

Injured at Work?

**5 Things You Must Do
to Protect Your Rights**

A Special Report from
Bryan P. Stubbs
Law Offices

A Note: Legal Information Is Not Legal Advice

This report provides information about the workers compensation process in the State of Washington. It's designed to help workers handle injuries and illness at work and make decisions that will impact the course of their claim.

Legal information is not the same as legal advice -- the application of law to an individual's specific circumstances.

We go to great lengths to make sure our information is accurate and useful. And we recommend you consult a lawyer if you want a professional assessment or interpretation of your case, or advice or representation in dealing with a workers compensation claim.

Bryan P. Stubbs is an experienced workers compensation attorney carrying on a 50-year family legacy of fighting for the rights of Washington's workers.

You can reach him for a **free phone consultation** at **(888) 292-5891**.

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IF YOU'VE BEEN INJURED AT WORK, READ THIS FIRST

UPDATE ON WASHINGTON STATE WORKERS COMPENSATION REFORM OF JUNE 2011

"Historic"... That's what the Washington State Department of Labor and Industries is calling the workers' compensation legislation that took effect in June 2011. Parties are heavily divided on the merits of the legislation: some believe the law is designed to take advantage of employees, rather than legitimately take care of people who have been hurt at work.

So, what exactly does it do?

The Workers' Compensation Reform Bill modifies the way cases are handled when Washington State workers are injured on the job.

Previously, if you got hurt at work and were declared permanently disabled, you'd be off the job. As a result, you'd qualify for a pension for the rest of your life that was paid either by the State or by your employer, if the company was self-insured.

That may not be what happens to you now, though.

According to the new provisions, if you get hurt while you're working, you can be sent back to work -- albeit in a less demanding job. The State says it's a great way to get people back to work who, before, didn't have that opportunity. However, others say it's an unfair way to treat people who have already been declared disabled and may not want to work in a completely different capacity.

Aside from that perceived unfairness, much of the criticism to this reform comes from the ways employers can benefit from it.

As part of the Workers' Compensation Reform Bill, companies that hire disabled workers will get half of the employee's salary reimbursed by the State. It's also possible that by bringing injured employees back into the workforce -- instead of having them remain on disability -- the company stands to avoid major rate hikes in its Labor and Industries (L&I) premium rates.

As a result, some say the law is nothing more than a way for companies to take advantage of financial perks when workers get hurt on the job.

But that's not the only big change Washington State injured workers face. If you're 55 or older, this law can have a major effect on your financial future.

Under the Workers' Compensation Reform Bill, you now may not get a total disability pension paid for life if you are found unable to work. Instead, your employer or the State can request that you get something called a "Structured Settlement Agreement".

What does that mean?

Instead of getting pension payments for the rest of your life, you'll get money either in a semi-lump sum, or you'll get regular payments -- but only until you turn 65. In the end, these Structured Settlement Agreements would pay you significantly less money than a previous pension paid.

That's a source of disgruntlement -- because all it really does is give employers and the State a way to save money on total disability cases. Each Structured Settlement Agreement has to be approved by the Board of Industrial Insurance Appeals. These proceedings are complex and you will need a qualified workers compensation attorney to guide you through these matters and protect your best interests.

What do you think?

If you were to get hurt on the job tomorrow and suffer a disability, would you be OK with being subject to these regulations? If you're over 55, would you be willing to settle for an agreement that would pay you significantly fewer benefits?

If not, you're not alone.

Luckily, there is something you can do about it if this ever happens to you, or if you're in the beginning stages of it right now. But it's up to you to be on top of things.

Before it's too late, start keeping good records of your entire workers' compensation case. You'll need to keep track of every single detail, even if it seems trivial at the time. You'll also need to contact a qualified attorney to work on your behalf.

With a few proactive steps and the right legal guidance, you can make sure that you get everything you're entitled to in a workers' compensation case -- without feeling you're being taken advantage of.

Look over the recommendations that follow, and for representation, call us at **(888) 292-5891**.

A QUICK SUMMARY OF THE 5 THINGS YOU MUST DO

1. Seek Medical Treatment Immediately. Even if you believe the injury to be minor, request to see qualified medical personnel. Let the doctor or other treatment provider establish the seriousness of your injury. Make sure you understand the full nature of the injury and its repercussions.

Ask the doctor directly how serious your injury or illness is. If the doctor cannot tell you immediately, ask when he will know or what tests must be performed in order to understand the injury.

2. Don't Get Caught Up in Blame. Workers compensation isn't primarily about blame. It's about what you can do on the job and what you can't. And helping you get back to work as soon as possible. Simply seek medical help and file the paperwork promptly. With a few qualifications, you can't be denied workers' compensation even if the accident is later found to be your fault.

3. Report Your Injury Immediately. You cannot be fired for reporting your injury or filing a workers' compensation claim. Any delay in reporting your injury can make it difficult for you to recover benefits later. Delays can also call into question your motivation and the seriousness of the injury.

4. Follow the Doctor's Advice. It's important that you do exactly what the doctor advises and prescribes. Make sure you understand the treatment he has outlined. Don't be afraid to ask questions.

5. Keep Accurate Records of all your communications and actions related to the injury. You'll need to fill out some form or accident report and your physician will need to file paper work on your treatment. Make sure you keep track of it all and put your claim number on everything for easy reference.

You're not required to use the services of an attorney to file a workers compensation claim. And in many cases, you don't need one.

If your employer appears to be uncooperative, slow to respond, or uncertain of the next steps to take; a qualified worker's compensation attorney can be a big help. The right attorney will not only protect your rights but will also work with your employer to resolve the matter quickly.

INTRODUCTION

When you're injured on the job, a variety of thoughts and questions inevitably fly through your mind. Will I lose my job? Will I be able to work again? What if the accident is my fault? How will I pay the bills? What's going to happen to me and my family? You may not even know the full extent of your injury yet, so it's understandable if you're feeling anxious and uncertain.

There are a number of things you can do to make this time a little easier on you and your family. You have rights as an injured employee and your employer has responsibilities. The law imposes serious penalties on employers who do not follow regulations regarding workplace injuries. Penalties can range from civil to criminal in nature.

You may find that you're confused about your rights and what might be required - both by you and your employer. While this report is not intended to substitute for qualified legal advice, it will try to answer some frequently asked questions and lay out a few specific actions you can take to protect yourself.

The area of law that deals with on-the-job injuries is complex. It's always best to speak with an experienced attorney who understands workplace injuries, workers compensation, and all the laws and regulations that go with it.

WHAT IS WORKERS COMPENSATION?

Simply put, workers compensation is insurance that compensates employees for medical care and loss of income due to an injury or illness that occurs at your place of work.

In 2008, there were 3,696,100 reported nonfatal illnesses and injuries in the United States. Of these reported incidents, 1,078,100 required time off from work. There were also 5,071 fatal injuries and illness as a result of someone's work in 2008. Falls made up 641 of these fatalities and highway incidents accounted for another 989.

In the state of Washington, employers and employees pay into a special state fund that's set aside to cover accidents and medical expenses. When you're injured, sick, or disabled at work, money from the fund takes care of you.

Depending on your particular situation, you may be entitled to compensation in the form of:

- Medical benefits
- Prescription medication benefits
- Wage replacement
- Travel and property reimbursement
- Disability benefits
- Training programs

With a few exceptions, all businesses with more than one employee are required to carry workers compensation insurance.

The Compensation Bargain

In exchange for monetary compensation for your injury or illness, you give up the right to sue your employer.

This tradeoff between the guarantee of limited coverage (your workers compensation) and the lack of recourse outside of this system is called the "compensation bargain." As long as your employer keeps up his end of the bargain, there should be no need to sue.

Unfortunately, some employers don't follow the law when it comes to their employee's injuries at work. Often they simply lack experience with injured workers and don't know what to do.

Don't wait to find out what your employer should have done to help you get adequate care. Protect yourself and your family by learning your rights. If you

don't do it now, you could end up fighting a losing battle with your employer and the state.

THE FIVE STEPS TO PROTECTING YOURSELF

1. SEEK MEDICAL ATTENTION IMMEDIATELY

Of course, your health, well-being, and recovery are your highest priority after any injury or illness. Seek the best medical treatment available to you keeping the following in mind.

Don't Hesitate to Get First Aid.

If your injury is minor, get first aid at work. Many falls, cuts, and sprains can become serious injuries if they aren't treated right away.

In the State of Washington, all employers must have a first-aid kit at the workplace.

See a Doctor if You Need One.

You need a doctor who will do three things for you.

- Manage your treatment including certifying that your injury is work-related.
- Help you file a claim and report your progress to the claim manager.
- Decide when and if you're ready to return to work and help you return to work as soon as possible.

You have the right to choose a doctor to treat you. At the same time, any practitioner you choose must be:

- Licensed in the state in which he or she is practicing. This will be Washington State unless you choose to be treated out of state.
- Conveniently located.
- Qualified to treat your injury or illness.
- Licensed to practice in one or more of the following areas:
 - Medicine and surgery (MD).
 - Osteopathic medicine and surgery (DO).
 - Advanced Registered Nurse Practitioners (ARNP).
 - Physicians Assistants (PA).
 - Chiropractic (DC).
 - Naturopathy (ND).
 - Dentistry (DDS or DMD).
 - Optometry (OD).
 - Podiatry (DPM).

There are circumstances under which you want want to see a physician's or nurses assistant or another type of health professional. They have special restrictions. See <http://www.lni.wa.gov> to find out what they are.

You can request to transfer your care to a new attending doctor while you are being treated. You must make the request in writing. And your claim manager will review and approve or deny the request.

Seeing Your Insurance Company's Doctor

It's a common misconception that you are only allowed to use the services of the insurance company's doctor. And you shouldn't be surprised if you receive a request to see the company's doctor, even after you have chosen to use your own doctor.

The regulations regarding visits to company doctors vary from state to state. In the State of Washington, you have the right to choose your doctor subject to the limitations described above. You also have the right to decide who accompanies you to the doctor, or to decide that you'll visit the doctor alone.

You can decline to have the company nurse or any employer representative accompany you to the hospital, doctor, or any other medical visit.

And your employer can't discriminate or retaliate against you no matter the decision you make.

Seeing an Independent Medical Examiner

If you worker's compensation claim is handled through the Department of Labor and Industries, your claim manager may request you to get an independent medical examination. In that case, they will pay for the examination.

For more information, see <http://www.lni.wa.gov>.

2. DON'T GET CAUGHT UP IN BLAME.

In the State of Washington, workers' compensation is "no-fault" insurance. This definition holds even if your employer is self-insured. You're covered regardless of what or who caused the injury or illness on-the-job. So don't hold off your treatment worrying over who was at blame.

There are special considerations you should be aware of:

- If the injuries that occurred were self-inflicted, you may not be eligible to file a claim.
- If the accident occurred while you were under the influence of drugs or alcohol, your claim could be denied.
- Claims relating to injury or illness that your job has worsened are often initially denied. If you have such a case, you may need an attorney in order to get the claim approved.
- If the injury or illness was caused by a "third party", in other words, the failure of a machine, a product, or someone who is not your coworker, you have the right to sue that "third party."

3. REPORT YOUR INJURY OR ILLNESS

If you have an injury, no matter how minor, follow your company's guidelines and policies for reporting the incident. If you don't, it can turn the process of handling a workers compensation claim into a struggle. And you can end up responsible for medical bills your employer would have paid.

You can't be fired or punished for alerting your employer to the need for medical care.

Don't be afraid to tell your employer you're sick or hurt. In fact, prompt reporting is required for most workers compensation claims. Ask to see your employer's procedures for reporting.

If they're not able to provide specific procedures, look online at the Washington State Department of Labor and Industries <http://www.lni.wa.gov> for the correct way to report an injury or illness.

To protect yourself, you need to follow your employer's policy (or the Washington State L&I guidelines) for reporting an injury.

Report even minor injuries or illness.

People often fail to report what they consider to be minor injuries. However, some of these injuries can have rather serious complications later on. This is especially true with back and neck injuries. Symptoms may not appear for days or weeks later. You may find that you miss work due to pain or discomfort.

Report your injury or illness immediately.

There are two reasons to report your illness promptly.

- If you don't report the injury immediately, it may be difficult for you to prove that it was sustained within the working environment. Your employer could suggest that you were injured somewhere else away from work.
- If you wait, you may be too late to file a claim and you may be ineligible for workers compensation or other types of re-imbursement.

4. FOLLOW YOUR DOCTOR'S ADVICE

Your doctor will be the person who determines whether or not you are ready to begin work again. It is very important that you listen to your doctor and follow his orders.

You may be tempted to return to work quickly, prompted by a sense of responsibility or the need to bring in income. Consider your decision carefully.

If you return to work too early, you may have a re-lapse and injure yourself further or become ill once more. Keep in mind that the workers compensation benefits are structured to include any loss of wages that may occur while you are recovering.

So try not to stress, and concentrate on regaining your health.

Make sure that you adhere to the following guidelines:

- Follow your doctor's orders, no matter what they are.
- Don't miss any appointments with your doctor or others who are treating you. These appointments include routine examinations, medical treatment, physical therapy, chiropractics, and other kinds of treatment.
- Take all the medications prescribed by your doctor in the correct manner.
- If any of the treatments or medications are causing you problems, be sure to inform your doctor.
- Speak to your doctor openly about any difficulties or pain that you may still be experiencing.

Partially Returning to Work

Your doctor may allow you to return to work with restriction. Orders may include not being able to lift heavy objects, or avoiding standing for lengthy periods of time. It may be hard for you to work under limitations, but it's in your best interest to follow these instructions.

It may be helpful for you to keep a copy of your doctor's orders with you, in case you need to show it to your employer. Your employer may not require you to do anything that violates the doctor's orders. It is unlawful for your employer to threaten you with termination of your employment, should you be unable to work efficiently.

In the rare circumstance that your employer threatens your job, you should still follow your doctor's orders, and inform your attorney of the incident. Your

attorney will advise you on how to proceed to protect your health, your job, and your medical benefits.

5. KEEP ACCURATE RECORDS

Your paperwork will depend on a number of things, including the type of injury or occupational disease you claim. Read it carefully, respond promptly, and keep copies of everything.

Make it easy to track all your paperwork and keep it together. Put your claim number on everything. And have it handy when you call Labor and Industries or your self-insured employer.

You'll need to fill out an accident report.

- If you file through Labor and Industries, it will be called a Report of Industrial Injury or Occupational Disease,
- If you file through a self-insured employer, it will be called the Self Insurer Accident Report (SIF-2)

In either case, the report will include information about your injury, employer, wages, diagnosis, treatment and other background information.

Special Paperwork

- Your doctor may also complete the Physicians Initial Report.
- If your injury limits your ability to work, your doctor will also complete an Activity Prescription Form (F242-385-000.).
- If you're an apprentice, you should check <http://www.lni.wa.gov> for guidelines on how to handle injuries while you're training on the job.

OTHER QUESTIONS YOU MAY HAVE

This report should get you off to a good start with your workers compensation claim. At the same time, it isn't meant to be exhaustive.

You may have questions about your particular case or circumstances, or about Washington's workers compensation process in general:

- What should I do if my employer doesn't carry workers compensation insurance?
- What happens if I can't continue to work?
- What happens if an injury or illness leads to death?
- What if I work out of state or am injured out of state?

Should you have more questions, call Bryan P. Stubbs Law Offices for a FREE phone consultation.

Bryan P. Stubbs Law Offices carries on a 50-year family legacy of fighting for the rights of Washington's injured workers. If you're tired of the lack of respect from your insurance company, the denial of medical treatment or compensation, we fight for your rights and get you your money. And we won't accept fees from you until you are compensated.

Call Today for a Free Phone Consultation - **(888) 714-6221**
