



SEIUHealthcare®
United for Quality Care

Guide to
Workers' Compensation
**For Connecticut
Private Sector
Employees**

**NEW ENGLAND HEALTH CARE EMPLOYEES UNION
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Introduction

Our Union represents over 12,000 Connecticut members employed in private sector nursing homes, hospitals, group homes, ambulance services and other healthcare facilities — workplaces that have a high rate of injuries, higher than construction or manufacturing.

Every year thousands of 1199 members have work-related injuries, many of them serious and disabling: severe strains and sprains, torn cartilage, carpal tunnel syndrome, herniated or ruptured discs, torn rotator cuffs, etc.

Because these are work-related injuries, you are entitled to benefits under the Connecticut Workers' Compensation Act. These benefits include coverage for all necessary medical treatment as well as payments for temporary or permanent disability.

Unfortunately, many injured workers do not know their rights or responsibilities under the law. Because of this lack of information, some workers do not receive all the appropriate benefits. Others hire lawyers and pay 20% of their benefits for services they probably would not need if they had the proper information.

This pamphlet is designed to give you, the 1199 member in the private sector, the information you need to receive all the appropriate benefits if you are injured on the job ... without the need to hire a lawyer.

Keep this in mind: most properly reported on-the-job injuries are *not* contested by the employer and most compensation cases are *not* very complicated.

With the information in this pamphlet and knowledge of the resources available to injured workers, you will have a much better understanding of your benefits, rights and responsibilities under the Workers' Compensation Act.

The Union is Here to Help

1199 is ready to help you with your compensation case if you have a problem or a dispute with the insurance company. If you are unable to resolve an issue after an initial effort, you can contact a Workers' Compensation Organizer or your Union Organizer for help.

If you have an unresolved problem, don't wait to get help from the Union. There are many cases that should have been resolved easily that got complicated because the member put off contacting the Union once it was clear there was a problem.

The Union has successfully helped its members recover millions of dollars in benefits since our new Workers' Compensation Program was launched in September 1994. 1199 members have saved hundreds of thousands of dollars in benefits that otherwise would have been paid in attorneys' fees.

Workers' Compensation Insurance

In Connecticut employers are required to have workers' compensation insurance coverage, which they purchase from a private insurance carrier. Some of the major carriers that cover 1199 employers include the Connecticut Healthcare Workers' Compensation Trust, Liberty Mutual, Zurich American, Travelers, Wausau, among others.

In every workplace there must be a notice posted informing the employees who the workers' compensation insurance carrier is. This is usually found where the other government-required notices are posted.

Managed Medical Care Programs

Under the law, if an employer has a managed medical care program approved by the Workers' Compensation Commission, the employees *must* get their medical treatment from providers participating in the

plan.

All approved plans have a variety of doctors in all major specialties.

If your employer does not have an approved managed medical care program, you are free to treat with any physician licensed in Connecticut.

Reporting an Injury

If you are injured on the job, you should report your injury immediately to your supervisor or appropriate personnel. This is important even if you do not necessarily need medical attention right away.

Failure to report a work injury immediately is one of the most common reasons for disputed claims.

Once you report an injury, your employer should file a First Report of Injury. Make sure you request a copy. Check to be sure the report is accurate and identifies every body part that you hurt.

Initial Medical Treatment

Your employer should direct you to a medical provider for the initial medical treatment. This is usually an industrial medicine clinic (like Concentra) or the local hospital emergency room, although it might be a specific doctor. You must go to this designated provider for the initial treatment.

Additional Medical Treatment

After the initial medical treatment, you have the right to select your attending physician for any further treatment. If your employer has a managed medical care program, the doctor you select must be a network provider. Your employer cannot force you to treat with the provider from whom you received your initial medical treatment.

If your employer has a network and you go to a doctor outside of that network, you risk immediate suspension of benefits and full liability for the medical bills. Whether

you like it or not, this is the law today.

Once your attending physician has been established, you cannot change doctors *unless*:

1. The attending physician refers you to another physician;
2. You request and receive authorization from the insurance company to change physicians;
3. You receive authorization from a Workers' Compensation Commissioner to change doctors.

Keep in mind that if your employer has a network, any physician you change to must be in the network.

Your Right to Medical Reports

You have a right to receive all medical reports related to your injury from any treating or examining physician. The doctor is required to provide these reports directly to you. This provision is found in Section 31-294(f) of the Connecticut General Statutes.

Although the law requires the doctor to provide these reports automatically, in practice you may not get the reports unless you specifically ask for them. It is advisable that you ask the doctor to provide you with all medical reports related to your work injury, as required by law.

Problems sometimes happen when your claims adjuster has up-to-date medical reports but you don't. When both parties have the same reports, there is less chance for confusion or misunderstanding of your medical or disability status.

Medical Bills

You should not receive any bills for treatment by medical providers, and there are no co-pays in workers' compensation. The doctor's office should forward all bills directly to the insurance company that is responsible for your claim.

Mileage Expenses

You are eligible for a “travel allowance” for using your own vehicle going to and from medical treatment and physical therapy. As of 3/19/08 the reimbursement rate was 50.5¢ per mile.

Keep a record of all your doctor and therapy visits and the mileage involved. Forward a copy of this record to your claims adjuster with a request for reimbursement.

If your doctor indicates it is necessary for you to be transported by ambulance or taxi, the insurance company should either provide the transportation or pay for the cost of it.

Time for Getting Medical Treatment

If you have returned to work but still need treatment or therapy, such treatment should be provided during your working hours, if available at that time.

You should continue to receive your regular hourly pay unless you are also receiving workers’ compensation payments.

If you receive treatment outside of working hours, you should receive your regular hourly pay for the time involved unless you are also receiving workers’ compensation benefit payments.

These are the provisions found in Section 31-312, Connecticut general Statutes.

There are situations where staffing problems would result if an employee gets treatment during working hours. If your employer asks you to get treatment outside of working hours because of staffing requirements, and you have no objection, you should be paid your hourly rate for the time involved.

Written Notice of Claim

Most employees think they have “filed a claim” when they report their injury and a

First Report of Injury is filed by the supervisor.

Although in most cases the filing of the First Report of Injury gets the compensation process started, it is *not* an official written notice of claim.

The official written notice of claim is a *Form 30-C*, available from any office of the Workers’ Compensation Commission or the Union.

On the Form 30-C, the injured employee identifies the employer, the date and place of injury, and the type of injury. The form must be sent to the employer and to the Workers’ Compensation Commission, either in person or by certified or registered mail, return receipt requested.

When a Form 30-C is filed, the employer has 28 days in which to dispute liability. If they do not dispute liability within this period, they will be obligated to accept the claim unless they have initiated benefit payments.

If you want more information about filing a Form 30-C, call any office of the Workers’ Compensation Commission or the WCC Education Unit, in Hartford, at 860-493-1534.

Benefits: Temporary Total

During the period in which the doctor indicates you are totally disabled from any type of work, you are eligible to receive benefits for temporary total disability.

For the actual day of the injury, you should receive your regular pay from your employer.

There is then a waiting period of three days before you are eligible for temporary total disability benefits. However, if you are disabled for seven days or more, the waiting period is eliminated.

In determining days of disability, all calendar days in which you are disabled are counted – not just days you were scheduled

to work.

Your compensation benefit rate is 75% of your average weekly net wage, after deductions for federal and state taxes and FICA contributions. Your benefit rate is affected by your last federal tax filing status and the number of exemptions on your tax return.

The insurance company should provide you with a *Form 1A, Filing Status and Exemption Form*, on which you provide this information. This form should be returned to your claims adjuster as quickly as possible so that a proper benefit rate can be established.

If you work for a second employer, you must report this employment on the Form 1A.

To determine your average weekly wage, your employer must provide the insurance company with a wage statement showing your gross earnings (including overtime, shift premium, etc.) for the 52 weeks prior to the injury. Your average weekly wage is based on this year of earnings, averaged out per week.

If you have another job at the time of your injury, your benefit rate will be based on your average earnings from both jobs. You will need to get the wage statement from your other employer and send it to your claims adjuster.

Regardless of your actual earnings, the maximum benefit rate for temporary total disability is \$1,141 weekly for injuries on or after October 1, 2008.

Duration of Temporary Total Benefits

You are eligible to receive temporary total disability benefits for the period of total incapacity, no matter how long that period may be.

In practice, however, you will probably be eligible for temporary total benefits for a

few weeks or a few months. This is because at some point a doctor will indicate that you have some work capacity.

If a doctor indicates that you have some work capacity, the insurance company will issue a *Form 36*. This is a notice, sent by certified mail, that informs you that benefits for temporary total disability will stop. The sending of this notice is required by law. The Form 36 will either be signed by a doctor or have a doctor's report attached that indicates you have a work capacity.

You have ten days to contest the Form 36. This can be done simply by calling the local Workers' Compensation Commission office and requesting an Emergency Hearing to dispute a discontinuation of benefits. The office will not approve a Form 36 that is contested and benefits must continue until the hearing is conducted.

However, if you do not prove at this hearing that you are still totally disabled based on medical evidence, the Commissioner will usually approve the Form 36, often retroactively, and the benefits paid to you since the form was issued may be credited against future benefits.

For practical purposes, there is no point in contesting a Form 36 *unless* you have clear evidence from current medical reports that you are still totally disabled.

Benefits: Temporary Partial

If you are released for restricted work by the doctor, notify your employer immediately and ask for suitable work.

Many employers will provide you with restricted work, at least for some period of time.

If your employer does not provide you with a suitable work assignment immediately, you can qualify for temporary partial disability benefits while looking for suitable work.

You should register with the Connecti-

cut Job Service and start looking for suitable work right away. You should apply with at least five different employers each week. You must record this job search effort and forward the information weekly to your claims adjuster.

The forms for recording your job search effort are available from the insurance company, any office of the Workers' Compensation Commission or the Union.

While conducting a job search, you should continue to receive Workers' Compensation benefits, but temporary partial, not temporary total. The benefits are paid at the same rate except the maximum for temporary partial is currently \$892 weekly.

If your employer gives you a job, or you find another job, but you earn less than your usual pay, you are entitled to receive "wage differential" benefits.

These payments, which are also for temporary partial disability, would equal 75% of your net loss in earnings, after deductions for federal and state income taxes and FICA contributions.

You would submit copies of your pay stubs to your claims adjuster on a regular basis. Your claims adjuster would then calculate your benefit and make payment. The law allows temporary partial benefits to be paid for up to ten years, but in most cases the duration of such benefits is just a few months.

This is because you will probably reach "maximum medical improvement" shortly after your release for restricted work.

Benefits: Permanent Partial

If you sustain permanent physical impairment as a result of your work injury, you will be entitled to benefits for permanent partial disability.

Several types of injury usually result in permanent physical impairment, including disc injuries in the back or neck, torn carti-

lage, crushed bones, torn rotator cuff in the shoulder, amputations, nerve damage and carpal tunnel syndrome.

At some point after surgery or physical therapy, you will reach "maximum medical improvement." This is the point where the doctor feels the healing process has stopped, and you are at the maximum expected level of recovery.

By this point the doctor has probably released you for some type of work, usually with specific restrictions.

The doctor should issue a disability evaluation that indicates the injured body part or function, the date of maximum medical improvement, and the degree of permanent physical impairment, expressed as a percentage of loss (e.g., 10% loss of the back, 15% loss of the master hand, 20% loss of the leg, etc.). The doctor's evaluation should be based on the *American Medical Association Guide to the Evaluation of Permanent Impairment*.

The doctor should give a copy of the evaluation to you and send a copy to the insurer. The Workers' Compensation Commission has a specific document, *Form 42*, for disability evaluations, but the doctor can simply give the evaluation on his or her medical stationery.

A few days after the evaluation is issued, you should call your claims adjuster regarding a settlement for permanent partial disability benefits.

The claims adjuster will either accept your doctor's rating or schedule an appointment with another doctor for a second evaluation, a right they have under the law.

If the adjuster accepts the initial opinion, you will be issued a *Voluntary Agreement* and receive weekly benefits for a period of time. The duration of these payments depends on the affected body part and the degree of impairment.

Payment should be made retroactive to

the date of maximum medical improvement. The benefit rate for permanent partial benefits is the same as for temporary total, except the maximum benefit rate for injuries on or after October 1, 2008 is \$892 weekly.

If a second opinion is obtained and the difference in ratings is ten points or less, you should be able to reach a compromise with the claims adjuster by asking for a Voluntary Agreement that reflects the “average” of the two ratings. It is *not* necessary to schedule a hearing if the claims adjuster will agree to do this.

For more detailed information on permanent partial disability benefits, consult the *1199 Guide to a Workers’ Compensation Settlement*.

A Voluntary Agreement for permanent partial benefits does *not* “close” your case. Your claim remains open and other benefits may be available if your condition worsens or you have a recurrence.

Note: If you have not returned to work because of your physical limitations while you are receiving permanent partial disability benefits, you may also be eligible for Unemployment Compensation.

Benefits: 31-308a

When you exhaust your permanent partial disability benefits, you may be eligible for additional benefits if you are not able to earn your usual wages as a direct result of your work-related injury.

Wage differential benefits are available under Section 31-308a but you must request an Informal Hearing to apply for such benefits. The insurer does not provide these benefits automatically; a recommendation from the Commissioner is needed to qualify.

At the hearing, you must show that you are earning less than usual as a direct result of your work injury. The Commissioner can award you up to 75% of your net loss in

earnings. The maximum benefit rate for injuries on or after October 1, 2008 is \$892. For injuries on or after July 1, 1993 these benefits can be granted for a period no longer than your award for permanent partial disability.

It is advisable to have Union representation at any hearing where benefits under Section 31-308a are being requested.

Replacement of Artificial Aids and Glasses

If you have an artificial arm, foot, hand or leg, and it is damaged in a work injury, the employer must pay for the cost of replacement or repair.

The employer must also pay for the replacement or repair of your eyeglasses, contact lenses, hearing aids or artificial teeth if they are damaged as a result of a work-related injury to the face or head.

These are the provisions of Section 31-311.

“Stress” Claims Limited

Effective July 1, 1993, the Workers’ Compensation Act does not recognize claims for any mental or emotional impairment *unless* such impairment arises from a physical injury or occupational disease.

“Recreation” Claims Banned

Effective July 1, 1993, the Workers’ Compensation Act does not recognize claims for any injuries resulting from voluntary participation in primarily social or recreational activities, including athletic events, parties and picnics.

Social Security Disability

If you are totally disabled by a work injury for six months or more, you may be eligible for Social Security disability benefits.

The Union advises you to apply for such benefits at your local Social Security office during the sixth month of disability.

Benefits: Scarring and Disfigurement

For injuries on or after July 1, 1993, there is very limited eligibility for benefits for permanent scarring and disfigurement. In order to be eligible for such benefits, the scar or disfigurement must be on your face, head or neck, and not due to spinal surgery. A scar on any other part of the body is compensable only if it affects your ability to obtain or continue to work.

If you have such a scar, you must request a hearing during the second year following the incident that caused the scar. This can be done simply by contacting your local Workers' Compensation Commission office. If you do not request these benefits during the second year, you will lose them.

At the hearing, the Commissioner will examine your scar and award a number of weeks of benefits. Scar benefits are paid in a lump sum at your base compensation rate, with a maximum rate of \$816 weekly for injuries on or after October 1, 2006.

Workers' Compensation Non-Taxable

All Workers' Compensation benefit payments, regardless of type, are non-taxable.

Dispute Resolution

Sometimes disputes arise over some issue in a claim. Your initial effort to resolve a dispute should be a talk with your claims adjuster.

Before calling the adjuster, the Union suggests you speak with a coordinator at the Education Unit of the Workers' Compensation Commission in Hartford. The number

locally is 860-493-1534 or toll-free at 1-800-223-9675. The coordinator can advise you of the provisions of the law concerning the issues in your claim.

If the dispute is not then resolved, contact the Workers' Compensation Organizer at the Union office.

Hearings

If a dispute is not resolved by verbal or written communications, an Informal Hearing will be needed. The Union will provide you with representation at this hearing.

At the Informal Hearing the insurer will be represented by an attorney or hearing representative. Your Union representative will probably be familiar with the insurer's representative from attending other hearings.

The parties will briefly discuss the issues and provide documentation for the Commissioner, who at this point is serving as a fact-finder and mediator.

In most cases the Commissioner will then make a recommendation for resolution of the issues, and this resolution is usually accepted by both parties.

However, the Commissioner's recommendation is not binding and if the dispute continues, the matter may be scheduled for a Pre-Formal Hearing, at which time the Commissioner will expect both parties to provide whatever information is available regarding the disputed issues.

If this hearing does not resolve the claim, either party can request a Formal Hearing, which is the equivalent of a trial before a Commissioner.

Depending on the complexity of the issues involved, the Union's Workers' Compensation Organizer will represent you or refer you to an attorney well experienced in Workers' Compensation.

Vocational Rehabilitation Services

If you have an injury that will permanently prevent you from returning to your usual work, you can apply for assistance from the Rehabilitation Services Unit of the Workers' Compensation Commission.

You may be eligible for assistance with job training or placement. There is no charge for vocational rehabilitation services. Applications for these services are available from the Union, any Workers' Compensation Commission office, or Rehabilitation Services in Hartford at 860-493-1500.