

# Health Notes

## NYS Worker's Compensation

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In 1914, the New York State Workman's Compensation law was put into effect. Before the enactment of the Worker's Compensation Law, the only recourse an employee had when injured on the job was to sue his/her employer. Even at the turn of the century, the court calendars were crowded, and often it took years before a trial took place.

The employee was responsible for all the court costs while the case proceeded. Many employers would raise objections during this phase. Commonly the objections accused the worker or a co-worker of negligence or that the employee had assumed the risk of employment. Even if the worker won the decision, there was no guarantee that the employer would be required to pay. Out of any damages collected, the injured worker's lawyer could demand up to 50% of the recovered amount, plus paying for all their own medical expenses.

The original law only applied to 42 hazardous employments. For the first time, employers were held liable without regard to fault. The employer had two exemptions of liability, injury of an intoxicated worker or willful intent of the injured worker. In the ninety years since the first New York State Compensation Law was established many changes have occurred. The present law has a number of time limitations that when not followed appropriately can result in a loss of rights or benefits. The intent of the law remains the same for an injured employee to have medical care paid for and payment or compensation for lost wages.

Our state compensation law requires that every employer with one or more employees must provide worker's compensation insurance for the worker. There are legal procedures that come into play when this coverage is not provided.

Injured workers (referred to as claimants) pursuing benefits are not required to retain an attorney. If an attorney is obtained, there is no out-of-pocket expense for this legal representation. Only when an award is granted will the attorney receive a fee from that award. Legal representation is often recommended when a signifi-

cant injury or an extended period of disability is experienced by the claimant. Worker's Compensation law has unique guidelines and is usually practiced by attorneys specializing in this field.

In the nearly 20 years I have treated patients in the N.Y. State Compensation system, I have seen first hand, the good and bad in this system. Many documented studies have supported my observations. Happy and content workers return to work quicker. Psychological factors greatly influence the healing of any injury or condition.

Several years ago, the major insurance company, Liberty Mutual, reported that about 5% of compensation claims were fraudulent. This number shocked the industry because they believed the number to be higher.

The majority of employers want their injured workers to get well. They want their people on the job. More money is spent in lost productivity than in disability or medical payments.

Time is money! The quicker a worker is 100%, the better the employer likes it. Productivity is restored and the employee can generate more money. The longer an insurance company can delay payment, the longer they get to keep the money. The insurance companies have creative ways to hold onto payments.

Not all injuries are permanent! The majority of injuries resolve quickly and are not lifelong conditions. Most frequently, these injured workers move through the system easily without much fanfare. Unfortunately, the permanently injured worker who needs help the most, is the claimant who often experiences the worst the compensation system has to offer.

While the N.Y. State Worker's Compensation Law is cumbersome and confusing to understand, there are clauses within the law that protect all interested parties. All employers and workers should be familiar with the NY State Worker's Compensation System before there is a claim.

If you need any information regarding this topic, contact us; we will do what we can to help. We have helped both injured workers and employers. 

**"Plan your work for today and every day, then work your plan."**

*Norman Vincent Peale*

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