNION AND ASSOCIATION HANDBOOK

The essence of what labor unions do—give workers a stronger voice so that they can get a fair share of the economic growth they help create—is and has always been important to making the economy work for all Americans. And unions only become more important as the economy worsens.



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YOUR CLAIM ORGANIZER

ALVERSON + O'BRIEN, P.C.

Web: www.alversonobrien.com

Phone: 303-993-8882



My Lawyer: _____ Erika L. Alverson, Esq.

_____ Matt O'Brien, Esq.

Paralegal Assigned to my case: _____

Authorized Medical Provider: _____

Phone: _____

Address: _____

Insurance Company: _____

Insurance Claim No: _____

Adjuster: _____

Phone: _____

Workers' Compensation Claim No. _____

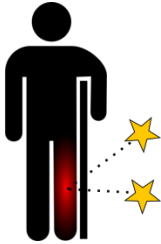
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Overview of Benefits



Learn about Workers' Compensation Laws

Warning: The information contained in this brochure is not intended to be legal advice. As Union members, you are entitled to a free specific case consultation with an experienced Workers' Compensation attorney.



Learn What to do if you are involved in a Work Injury

If you have suffered an on the job injury, take your obligation to inform yourself seriously. You can bet that every person/entity you communicate with through the course of your claim will know the rules; everyone of course, but you.



Learn about your benefits as a Union Member as it relates to your work injury

One of your negotiated benefits as a Union Member is a free specific case consultation with a Union approved attorney. Additionally, should you retain that attorney, you are entitled to reduced fees.

What is Workers' Compensation?

- In the state of Colorado, employers are required to carry insurance that is designed to cover injuries their employees suffer while on the job. The requirement is similar to the legal requirement that the driver of a motor vehicle must carry insurance in order to legally operate the vehicle.
- ***If your employer does not have insurance, the employer is not meeting legal obligations.***
- ***Any statements that you make indicating the injury was not work-related may have a very negative impact on your entitlement to benefits down the road.***
- The workers' compensation system is mostly a no-fault system, meaning that it does not matter whether you were injured because of your own actions or as the result of a co-worker or supervisor's actions.
- ***If the injured worker is able to prove that he was injured while performing his job duties, he is generally allowed to file a claim and receive benefits.***

What Should I Do If I Get Injured On The Job?

Report your injury to your supervisor immediately.

- If at all possible, do so in a verifiable (*in writing, email or text message*) manner. This is to prevent your employer at a later date alleging that they were unaware of your injury.
- If your injury requires you to seek immediate medical attention, be sure to inform all medical personnel that your injury occurred on the job. If the injury is not an emergent situation, your employer should direct where to get medical attention. If your employer refuses or fails to direct you as to where get medical treatment, *contact an attorney immediately.*



Workers' Compensation Benefits

Medical Treatment

If injured on the job, a worker is eligible to receive all reasonable, necessary and related medical care to cure the injury.

- Once the injury is reported by the injured worker in writing, the employer or the employer's workers' compensation insurance carrier has seven (7) business days to provide a written list containing four different medical providers to the injured worker. The injured worker may then select an authorized treating physician (ATP) from the four providers. If the employer fails to provide this written list of providers within seven (7) business days, the injured worker may select any medical provider he chooses to be designated as an ATP.
- ***If the injured worker wants to change his ATP, he must do so by completing the necessary paperwork within ninety (90) days of the date of injury.***
- Medical treatment and medications are provided until the injured worker is placed at maximum medical improvement (MMI). MMI is the point in time when the medical providers feel that there is nothing further that can be done from a medical and treatment standpoint to reasonably expect for the injured worker's condition to improve.

Medical Treatment Continued

- Once placed at MMI, the ATP will examine the injured worker to see if he has suffered any permanent impairment as a result of the work injury. Several factors are taken into account when determining permanent impairment including duration of treatment, type of treatment and loss of range of motion for the injured body part. The ATP may also recommend maintenance treatment which is on-going medical treatment designed to maintain the level he has reached once at MMI.
- In addition, the injured worker is entitled to mileage reimbursement for travel to and from all medical appointments related to the work injury. A mileage log should be maintained and regularly updated by the injured worker and submitted at least once a month to the insurance company for reimbursement. If the injured worker does not have access to a vehicle, the insurance company must provide transportation to reasonable and necessary medical appointments.
- It is important to note that if you seek medical treatment for your injuries from a doctor that you have not been referred to by the workers' compensation doctor, that treatment may not be paid for by the insurance company. You must always stay within the chain of referral in order to ensure medical bills are paid by the insurance company.

Tips About Talking to Your Doctor

- Assume any and everything you say to your medical providers (doctor, physical therapist, nurses, medical staff, etc.) is being disclosed to your employer. It is imperative to be as clear as possible when discussing your injury with all medical personnel. This includes how you got hurt, which body parts are in pain, etc. It is important to also be honest with your medical providers. Preserve your credibility. Credibility is an essential part of your case. Protect it at all costs.



Lost Wages (Temporary Disability Benefits)

- Typically, an injured worker is only off the job for a relatively short period of time. For those unfortunate workers who are unable to return quickly, workers' compensation provides a means to continue receiving compensation during recovery.
- ***If a work injury causes an injured worker to miss more than three days or three work shifts, he is usually entitled to receive temporary disability benefits in the amount of 2/3 of his average weekly wage (AWW) for any additional time you he is off of work due to his work injury.***
- The AWW is calculated using a fair approximation of the injured worker's wages as of the date of injury and is usually based on the average gross wages.
- If the injured worker is able to return to work, but in a modified duty and is unable to earn wages equal to the AWW, the injured worker will receive temporary partial disability (TPD), which is 2/3 of the difference between wages earned on modified duty and the AWW.
- Temporary disability benefits may continue until the injured worker is placed at MMI by the ATP, the worker's restrictions are lifted or the employer is able to accommodate the restrictions.



Permanent Partial Disability Benefits

Sometimes worker's sustain physical or psychological injuries that will remain with them forever, but may allow them to continue working. In such a case, the worker would be eligible for a permanent partial disability award based on the percentage of the impairment.

There are two separate classifications of injuries under the Colorado workers' compensation system:

- Whole person injuries, which are typically injuries to a worker's head, neck and back, and extremity or scheduled injuries, which are typically injuries to a worker's arms, legs, hands, etc. The injuries are compensated differently. In order to determine the percentage of loss, the worker who has reached MMI is examined by an ATP, who determines the percentage of impairment of the body part in question based on the American Medical Association's (AMA) Guides to Evaluations of Permanent Impairment. This percentage is the basis of any compensation the injured worker may receive.
- Whole person injuries are compensated based on several factors including AWW, age of the injured worker and the impairment percentage.
- Scheduled or extremity injuries are compensated at a pre-determined rate based on the body part injured and the date of injury.

Permanent Partial Disability Benefits Cont.

- If the injured worker feels the percentage determined is too low, or feels that he has not reached MMI, he can object to the findings of the ATP by applying to go through the Division sponsored Independent Medical Examination (DIME) process.
- This evaluation is to be paid for by the requesting party and a panel of three doctors is randomly selected by the Division of Workers' Compensation. Both the injured worker (or his representative) and the insurance company are allowed to strike a doctor from this list.
- The remaining doctor will perform the DIME evaluation. The DIME doctor will examine the injured worker to determine if the worker has reached MMI, if the injured worker has not reached MMI, the DIME doctor will recommend treatment designed to achieve MMI. If the DIME doctor feels as though the injured worker has reached MMI, the DIME doctor will assign an impairment rating, represented in a percentage that he feels is correct; again utilizing the AMA guidelines.

Permanent Total Disability

- Someone who is injured so severely on the job that he will never be able to gain sustained employment is potentially eligible for permanent total disability (PTD) benefits. If the ALJ grants the injured worker's application for PTD, the injured worker can receive compensation in the form of 2/3 of his AWW for life. Compensation for this type of award will be reduced by the amount, if any, of Social Security benefits that the injured worker is receiving or due to receive.



Disfigurement

- If the work-injury resulted in a scar or other form of disfigurement such as a limp, the injured worker may be entitled to receive compensation based on the severity of the disfigurement.

Safety Rule Violation

- As previously stated, while the Colorado workers' compensation system is almost entirely no-fault based, if the injured worker is found to have violated a safety rule which caused his injury, his indemnity or monetary benefits will be reduced by one half.



What Happens If My Claim Is Denied?

- If the insurance company denies your claim, you have the right to file an Application for Hearing to have your case decided by a Judge. Instead of having cases heard by a judge or a jury, workers' compensation matters are heard by an Administrative Law Judge (ALJ). You are allowed to provide testimony, present witnesses and evidence that you believe is helpful in proving your claim.
- ***In practicality, if your claim has been denied, you should immediately look into hiring an attorney.*** While you can represent yourself at a court hearing, doing so is unnecessarily risky. The insurance company will undoubtedly be represented at the court hearing by an attorney paid to defend the insurance company and to deny your claim. Further, as Union members, one of your benefits is having exclusive rights to attorneys that have been vetted by the Union and deemed qualified to represent Union members in workers' compensation proceedings.



Tips That Could Help Your Case

The following is a very general description of some basic steps the injured worker may wish to consider if injured on the job:

Report the injury to your employer: Always make sure you tell your supervisor when you've been injured at work. It is preferable to do so in writing. Ask your employer to produce a written report about the incident. Regardless of whether your employer completes a written report, make sure you document the date and time of the injury, how it happened, where it happened and whether there were witnesses. Do this even if you have to produce the report yourself. If your employer will not submit the report, the injured worker may want to seek legal assistance in filing the claim with the Division of Workers' Compensation.

Get Medical Treatment: While it is critical for the injured worker to submit a written account of the incident to the employer, it is equally critical to seek and receive medical attention as soon as possible following the accident. An obvious reason for this is to help minimize any pain and physical damage suffered as a result of the injury but also to build medical evidence to help support the validity of the claim.

Collect ALL Relevant Documentation: A common question of many injured workers prior to an initial consultation with an attorney is: what should I bring with me? The answer to that question is to bring anything that might somehow be related to the work injury. Specific examples include medical records, receipts, earnings statements from before and after the injury and copies of the incident report.

Tips That Could Help Your Case Continued

Do Not Allow Anyone to Attend your Medical Appointments with You: This includes anyone from your employer (supervisors, HR personnel, etc.), nurses not affiliated with the doctor's office, or anyone else. Your medical treatment is protected by privacy laws and if you do not contest, you waive those privacy rights. Further, your employer and the workers' compensation insurance company will try to influence the doctors to their benefit.

If Your Doctor Assigns Work Restrictions, Follow them AT ALL TIMES: Even though the restrictions are called "work restrictions" they are medically necessary to your recovery and to prevent further injury. The insurance company often time will send private investigators to follow and film you to ensure that you are compliant with the restrictions. If you are aware that you are being watched, hire an attorney immediately.

Be Careful About What You Post on Social Media: Insurance companies are savvy and one of the first places they will look to find out more about you or to monitor if you are compliant with restrictions is social media.

Conclusion

We hope this handbook serves as a helpful resource and reference tool for understanding some of the complex issues in a Colorado workers' compensation case. Just having a grasp of some of the terminology in the alphabet-soup world of workers' compensation will hopefully allow you to feel more comfortable with the process and to speak in a more knowledgeable way with an attorney.

As you've gathered from the brief overview of the Colorado workers' compensation system in this booklet, the issues involved with workers' compensation claims are highly technical and complicated. Hiring an attorney with expertise in this field should ease some of your concerns in dealing with a very stressful time in your life.





ALVERSON + O'BRIEN, P.C.
ATTORNEYS AT LAW

Alverson + O'Brien is a law firm dedicated to helping those in need after devastating injuries.

If you have suffered an on the job injury, take your obligation to inform yourself seriously. You can bet that every person/entity you communicate with through the course of your claim will know the rules.

As a Union Member, you are entitled to a case evaluation with an experienced attorney and reduced rates.

Contact Us

1888 Sherman Street, Suite 403
Denver, CO 80203

Phone: 303-993-8882

Web: www.alversonobrien.com



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Denver, CO 80203