**Frequently Asked Questions about Indiana**

**Worker’s Compensation Benefits**

**Reporting a Worker’s Compensation Claim**

 **Q. Who should I talk to in order to report a work-related injury?**

 **A.** You should report a work-related injury to your employer as soon as possible after it occurs, preferably in writing.

**Q. What should I do if my employer does not have worker’s compensation insurance?**

**A.** You should contact the Indiana Worker’s Compensation Board (“Board”) to determine whether or not your employer has worker’s compensation insurance. The Indiana Worker’s Compensation (“Act”) allows the Board to assess penalties against any employer who does not have worker’s compensation insurance, including double the amount of compensation due.

**Q. What should I do if my employer refuses to let me file a worker’s compensation claim?**

**A.** You should contact the Ombudsman Division of the Board for assistance. Their phone number is (317) 232-3808.

**Q. How long does my employer have to decide if it will accept my worker’s compensation claim?**

**A.** From the date that you report your claim, your employer has 30 days to investigate it and is then required to notify you of whether it will approve or deny your claim. Your employer can file a request with the Board for a 30 day extension of time to investigate your claim.

**Q. If I was hired in Indiana but I am hurt while working in another state, where do I file my worker’s compensation claim?**

**A.** You can file your worker’s compensation claim in Indiana. However, you should find out if the state in which you were injured offers better worker’s compensation benefits than Indiana offers.

**Q. Can I be denied worker’s compensation benefits if I fail a drug or alcohol test?**

 **A:** If your injury is caused by intoxication from alcohol or drug use, you may be denied worker’s compensation benefits.

**Compensability of a Worker’s Compensation Claim**

**Q. Am I covered by worker’s compensation if I am in an accident on my way to work or while I am returning home from work?**

**A:** No, unless you are traveling on business for your employer.

**Q. What happens if I have an accident at work and it aggravates a prior personal injury?**

**A.** An aggravation of a prior personal injury by a new, work-related accident is compensable.

**Q.  Am I entitled to worker’s compensation benefits if a co-worker intentionally injures me?**
**A:** Yes, so long as you did not engage in conduct that contributed to your injury.

**Q. Am I entitled to workers compensation benefits for an emotional injury caused by harassment at work?**

**A.** Yes.

**Q. Can I get worker’s compensation benefits if I am a temporary employee?**

**A.** Yes. If you are working at an employer and are paid by a temporary employment agency, both the agency and the employer you are working for would be liable.

**Q. Am I covered by worker’s compensation if I am under 18 years old?**

 **A.** Yes and if your employment was in violation of Indiana labor laws covering minors, you may also be entitled to double compensation.

**Q. Am I entitled to worker’s compensation benefits if I contract an illness as a result of a work-related exposure?**

**A.** Yes, under Indiana’s Occupational Disease Act, which is substantially the same as Indiana’s Workers’ Compensation Act.

**Q. Can I get worker’s compensation benefits if I am a federal employee?**

**A.** Not under Indiana law, but you can get them under the Federal Employee’s Compensation Act (“FECA”).

**Medical Benefits**

**Q. Can I change doctors if I don’t like the one my employer selects for me?**

**A.** No. If you obtain treatment from a doctor not selected by your employer, the medical expenses you incur will be your responsibility.

**Q. Do I have to let my nurse case manager attend my medical appointments?**

**A.** You can request that the nurse case manager not be present during your examination by the doctor. After the examination, the nurse case manager may discuss your examination with the doctor.

**Q. What can happen if I miss a medical appointment set up by my employer?**

A. Your medical benefits could be terminated, so it is best not to skip an appointment.

**Q. Am I entitled to pay for missing work to go to a medical appointment for my work-related injury?**

**A.** Yes, you are entitled to pay for time lost based on your average daily wage, which is probably 1/7 of your average weekly wage up to the statutory maximum.

**Q. Am I entitled to mileage expenses for going to a medical appointment for my work-related injury?**

**A.** Yes, if the doctor selected by your employer is located outside of the county where you worked.

**Q. How do I get to my medical appointments if I cannot drive?**

**A.** The worker’s compensation carrier will be responsible for providing you with transportation to and from your medical appointments.

**Q. What benefits am I entitled to if I sustain an additional injury as a result of medical treatment for my work-related injury?**

 **A.** A new injury which is caused by the medical treatment provided by your employer will be treated as part of your worker’s compensation claim.

**Q. Do I have to let my employer or its worker’s compensation insurance carrier see my medical records?**

**A.** Yes.

**Q. Am I responsible for bills for medical care directed by my employer?**

**A.** No.Also, be sure not to sign any forms agreeing to pay for medical treatment if your employer or its worker’s compensation carrier does not pay.

**Q. Can I get a second opinion on my need for additional medical treatment if the treating physician selected by my employer has released me to go back to work?**

**A.** Yes, but you have to pay for it unless you are eligible for a Board-sponsored Independent Medical Examination (“IME”).

**Q. How do I request a Board IME?**

**A.** When you receive a Form 38911 (Report of Claim Status/Request for Independent Medical Examination) from your employer or its worker’s compensation insurance carrier, check the boxes indicating that you disagree with the benefit termination and are requesting an IME. You have to return the signed request to the employer or its workers compensation carrier and to the Board within seven (7) days of the date you received the Form 38911.

**Q. Who pays for the Board’s IME?**

 **A.** Your employer.

**Temporary Total Disability Benefits**

**Q. How will my Temporary Total Disability (TTD) benefits be calculated?**

**A.** Your earnings, including any overtime for the year prior to your injury, will be divided by the number of weeks that you worked for your employer over the 52 weeks prior to your injury.

**Q. How often will my TTD benefits be paid out?**

**A.** Weekly or biweekly.

**Q. Will my TTD benefits increase if my wage rate increases while I am on TTD?**

**A.** No.

**Q. How long can I receive TTD benefits?**

**A.** You can receive them until you reach maximum medical improvement (for up to 500 weeks), but your employer gets a credit to use against any Permanent Partial Impairment (“PPI”) award you receive for TTD paid in excess of 125 weeks.

**Q. Are TTD benefits taxable?**

**A.** No.

**Q. If I return to work on light duty at a pay rate less than my regular pay, am I entitled to any worker’s compensation benefits?**

**A.** You would be entitled to temporary partial disability benefits of 2/3 of the difference between your pre-injury pay rate (subject to the statutory maximum) and the lower rate you receive for light duty work.

**Q. Can I receive unemployment benefits and TTD benefits at the same time?**

**A.** No.

**Permanent Partial Impairment, Permanent Total Disability, Second Injury Fund and Death Benefits**

**Q. What will my PPI rating be based on?**

**A.** It will be based on a loss of or loss of use of a part of your body, which is a medical determination.

**Q. Can I get a second opinion on my PPI rating?**

**A:** Yes, but you will have to pay for it.

**Q. How will my PPI benefits paid be out?**

 **A.** A PPI settlement is usually paid in a lump sum. However, your employer can pay it out weekly at your TTD rate, starting on the date of your injury.

**Q. Am I entitled to any additional PPI benefits if I suffered an amputation of a part of my body?**

**A.** You are entitled to double PPI benefits which you would otherwise receive.

**Q. Can I get PPI benefits for burns or scars I received as a result of a work injury?**

**A.** Yes, but only if the burns or scars interfere with your ability to obtain employment.

**Q. If I accept PPI benefits and my medical condition gets worse, can I re-open my claim?**

**A.** Yes, if your medical condition worsens, you may re-open your case by filing an application for change of condition with the Board within two (2) years from the last date on which you received compensation.

**Q. Are PPI benefits taxable?**

**A.** No.

**Q. How do I qualify for Permanent Total Disability (PTD) benefits?**

**A.**  If you are unable to do *any* type of work as a result of your injury, you may qualify for PTD benefits.

**Q. Who is responsible for paying my medical expenses after my PTD benefits end?**

**A.** Your employer, so long as there is a Board award directing your employer to continue to pay for medical benefits.

**Q. Am I entitled to any additional worker’s compensation benefits after my PTD benefits end?**

 **A.** If you have received TTD payments for 500 weeks and are still permanently totally disabled, you should be eligible for ongoing benefits at your TTD rate from Indiana’s Second Injury Fund.

**Q. How are Second Injury Fund benefits paid out?**

**A.** They are paid out over periods of 150 weeks at a time. You will have to re-apply ever 150 weeks to continue receiving benefits.

**Q. What benefits is the family of an employee who died as a result of a work-related accident entitled to?**

**A.** If the employee who died had no dependents, the employer is responsible for any death-related medical expenses and up to $7,500.00 of the burial expenses. If an employee who died had dependents, the maximum death benefit is 500 weeks of compensation at the employee’s TTD rate.

**Employment-Related Issues**

**Q. What should I do if my employer does not follow my treating physician’s work restrictions while I am still recovering from my work-related injury?**

**A.** Tell the doctor who gave you the restrictions that your employer is not honoring the doctor’s restrictions and ask the doctor to take you off work completely.

**Q. If I quit my job, will I still be eligible to receive worker’s compensation benefits?**

**A.** You will still be eligible for medical benefits, but you may lose TTD benefits if you had been doing light duty work.

**Q. Can my employer fire me for filing a worker’s compensation claim?**

**A.** No. In this situation you can file a civil lawsuit against your employer.

**Q. Can my employer put me under surveillance while I am off work recovering from my work-related injury?**

 **A.** It is legal for your employer to use surveillance as part of its investigation of your worker’s compensation claim.

**Q. What happens if I refuse light duty work while I am recovering from my work-related injury?**

**A.** If you choose not to do light duty work, you may lose your TTD benefits.

**Q. Can I qualify for Family Medical Leave Act (“FMLA”) benefits if I am off work because of a work-related injury?**

**A.** Yes, if your place of employment has at least 50 employees, you have worked there for at least 12 months and you have worked at least 1,250 hours for your employer within the last year.

**Q. Will the FMLA protect my job while I am off work recovering from a work-related injury?**
**A.** Yes, but only for 12 weeks.

**Q. After I am released by my treating physician, does my employer have to give me a job that meets my permanent medical restrictions?**

**A.** Not under the Act. However, if you are fired because your employer refuses to accommodate your permanent restriction, you can file a disability discrimination claim with the EEOC under the federal Americans with Disabilities Act.

**Lien Issues**

**Q. If my group health insurance company, Medicaid or Medicare pays medical bills for my work-related injury, do they have a lien on my worker’s compensation settlement?**

**A.** Yes.

**Q. If I receive short term disability (STD) or long term disability (LTD) benefits as a result of my work-related injury, does the STD or LTD carrier have a lien on my worker’s compensation settlement?**

**A.** Yes.

**Q. If I am eligible for Medicare, will Medicare pay for medical bills for treatment of my work-related injury in the future if I settle my worker’s compensation case?**

**A.** Yes, so long as your settlement complies with Medicare’s set-aside process.

**Worker’s Compensation Claims – Legal Process**

**Q. Who decides worker’s compensation cases?**

**A.** A Single Hearing Member of the Board decides individual cases.

**Q. Where are worker’s compensation hearings held?**

**A.** Hearings are held in various Indiana counties throughout the year. Your hearing will likely be in the county where the injury occurred or in a nearby county.

**Q. Can I appeal a Board decision against me?**

**A.** Yes, you can appeal the decision of a Single Hearing Board Member to the full Board.