



The Injured Employee's

Guide

to Recovery

Under The Illinois Workers' Compensation Act

Prepared By:

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Concentration in traumatic brain
injury, aviation litigation, premises &
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INTRODUCTION



The law firm of Romanucci & Blandin, LLC is dedicated to the representation of injured employees, their loved ones and survivors. Most such cases involve claims under the Workers' Compensation Act. Our combined fifty years of

litigation background and experience before the Illinois Workers' Compensation Commission (IWCC) have prepared us for the ever-changing decisions and laws in the field of workers' compensation.

Under these circumstances, and in a booklet of this size, it would not be prudent or possible to provide legal answers to specific legal questions. Therefore, our purpose here is limited to providing general information concerning the Illinois Workers' Compensation Act and rights of injured workers.

This booklet cannot cover, either in a general, and certainly not in a specific way, the law relating to this subject. No one should attempt to use the general information contained as a source of legal advice or counsel. Only a competent attorney experienced and knowledgeable in workers' compensation matters can advise and counsel in any specific case as facts in one case are different from others.

Romanucci & Blandin, LLC is further prepared to represent the injured employee in third-party litigation if necessary. Our legal experience and extensive litigation background make us qualified to argue your case before a jury of our peers. We have the resources, experience and ability to aggressively and effectively prosecute a workers' compensation, third-party, negligence or medical malpractice claim. Through our experienced staff, resources, and strategic downtown location, we are able to maximize your recovery for your injuries.

It is our sincere hope that the information and guidance given in this booklet will in some small way help fulfill your needs.

A handwritten signature in black ink that reads "A Romanucci". The signature is written in a cursive, slightly stylized font.

Antonio M. Romanucci

A handwritten signature in black ink that reads "Stephan Blandin". The signature is written in a cursive, slightly stylized font.

Stephan D. Blandin

A SUMMARY OF YOUR RIGHTS, AND SUGGESTIONS FOR YOUR WORKERS' COMPENSATION CLAIM

1. What is workers' compensation?

Workers' compensation is a system of benefits provided by law to most workers who have work-related injuries and/or diseases.

2. Who can be covered by workers' compensation?

If you are a hired employee and you are injured while in the scope of your employment, you should be entitled to receive benefits regardless of who may be at fault for your injuries. This coverage begins the moment you start your job.

3. Who provides the benefits?

Your employer is responsible for providing benefits and pays the benefits either directly or through a service or insurance company that administers the program for the employer. No part of the workers' compensation insurance premium or benefits may be charged to you.



4. What do I do if I'm involved in an accident that results in injuries?

It is very important that you report the accident to your employer and/or supervisor immediately. Be sure to advise your union steward if you have one. If your injury permits you to do so, gather the names and addresses of any witnesses, obtain photographs and secure evidence where possible. We will attend to these matters if you contact us promptly. Make certain that you give a clear history of the work-related accident and of all your injuries and complaints to your doctor or hospital. If you fill out an accident report, make sure you get a copy of it for your records and your attorney.

5. How much time do I have to report my accident?

For purely accidental injuries, the law requires that you notify your employer within 45 days of the occurrence (either orally or in writing). For an occupational disease or repetitive trauma claim, you must give notice as soon as practicable after you become aware of the condition.

6. What benefits are provided?

a. Medical care benefits

You are entitled to receive all necessary first aid, medical, surgical and hospital services reasonably required to cure or relieve the effects of the injury or disease. Where necessary, you are also entitled to receive appropriate physical, mental or vocational rehabilitation.

b. Temporary total disability benefits

If you lose time from work in order to recover from the injury or disease, you are entitled to receive weekly payments until you are able to return to work that is reasonably available to you. The payments represent two-thirds (66 $\frac{2}{3}$ %) of your average weekly earnings during the year before the accident or last exposure, subject to certain limits.

c. Permanent disability, disfigurement and death benefits

When you have sustained an injury or disease which results in permanent disability, scarring or other disfigurement you may be entitled to additional benefits. If the injury or disease results in death, certain members of your family may be entitled to benefits. Hand injuries involving carpal tunnel syndrome due to *repetitive trauma* are now limited in terms of permanency. In such cases, the permanent partial disability award shall not exceed 15% loss of use of hand. Where an employee can show by clear and convincing evidence that the permanency of the injury is worse than 15% loss of use of hand, the award shall not exceed 30%. Temporary partial disability is now based on gross earnings instead of net earnings.

7. Should I give any statements?

The preference is that you do not give any recorded statements or affix your signature to any written statement. Anything that you state may be used against you at any hearing or trial. You have a right to have your attorney present if anyone suggests you must give a statement. You should contact us immediately before making a statement.

8. Can I choose my own doctor or hospital?

The amount of doctors you can choose depends on whether your employer has a preferred provider program (“PPP”). If your employer does not have a PPP, you may choose up to two doctors at your employer’s expense and any additional medical care providers to whom you are referred by the two physicians, surgeons or hospitals. If your employer does have a PPP, your first choice of doctor comes from deciding either to opt in or opt out of the PPP. If you opt in, you may treat with a doctor enrolled in your employer’s PPP including all referrals. Alternatively, the decision to opt out of the PPP constitutes your first choice of doctor. After opting out, you have only one truly free choice of doctor with whom you may treat at your employer’s expense. Excessive or unnecessary treatment is now not payable.

9. Can I be fired because I reported an accident?

It is against the law for the employer to harass, discharge, refuse to rehire or in any way discriminate against you for exercising your rights under the Workers' Compensation or Occupational Diseases Acts.

10. What do I do about medical bills?

When injured at work, you have the right to have all of your medical bills paid by your employer or its workers' compensation carrier. Any bills that arrive at your home should be sent to the employer or its insurance company for payment. Copies of the bills should be sent to our office. We can assist you in difficulties you have in this process, especially if your employer refuses to pay the medical bills you have incurred as a result of your work-related accident.

11. When do my weekly benefit checks start arriving?

On some occasions, it may take up to two weeks before your first check arrives. Benefits for your temporary total disability (known as TTD) are not paid for the first three days lost from work unless your disability extends for 14 days or longer.

12. How much TTD should I expect to receive?

Benefits are paid at 2/3 of your average weekly wage based upon the year earnings prior to injury not to exceed \$1,148.51 per week for injuries occurring on or after July 14, 2007. Injuries suffered before that date may have a lower weekly maximum rate. TTD rates are fixed and do not change for the duration of your claim. If you worked for two or more employees and/or worked consistent and mandatory overtime, you should contact our office so that we could evaluate whether you are entitled to additional benefits.

13. How long will I receive TTD checks?

In theory, you should receive your checks for that period of time you remain off work due to your work-related injury. Your doctor will advise you when you are ready for return to work. However, your employer may contest

your right to remain off work and suspend your benefits prior to your doctor's release if it has good cause to do so. You may seek a hearing at the IWCC if your TTD benefits are improperly suspended.

14. Can the employer ask for an evaluation by its own doctor?

Yes. If you claim to be entitled to benefits and the employer asks for an examination by a doctor of its choice, you must undergo the examination at a reasonable time and place. The employer must pay for this examination. In addition, the employer must pay, in advance, sufficient money to defray travel expenses by the most convenient means and the cost of meals necessary during the trip. If you lose time from work, the employer must provide reimbursement for the lost wages. Your refusal to be examined by the employer's doctor can result in loss of benefits. We request that these examinations be coordinated with our office so that your legal rights are protected.

15. Am I entitled to vocational rehabilitation?

Where appropriate, the employer must pay for treatment, instruction and training necessary for physical, mental and vocational rehabilitation, including all maintenance costs and incidental expenses. You must cooperate in a reasonable rehabilitative program. The employee may choose the provider of such reasonable vocational rehabilitation services or may accept the services of a provider selected by the employer.

16. How do I receive compensation for my permanent disability?

If your work-related injury results in any permanent disability, you are entitled to additional benefits for any permanent loss you have suffered. We will present that claim for you so that you receive full and complete compensation for your work-related injuries. If after an accident you refuse to submit to a drug test, the employer will be entitled to a presumption that you were intoxicated at the time of the accident. You can overcome this presumption by a preponderance of the evidence standard that the intoxication was not the only or main cause of the injury.

17. How is my permanent disability determined?

The evaluation of your disability is based upon a complex set of factors, which include but are not limited to, your age, skills, education, occupation, training, ability to engage in work activities on a daily basis and limitation of motion. A percentage of disability is then determined which entitles you to additional weeks of compensation. Arbitrators are now instructed to consider the American Medical Association (AMA)'s "Guide to Evaluation of Permanent Impairment." If you would like more information on this guide, please raise any questions with one of our attorneys when you meet for a free consultation.

18. How much will I receive?

Benefits are limited to the part of the body injured and the nature and extent of the loss. This rule does not apply in all circumstances, especially where the injury affects you to a greater degree. The additional weeks of compensation for permanent partial disability is worth 60% of your average weekly wage, subject to the applicable maximum rate at the time of your accident. Consult with us to determine the monetary value of these additional benefits to which you may be entitled. An arbitrator may award a "wage differential" where he or she determines that you can return to work in a position that pays less than your previous position. The wage differential will pay you a percentage of the difference between your previous income and your new income. Any such award for an injury on or after September 1, 2011, will be effective until you reach the age of 67 or five years from the date the award becomes final, whichever is later.

19. What about losses to undefined body parts?

The law recognizes disability that results in hearing loss, occupational disease (exposure to chemicals, radiation or asbestos ...), repetitive trauma and disfigurement. Death benefits are also treated separately. Consult with us as to specific questions you may have relating to these matters.



20. What happens if I cannot return to my same occupation?

Basically, two essential factors come into play. First, your employer may be required to pay for your vocational rehabilitation services, i.e., job retraining and/or job placement. Secondly, if your new vocation results in a wage loss, your employer may be required to pay the difference between the “old” wage and the “new” wage, subject to limitations.

21. What if I can never return to work?

You can be permanently disabled if you are unable to do any kind of work for which no reasonable stable labor market exists. If this is the case, you may be entitled to receive the amount of your weekly disability benefits for life plus certain cost of living increases.

22. What if someone other than my attorney should contact me?

You have a right to not discuss your workers’ compensation claim with anyone unless your attorney is present. In the event a nurse or insurance company adjuster should ask to meet with you to discuss your claim or to take a statement, have that person contact our office and we will discuss any questions that they have.

23. What other legal rights do I have?

In addition to any rights you may have under the Illinois Workers' Compensation Act, you may have additional important legal rights. For example, if you are injured as a result of a careless or negligent act of another person, you may have rights to pursue a separate claim or action against that person which may substantially increase the total compensation you receive as a result of your injuries. It is very important that you discuss with us the facts of your case so that you can choose to pursue other legal remedies if you so desire.

24. Who is entitled to survivors' benefits?

If the injury or disease results in the death of the employee, full benefits are paid to the spouse and/or children. Benefits are paid to children until age 18; or until age 25 if a full-time student; or, if physically or mentally incapacitated, for the duration of the incapacity. If there is no eligible spouse or child, the benefits will be paid to totally dependent parents. Please ask us about your remaining survivor's benefits.

25. What should the employee and employer know about voluntary payments of compensation?

By accepting payment of workers' compensation benefits and medical benefits, you do not waive or give up any rights under the Workers' Compensation Act. Merely signing receipts or other reports requested by the employer will not waive your rights. The payment of compensation benefits to an employee does not represent the employer's admission of liability. Even if a claim is filed with the IWCC after some compensation benefits have been paid, the employer still has the right to contest its liability to pay any compensation at all.

26. Who presides over workers' compensation claims?

An arbitrator appointed by the IWCC acts as fact-finder and judge, conducts the hearing, and decides the amount of benefits to which you are entitled. The hearing is conducted according to the Rules Governing Practice Before the IWCC.



27. Is it possible to appeal the arbitrator's decision?

Yes. You and the employer both have the right to appeal a decision if dissatisfied. Decisions of the Commission are final for cases involving employees of the State of Illinois. In all other cases, either party may appeal to the Circuit Court and, from there, to the Industrial Commission Division of the Appellate Court. In some cases, further appeal may be taken to the Illinois Supreme Court.

28. Miscellaneous

- a. Advise our office immediately of any change of address or telephone number.
- b. When leaving telephone messages, be as detailed as possible to assist us in answering your questions as quickly as possible. Please do not hesitate to leave your message on our voice mail system.
- c. Do not hesitate to ask for a personal conference if you have unanswered questions.
- d. Mail us copies of any of your accumulated medical records or unpaid medical expenses no more than once per month.
- e. If at all possible, try to keep copies of your X-ray, CT and MRI films.

29. How can I have my remaining legal questions answered?

We are available for a free consultation with you regarding your work-related injury at a mutually convenient time where we will answer all of your questions and provide you with our recommendations.

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Call us at (312) 458-1000.

We appreciate the opportunity to represent you during your claim.

ACCIDENT INFORMATION

(Please write down answers to the following brief questions to help preserve some very important facts)

EMPLOYER: _____

DATE OF ACCIDENT: _____

LOCATION OF ACCIDENT: _____

WITNESSES: _____

NOTICE OF ACCIDENT GIVEN ON WHAT DATE?:

NOTICE GIVEN TO WHICH SUPERVISOR:

BRIEF DESCRIPTION OF ACCIDENT:

WAGE SCALE: _____

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