

**ILLINOIS
WORKERS' COMPENSATION
COMMISSION**

**HANDBOOK
ON
WORKERS' COMPENSATION
AND
OCCUPATIONAL DISEASES**

ILLINOIS WORKERS' COMPENSATION COMMISSION

Note: On January 1, 2005, the Illinois Industrial Commission became the Illinois Workers' Compensation Commission. There is no change in our services.

This handbook is designed to serve as a general guide to the rights and obligations of employees who have experienced work-related injuries or diseases, as well as the rights and obligations of their employers, under the Illinois Workers' Compensation and Occupational Diseases Acts.

It is not intended to explain all the benefits or conditions pertaining to specific cases. Benefits are determined by applying the law to the facts of each case, such as the nature of the injury or exposure, and how and when it occurred.

See our Web site for more information: www.iwcc.il.gov.

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Chapter 1 General Information

1. *What is workers' compensation?*

Workers' compensation is a system of benefits provided by law to most workers who have job-related injuries or diseases. These benefits are paid regardless of fault. The amount of the benefits is limited by law.

2. *Who is covered?*

Almost every employee who is hired, injured or whose employment is localized in the state of Illinois is covered by workers' compensation. These employees are covered from the moment they begin their jobs.

3. *Who provides the benefits?*

The employer is responsible for providing benefits. The employer 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 can be charged to the employee.

The employer must post a notice in the work place indicating the name, business address and business telephone number of the person, service company or insurance company (including the insurance policy number) to contact for questions relating to workers' compensation.

4. *For what injuries and diseases are benefits paid?*

In most instances, workers' compensation benefits are paid for accidental injuries that are caused, in whole or in part, by the employee's work. Workers may also be compensated for aggravation of a pre-existing condition.

Injuries are accidental if they happen unexpectedly, without plan or design. This includes injuries brought on by the repetitive use of a part of the body, as well as strokes, heart attacks or any other physical problem caused by work.

Injuries suffered in employer-sponsored recreational programs (e.g., athletic events, parties, picnics) are not covered unless the employee is ordered by the employer to participate. Accidental injuries incurred while participating as a patient in a drug or alcohol rehabilitation program are not covered.

5. *What benefits are provided?*

A. Medical care benefits

The injured employee is 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, the employee is also entitled to receive appropriate physical, mental or vocational rehabilitation. (For more information, please see Chapter 3.)

B. Temporary total disability benefits

Employees who must lose time from work in order to recover from the injury or disease are entitled to receive weekly payments until they are able to return to work that is reasonably available to them.

The payments represent two-thirds (66 2/3%) of the employee's average weekly earnings during the year before the accident or last exposure, subject to certain limits.

No compensation is payable for the first three working days, unless the lost time continues for 14 or more calendar days from the date of injury.

If temporary total disability benefits are not paid within 14 days, and the employer cannot justify the delay in payment, the employer may be required to pay a penalty to the employee. (For more information, please see Chapter 4, Section 1.)

C. Permanent disability, disfigurement and death benefits

When the employee has sustained an injury or disease which results in permanent disability, scarring or other disfigurement, additional benefits are provided to the employee. The circumstances under which these benefits are payable and the method of determining the amount of the benefit is explained in Chapter 4, Sections 2 and 3.

If the injury or disease results in the employee's death, certain members of the employee's family are entitled to benefits. The way in which beneficiaries and the amount of these benefits are determined is explained in Chapter 4, Section 4.

6. *Who administers the law?*

The Industrial Commission is responsible for administering the law, providing information and assistance to employees and employers, and resolving any disputes regarding employees' entitlement to benefits and the amount of benefits. The Industrial Commission does not pay benefits--this is the responsibility of the employer.

7. *Can an employee be fired because he or she reported an accident?*

It is against the law for the employer to harass, discharge, refuse to rehire or in any way discriminate against an employee for exercising his or her rights under the Workers' Compensation or Occupational Diseases Acts. Such conduct by the employer may give rise to a right to file a separate suit for damages in the Circuit Court.

8. *Are workers' compensation benefits subject to income tax?*

No. Workers' compensation payments are not subject to state or federal income tax and need not be reported on returns as income.

Chapter 2

Reporting An Injury or Exposure

1. *Who should the injured worker notify?*

The employee must inform the employer promptly. Any delay in the notice to the employer can delay the payment of benefits; a delay of more than 45 days may result in the loss of all benefits. Notice to a fellow worker who is not a part of management is not considered notice to the employer.

2. *What should the notice include?*

The law requires the employee to notify the employer of the date and place of the accident, if known.

To avoid possible delays, it is recommended that the notice to the employer also include the employee's name, address, telephone number and Social Security number, and a brief description of the injury, accident or disease.

3. *Must the notice be in writing?*

Notice may be given orally or in writing.

4. *What are the time limits for notifying the employer?*

For accidental injuries, within 45 days after the accident.

For injuries resulting from radiological exposure, the employee must notify the employer 90 days after the employee knows or suspects that he or she has received an excessive dose of radiation.

For occupational diseases, the employee must notify the employer as soon as practicable after he or she becomes aware of the condition.

5. *What should the employer do after receiving notice?*

The employer should promptly take the following steps:

- (a) Inform the insurance carrier or administrator responsible for the workers' compensation program.
- (b) Provide all necessary first aid and medical services, and pay temporary total disability benefits when due.
- (c) If the employee cannot work for more than three days because of the injury, the employer must do one of the following:
 - (i) begin payments of temporary total disability; or
 - (ii) provide the employee with a written explanation of what additional information the employer needs before payments can begin; or
 - (iii) provide the employee with a written explanation of why benefits are being denied.

6. *What records must the employer maintain?*

Employers are required by law to maintain accurate records of work-related deaths, injuries or illness (other than minor injuries requiring only first aid and not involving further medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job).

Written reports of all job-related accidental deaths must be made to the Commission no later than two working days following the death.

Written reports of job-related injuries or illness resulting in the loss of more than three scheduled work days must be made to the Commission between the 15th and 25th of each month.

Initial reports are made on form #45, called "Employer's First Report of Injury or Illness;" subsequent reports are made on form #85, called "Employer's Supplementary or Final Report of Injury or Illness."

Chapter 3 Medical Benefits

Because prompt medical care may be essential to the employee's maximum recovery, the employee should seek medical attention immediately after the injury. The employee must cooperate in reasonable programs to assist his or her recovery and return to work.

1. *Can the employee choose the treating doctor or hospital?*

Yes. An employee may choose any doctor or hospital at the employer's expense. It is recommended that the employee inform his or her employer in writing of the name and address of the doctor or hospital chosen. An employee may also obtain treatment from a doctor or hospital selected by the employer.

Under some circumstances, the employee may rely upon treatment by prayer or spiritual means alone.

2. *Is there a limit to the number of doctors an injured employee may select at the employer's expense?*

Yes. The employer's responsibility is to pay for all first aid and emergency services, two treating physicians, surgeons or hospitals of the employee's choice, and any additional medical care providers to whom the employee is referred by the two physicians, surgeons or hospitals.

Thereafter, the employee must obtain the employer's approval of additional doctors or hospital services. If the employee chooses to see any other medical care providers not approved by the employer, the employer is not required to pay for their services.

Emergency and first aid care will not be considered one of the employee's two choices of doctors.

3. *Must the employer pay all physician and hospital bills?*

If the treatment provided is reasonably required to cure or relieve the employee from the effects of the injury or disease, and the provider of the services has given the employer the information required by law, the employer is required to pay all reasonable charges.

If these requirements are not met, the fact that the employee has already paid all or part of a bill does not necessarily obligate the employer to pay the bill.

If the employer refuses to pay a medical bill, it must promptly give the employee a written explanation of the basis for the refusal.

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

Yes. If an employee claims to be entitled to benefits and the employer asks for an examination by a doctor of its choice, the employee 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 the employee loses time from work, the employer must provide reimbursement for lost wages.

An employee's refusal to be examined by the employer's doctor can result in loss of benefits.

5. *Is the employee entitled to vocational rehabilitation?*

Where appropriate, the employer must pay for treatment, instruction and training necessary for the physical, mental and vocational rehabilitation of the employee, including all maintenance costs and incidental expenses. The employee 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.

6. *What information must the employee give the employer?*

The employer must be given sufficient medical information to determine whether benefits are due.

7. *Should the employee's doctor send medical reports to the employer?*

Yes. If the employee's doctor does not send medical reports to the employer or its service or insurance company, benefits may be delayed.

The report should include sufficient information to allow the employer to determine whether benefit payments should be initiated, continued or terminated; to determine whether treatment is necessary to cure or relieve the employee from the effects of the injury or disease; and to determine whether the charges are reasonable.

8. *Should the doctor selected by the employer send reports to the employee?*

Yes. The doctor must report the same information to both parties. The employee is entitled to complete copies of all medical reports and records obtained by or in the possession of the employer.

9. *If an employee changes doctors, who should be notified?*

To avoid any delay in the payment of compensation benefits and medical expenses, the employee should notify the employer of any change in the medical care providers.

Chapter 4 Compensation Benefits

Section 1 Temporary Total Disability (TTD) Benefits

Temporary total disability (TTD) benefits are paid to the injured employee who must lose time from work to recover from a work-related injury or disease. The employee is entitled to collect TTD benefits until able to return to work that is reasonably available to him or her.

1. *When are TTD benefits paid?*

TTD benefits are generally paid at the same interval the employee was paid before the injury or exposure. It may take up to 14 days from the time the employer receives notice of the injury or disease before payments begin.

TTD benefits are not paid for the first three work days lost after an injury or exposure, unless the disability continues for 14 or more calendar days.

If an employer stops or withholds payment of TTD benefits before the employee has returned to work, the employer must give the employee a written explanation for this action no later than the date of the last TTD payment.

Failure to provide this notice may result in assessment of penalties against the employer, as well as an order to pay the employee's attorney fees. If an employer unreasonably delays payment or fails to pay TTD, the employer may be required to pay a penalty to the employee.

2. *How is the amount of TTD benefits determined?*

The benefit is two-thirds (66 2/3%) of the employee's gross average weekly wage, subject to certain limits. The average is based on the employee's wages during the year before the injury or exposure. The rate is fixed at the time of injury, and does not change with changes in the employee's salary or the statewide average weekly wage.

If an employee was working for two or more employers at the time of injury, the TTD rate may be based on the combined gross income from all jobs. This will only apply if the employer for whom he or she was working at the time of the accident or disease had prior knowledge that the employee was working at another job.

If the employee had worked for the employer for only a short time or on a casual basis, it may be appropriate to consider what another person in the job with the same employer would have earned during the previous year.

Under the Workers' Compensation Act, overtime pay is generally not included in the calculation of the average weekly wage. Overtime pay is included, however, under the Workers' Occupational Diseases Act.

TTD benefits for volunteer fire fighters, police and civil defense members or trainees are based on the gross average weekly wage earned in their regular employment if the claim arises under the Workers' Compensation Act.

3. *What is the minimum TTD benefit?*

The minimum payment is the gross average weekly wage earned by the employee in the year before the injury or exposure, or the following amounts, whichever is lower.

| | |
|-----------------------|---------------|
| Single Person | \$100.90/week |
| Married, no children | 105.50/week |
| One child | 108.30/week |
| Two children | 113.40/week |
| Three children | 117.40/week |
| Four or more children | 124.30/week |

4. *What is the maximum TTD benefit?*

The maximum TTD benefit can be no more than 133 1/3% of the statewide average weekly wage on the date of the injury or last exposure.

5. *How do I find what the statewide average weekly wage was on the date of an injury or exposure?*

The statewide average weekly wage is the average pay earned by all employees, in all occupations, in Illinois. It should be distinguished from the gross average weekly wage, which is the amount an individual earned during the time preceding the injury or last exposure.

The Illinois Department of Employment Security publishes the amount of the wage twice each year. You may call the Industrial Commission for this information.

Section 2

Permanent Partial Disability (PPD) Benefits

A permanent partial disability is the complete or partial loss or loss of use of a part of the body, or the partial loss of use of the body as a whole.

“Loss of use” is not specifically defined in the law, but it generally means the employee is unable to do things with the body part or with the body as the whole that he or she was able to do before the injury.

1. *When are PPD benefits paid?*

Permanent partial disability benefits are paid only if the job-related injury or disease results in some permanent loss or loss of use of a part of the body or the whole body. Not all injuries and diseases result in permanent partial disability.

PPD benefits will be paid only after the employee's condition has reached a point where it will not improve any more.

2. *How is the amount of PPD benefits determined?*

On a case-by-case basis, the Industrial Commission evaluates the physical impairment and the effect of the disability on the injured worker's life. Factors that may be considered include the individual's age, skill, occupation, training, inability to engage in certain kinds of work or activities, pain, stiffness or limitation of motion.

There are two ways in which PPD benefits may be determined. In the first method, the amount depends on the part of the body injured and the extent of the loss. The law places a value on certain body parts, expressed as a number of weeks of compensation for each part. The number of weeks provided for the various parts of the body are listed in the following chart.

If a body part is amputated, or if it cannot be used at all because of the injury, the employee is paid at his or her weekly rate for the number of weeks the law has set. Compensation for a partial loss of use is calculated by multiplying the percentage of loss by the number of weeks listed.

Alternately, if the disability imposes certain limitations on an employee, he or she may be entitled to the percentage of 500 weeks that the partial disability bears to total disability.

3. *How are disabilities not listed on the chart compensated?*

An employee who sustains a permanent injury or impairment to parts of the body not listed in the chart is entitled to the percentage of 500 weeks that the partial disability bears to total disability.

4. *Is a work-related loss of hearing compensable?*

The benefits for hearing loss due to an accident or a trauma are detailed on the chart.

Hearing loss due to exposure to continuous noise on the job may also be compensable. An employee who has been exposed to noise levels specified in the law for enough time to cause a loss of hearing may be entitled to benefits. The method of rating the loss is provided in the law.

5. *How is the weekly PPD benefit determined?*

The benefit is 60% of the employee's gross average weekly wage, subject to certain limits.

6. *What is the minimum PPD benefit?*

The benefit is the gross average weekly wage actually earned by the employee in the year before the injury or exposure, or one of the following amounts, whichever is lower.

| | |
|-----------------------|--------------|
| Single person | \$80.90/week |
| Married, no children | 83.20/week |
| One child | 86.10/week |
| Two children | 88.90/week |
| Three children | 91.80/week |
| Four or more children | 96.90/week |

7. *What is the maximum PPD benefit?*

The maximum benefit is calculated using a formula established by law and published by the Industrial Commission. The rate is based on rate of increase in the statewide average wage.

The maximum benefit is 60% of the employee's average weekly wage, or the published maximum PPD rate, whichever is lower.

8. *What if an injury causes a disfigurement?*

An employee who suffers a serious and permanent disfigurement to the hand, head, face, neck, arms, legs below the knee, or chest above the armpits as a result of a job-related injury is entitled to benefits for up to 150 weeks at the PPD rate.

An employee may not collect compensation for disfigurement and PPD benefits for the same body part.

Unless a settlement has been reached at an earlier date, the employee must wait at least six months from the day of injury for a hearing to determine if a disfigurement resulting from the accident is serious and permanent.

9. *What if an employee cannot return to the same occupation after an injury or exposure and cannot earn as much money?*

The employee may be entitled to receive a wage differential. The wage differential is two-thirds of the difference between the amount the injured worker is able to earn and the amount he or she would be earning in the occupation in which the employee worked at the time of the accident.

An employee may be compensated for either the loss of wages or a permanent disability related to the same injury or exposure.

**Permanent Partial Disability Benefits
For 100% Loss of Use**

| <u>Body part</u> | <u>Weeks Paid</u> |
|---|----------------------|
| The thumb | 70 |
| The 1st (or index) finger | 40 |
| The 2nd finger | 35 |
| The 3rd finger | 25 |
| The 4th finger | 20 |
| | |
| The great toe | 35 |
| Each other toe | 12 |
| The hand | 190 |
| The arm | 235 |
| The foot | 155 |
| | |
| The leg | 200 |
| The loss of one testicle | 50 |
| The loss of both testicles | 150 |
| The sight of one eye | 150 |
| The removal of one eye | 160 |
| | |
| <i>The hearing of one ear:</i> | |
| Due to an accident or trauma | 50 |
| Due to an occupational disease | 100 |
| The hearing of both ears | 200 |
| | |
| <i>Fractures resulting in permanent disability:</i> | <u>Not less than</u> |
| Skull fracture | 6 |
| Fracture of a facial bone | 2 |
| Fracture of a vertebra | 6 |
| Fracture of a spine or transverse process | 3 |
| Removal of a kidney, spleen or lung | 10 |

Loss of a part of the thumb, finger or toe up to the first joint from the tip is considered loss of one-half the digit, e.g., 35 weeks for half a thumb. Loss beyond the first joint is considered 100% loss of the digit.

If an arm is amputated above the elbow, the employee is entitled to 250 weeks of compensation. If an arm is amputated at the shoulder joint and no artificial arm can be used, the employee is entitled to 300 weeks of compensation.

If a leg is amputated above the knee, the employee is entitled to 225 weeks. If a leg is amputated at the hip joint and no artificial leg can be used, the employee is entitled to 275 weeks of compensation.

Section 3

Permanent Total Disability (PTD) Benefits

A permanent total disability is defined as a complete disability which renders the employee permanently unable to do any kind of work for which there is a reasonably stable employment market;

OR

The loss of use of both hands, both arms, both feet, both legs, both eyes, or any two such parts, e.g., one leg and one arm.

1. *How long is the PTD benefit paid?*

An employee who is permanently and totally disabled is entitled to benefits for life.

If an employee who has been assigned PTD benefits returns to work or is able to return to work, benefits may be terminated or modified.

2. *How is the PTD benefit determined?*

The benefit is two-thirds (66 2/3%) of the employee's gross average weekly wage. The average is based on the employee's wages during the year before the injury or exposure, subject to certain limits.

PTD recipients are also entitled to additional payments four times a year, beginning in the second year after the award, which reflects the increase in the statewide average weekly wage during the preceding year. These payments are made from the Rate Adjustment Fund, administered by the Industrial Commission.

3. *What is the minimum PTD benefit?*

The weekly benefit cannot be less than 50% of the statewide average weekly wage at the time of the injury or last exposure.

4. *What is the maximum PTD benefit?*

The maximum benefit can be no more than 133 1/3% of the statewide average weekly wage at the time of the injury or last exposure

Section 4 Survivors' Benefits

1. *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.

If the spouse remarries and there are no children at the time of remarriage who are entitled to benefits, the spouse is entitled to a final lump sum payment equal to two years of compensation. All rights to further benefits are extinguished.

In cases where there is no eligible spouse, child or totally dependent parent, benefits may be paid to other survivors, such as partially dependent children, parents, grandparents, grandchildren or other heirs who were at least 50% dependent on the employee. The benefit for such individuals will depend on the degree of their dependency.

2. *How is the amount of the survivors' benefit determined?*

The benefit is two-thirds (66 2/3%) of the employee's gross average weekly wage. The average is based on the employee's wages during the year before the injury or exposure, subject to certain limits.

In addition, beneficiaries who have been awarded a survivors' benefit are entitled to payments from the Rate Adjustment Fund in the same manner as those awarded permanent and total disability benefits.

3. *What is the minimum survivors' benefit?*

Subject to reductions for partially dependent individuals, the weekly benefit cannot be less than 50% of the statewide average weekly wage.

4. *What is the maximum survivors' benefit?*

The maximum benefit can be no more than 133 1/3% of the statewide average weekly wage at the time of the injury or last exposure

5. *Is there a limit to the total amount payable for a survivors' benefit?*

Yes. The survivors' benefit is limited to 20 years of weekly benefits or \$250,000, whichever is more.

Chapter 5

Claims, Settlements and the Hearing Process

1. *What are the time limits within which an employee must file a claim at the Industrial Commission?*

Unless otherwise noted below, a claim must be filed within three years after an injury or disablement from an occupational disease, or within two years following the last workers' compensation payment, whichever is later.

For pneumoconiosis, the employee has five years from the date of last exposure or the last payment to file a claim. For radiation or asbestos exposure, the employee has 25 years after the date of last exposure to file a claim.

If death is caused by the injury or occupational disease, the claim must be filed with the Industrial Commission within three years of the death, within two years of the date of last compensation payment under the Workers' Compensation Act, or within three years of the date of last compensation payment under the Occupational Diseases Act, whichever is later.

Payment of medical bills is *not* considered payment of compensation for purposes of increasing the time within which an employee may file a claim.

Unless an occupational disease causes a disablement within two years of the date of last exposure to the hazards of the disease, in most cases, no compensation is payable. For berylliosis or diseases caused by the inhalation of silica or asbestos dust, disablement must occur within three years from the date of last exposure to be compensable.

Failure to file a claim within the time provided by law generally results in a loss of benefits.

2. *Must an employee file a claim with the Industrial Commission to receive benefits?*

It is not mandatory. Employees who are not receiving all the benefits provided by law, however, should file a claim.

Employees who are receiving benefits but are concerned about protecting their rights to receive future medical care and compensation for disability should file. All claims must be filed within the time limits prescribed by law.

The filing of a fraudulent claim may subject an employee to a penalty under Illinois law.

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

By accepting payment of workers' compensation benefits and medical benefits, an employee does 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 the employee's rights.

In order to close out an employee's rights, a settlement must be written on the pink form called "Settlement Contract Lump Sum Petition and Order" provided by the Industrial Commission. The Industrial Commission must approve the settlement before an employee's rights are terminated.

If a dispute arises regarding the amount of compensation due an employee, the employee has at least two years from the date of the last voluntary workers' compensation payment to file a claim with the Industrial Commission.

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 Industrial Commission after some compensation benefits have been paid, the employer still has the right to contest its liability to pay any compensation at all.

4. *What if an employee does not receive the benefits provided by law?*

The employee may contact the employer or the employer's representative directly. Failure to communicate may result in confusion or misunderstanding.

The employer and employee may also contact the Industrial Commission for more information. If a dispute remains unresolved, a claim should be filed with the Industrial Commission.

5. *What should the employee and employer know about retaining an attorney?*

Both the employer and the employee may retain legal counsel, and frequently do. If an attorney is retained by the employee, the law sets the following requirements:

The attorney's fee must be stated on the "Attorney Representation Agreement" form, signed by the employee (or in death cases, by the beneficiaries) and approved by the Industrial Commission.

The attorney's fee is limited to 20% of the amount of compensation recovered, unless additional fees are allowed by the Commission after a hearing.

In death, partial and total disability cases, the amount of the attorney's fee shall not exceed 20% of benefits payable for 364 weeks, unless additional fees are allowed by the Commission.

Attorneys shall not charge a fee on TTD benefits unless the employer fails to pay these benefits in a timely manner or in the proper amount; or unless the employer stops paying such benefits, and payments are obtained or reinstated through the efforts of the attorney.

Attorneys shall not charge a fee on amounts paid for undisputed medical expenses. Attorneys shall not be paid if the amount of compensation obtained does not exceed an amount offered to the employee in writing before hiring an attorney.

6. *May the parties settle a claim for compensation benefits?*

Yes, claims may be settled between the employer and the employee directly or through their representatives, provided the settlements are approved by the Industrial Commission.

7. *What should the employee and employer know about settlements?*

A lump sum settlement is a contract between the employee and the employer to close a claim in exchange for an agreed-upon amount of compensation and medical services.

Cases in which the employer denies liability or disputes the amount of compensation are often settled by lump sum settlements. By settling such cases, the employee avoids the risk of getting no compensation or less than is provided in the settlement, and the employer avoids the risk of paying more than is provided in the settlement.

Unless they provide otherwise, approved settlement agreements usually close out the employee's rights to future medical benefits, vocational rehabilitation and additional compensation payments, even if the employee's condition worsens. Any right that is not supposed to be extinguished by the settlement should be expressly reserved in writing in the settlement agreement.

An employee who is not represented by an attorney must appear in person before a representative of the Industrial Commission, who will review the settlement and insure the employee understands its effect, before approval is granted.

Any settlement contract made within seven days of the injury is presumed to be fraudulent.

Settlements that are made without Industrial Commission approval do not close out the employee's rights under the law. In such cases, the time an employee may file a claim with the Industrial Commission is extended indefinitely.

8. *How are claims presented to the Industrial Commission?*

Three copies of the “Application for Adjustment of Claim” form must be filed with the Industrial Commission, along with a proof of service certificate stating that a copy of the application was served on the employer by mail or personal delivery. There is no fee for the forms or for filing the claim.

9. *Who presides over workers’ compensation claims?*

An arbitrator appointed by the Industrial Commission acts as fact-finder and judge, conducts the hearing, and decides on the amount of benefits to which the employee is entitled. The hearing is conducted according to the *Rules Governing Practice Before the Industrial Commission*. Copies are available without charge from the Industrial Commission.

10. *Is it possible to appeal the arbitrator’s decision?*

Yes. The employee and the employer both have the right to appeal a decision if dissatisfied. After reviewing summaries of the facts and law involved in the case and sometimes, after hearing oral arguments, the Commission will issue an opinion.

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.

11. *Is there a way to get a expedited hearing?*

Yes. An employee who claims to be unable to work as the result of an injury or exposure and who is not receiving TTD or medical benefits may file a petition for an expedited hearing under Section 19(b-1) of the law. Forms are available from the Industrial Commission.

12. *Is there any other method for resolving disputed claims?*

Yes. If the only disputed issues are TTD, PPD or medical expenses, the parties may agree to voluntary arbitration. By doing so, they submit their case to an arbitrator and waive their rights to review by the Commission. The arbitrator's findings of fact are final; only questions of law may be appealed to the Circuit Court.

Under this procedure, the parties submit a completed form requesting voluntary arbitration, and select an arbitrator from a list of five arbitrators provided by the Commission. If they cannot agree on an arbitrator, they may select one from the American Arbitration Association.

13. *Do the employer and employee have additional rights after an award provided by the Industrial Commission has been or is being paid?*

Yes, if an award is paid in installments and there has been no lump sum settlement contract approved by the Industrial Commission, an employee may be entitled to the following:

- A. Additional medical, surgical or hospital services reasonably required to cure or relieve the effects of the injury or disease. These benefits are available for life, but the need for these services must be connected to the work-related injury or disease.

The expenses must be reasonable and necessary. If the employer does not agree to the expenses, the employee may file a petition asking the Commission to decide the disputed issues.

- B. If within 30 months after the award an employee can show that the disability resulting from the job-related injury or illness has increased or recurred, a petition for additional compensation benefits may be filed.

- C. If within 30 months after the award an employer can show that the disability resulting from the job-related injury or illness has decreased or has ended, a petition for a reduction in compensation benefits may be filed.
- D. If the Industrial Commission has entered an award for permanent and total disability in a case that does not involve the complete loss or loss of use of two major body members and the employer can show that the employee is no longer totally disabled, the employer may petition the Commission for an order terminating the PTD payments to the employee.

If you still have questions, please call the Industrial Commission at any of the local offices listed in this handbook.

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