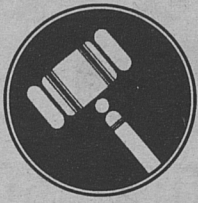


LEGAL



BRIEFS

Workers Compensation: 101

BY SUSAN MURRAY AND BETH ROBINSON

This month we depart somewhat from our typical format to discuss legal issues that are by no means unique to the GLBTQ community. We frequently represent clients who have been injured in the course of their work. Often, employees don't receive all of the benefits to which they are entitled because they simply aren't aware of their rights. Although your best bet if you have any questions about your workers' compensation claim is to contact a lawyer, we thought a brief primer on workers' compensation law would be helpful.

What am I entitled to if I am injured on the job?

Medical Expenses: Your employer (or your employer's insurance carrier) should pay for your medical expenses. This includes doctors' bills, physical therapy costs, prescription medications, and also compensation for mileage to and from medical appointments to the extent that it exceeds your round trip distance to work.

Temporary Disability Benefits: If you miss more than three days of work due to your injury, you are entitled to temporary total disability benefits. Those generally equal about two-thirds of your average weekly wage prior to your injury, plus an additional sum if you have dependents. If you are not completely unable to work, but your injuries prevent you from working at your pre-injury level, then you may be entitled to temporary partial disability benefits rather than temporary total disability benefits. Temporary disability benefits continue until you are able to return to work at your prior earning level, or your medical condition has improved as much as it is going to improve (called a 'medical end'), whichever comes first.

Vocational Rehabilitation: If your injury prevents you from returning to your old job, and you don't have the training or education to get a job that is comparable in terms of pay and benefits, you may be entitled to some vocational assistance.

Permanent Disability Benefits: Once you reach a medical end,

you are entitled to further compensation for any residual permanent impairment you may have suffered. At that point, you will need to see a doctor for a 'permanent impairment rating,' which is a numerical quantification, based on tables and guidelines published by the American Medical Association, of the degree to which your body is permanently impaired as a result of your work injury. That numerical impairment rating then translates into a specified amount of money.

What should I do if I am injured on the job?

You should immediately report the injury to your employer, and seek medical attention as soon as practical. One of the most frequent reasons employers deny workers' compensation coverage is that they deny that the injury actually happened at work. If you report the injury promptly, and seek medical care right away, you can minimize the risk that your employer will later deny that you were injured on the job. (You should make sure your physician knows that you were injured at work as well, since doctors' records typically note whether an injury is a work injury.)

Within three days of notice of the injury, your employer should file a report of the injury with the Department of Labor and Industry, copying you, and within 21 days you should generally get your benefits or a formal denial of your claim. If your employer does not promptly file a notice of injury with the Department of Labor and Industry, you should contact the Worker's Compensation Division of the Department yourself to get the forms to file your own notice. (The number is 828-2286.)

What if I disagree with my employer's position?

If a dispute arises, it would be well worth your time and, in some cases, money, to consult with a lawyer familiar with workers' compensation cases.

In any event, many of the questions that arise in workers' compensation cases— including whether you have reached a medical end result, whether you are temporarily partially or totally disabled from work, whether your injury was caused by your

work (most common in cases of repetitive stress injury), whether a particular course of treatment is reasonable and necessary, and how much permanent impairment, if any, you have suffered—ultimately turn on medical determinations. If the carrier obtains a medical opinion supporting its position on one of these issues, you should consider obtaining an independent opinion of your own. You may discover that the insurer is right, or you may find that your chosen physician disagrees. The insurance company has to pay for you to obtain an independent medical examination on such issues, so you should confirm in advance with the carrier that it will pay for the examination and report so that you aren't stuck footing the bill.

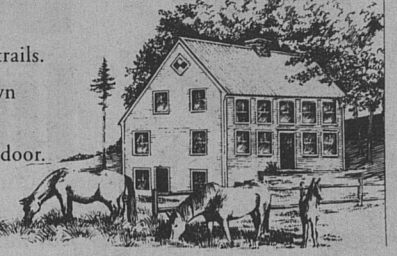
If your chosen physician's opinion conflicts with your employer's, you may need to have a hearing at the Department of Labor and Industry. The first step is to contact the Department of Labor and Industry to request an informal conference to talk about the case. The Department may be able to resolve the matter quickly, or may assign you to the formal hearing docket and strongly urge you to retain counsel.

Susan Murray and Beth Robinson are attorneys at Langrock Sperry & Wool in Middlebury whose practices include general commercial and civil litigation, employment, family, estate, personal injury and worker's compensation cases. If you'd like our column to cover a particular legal issue of interest to our community, please write OITM or call us at 388-6356.

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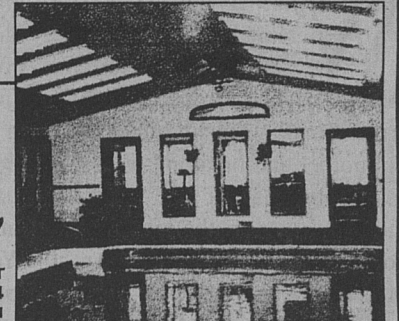
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