

A GUIDE TO

Workers' Compensation

**We help put lives
back together.**



POND LEHOCKY

800.568.7500 | PONDLEHOCKY.COM

Workers' Compensation

can be a confusing process, but Pond Lehocky will guide you along every step of the way.

What to Know

At Pond Lehocky, we are honored to represent you during this difficult time in your life. Filing a workers' compensation claim can be a complicated and slow process. Rest assured, we are fighting for you each and every day.

WHAT IS WORKERS' COMPENSATION?

The Pennsylvania Workers' Compensation Act was created for workers injured on the job or those who develop a work-related illness that prevents them from working.

Benefits include wage-loss compensation and paid medical expenses. These benefits are generally paid through a private insurance company, the State Workers' Insurance Fund or by self-insured employers. Employers in Pennsylvania are required to maintain workers' compensation insurance.

I WAS INJURED AT WORK. WHAT NOW?

It is crucial to report your injury to your supervisor or employer immediately.

Job-related illnesses such as mesothelioma, and repetitive trauma injuries that occur over time, like carpal tunnel syndrome, must be reported as soon as a diagnosis has been obtained and you learn that the injury or condition is related to your employment.

Most importantly, see your own doctor. Whoever controls medical care controls your destiny.

WHY DO I NEED AN ATTORNEY?

A workers' compensation attorney can help you navigate the difficult process of dealing with the insurance company, which often provides you with little, incorrect or conflicting information.

You are permitted to represent yourself in court and in front of a judge. However, this is ill-advised because the employer and its insurance company are represented by an experienced workers' compensation lawyer, putting you at a severe disadvantage, delaying your access to benefits.

HOW CAN I AFFORD AN ATTORNEY?

There is no fee unless we win your case.

- All consultations are free.
- In Pennsylvania, you only pay up to 20 percent of your benefits if you win or settle your case, and all attorney fees must be approved by a judge.
- If we are not successful in winning your case, **you are not charged a fee.**

WHAT IF I'M ALREADY RECEIVING WORKERS' COMPENSATION BENEFITS?

You should still consult with an attorney even if you are already receiving workers' compensation benefits.

An attorney who specializes in workers' compensation matters can review your work history to determine if you are receiving the correct benefits. Our attorneys can also defend against any challenges to your medical treatment

by the insurance company. Such challenges may limit your access to treatment altogether. Also, if your medical treatment is not being paid by the insurance company, an attorney can take the carrier to court to force payment. We have successful attorneys and medical teams to help you every step of the way.

HOW LONG DO I HAVE TO FILE FOR COMPENSATION AFTER AN INJURY?

If you inform your employer of your injury within 120 days, you can be awarded benefits as of the date of your injury. Between 21 and 120 days, you can only be awarded benefits as of the date you report your injury.

Keep in mind that there may be some circumstances in which you are not even aware you are injured, such as a repetitive trauma injury. In these instances, it is important to report your condition as soon as your doctor gives you a diagnosis and relates it to your employment. The carrier has 21 days to accept or deny your claim.

WHAT IS A DME?

DME stands for Defense Medical Examination.

When you file a workers' compensation claim against your employer, expect to get a medical exam. The employer/insurance company is entitled to one DME every six months for every injury. The issue with these examinations is that the doctors are hired and paid by the insurance company, so their reports are often in favor of the insurance company. If you receive a request from the insurance carrier to attend a medical exam, contact us immediately at 800-568-7500.

What to Expect

AT THE FIRST MEETING WITH YOUR ATTORNEY

- Bring copies of your medical records, insurance documents and pay stubs. You need them to fill out necessary paperwork.
- Your attorney reviews with you the timeline of your work injury and discusses a strategy to obtain the best possible result for your case.

YOUR ATTORNEY'S TEAM

- **Paralegal** - prepares for hearings, schedules mediations and reviews decisions and important legal documents.
- **Secretary** - files petitions, reviews daily mail and handles incoming phone calls.
- **Assistant** - gathers all necessary medical records, handles medical billing issues and schedules depositions.

KEEP YOUR TEAM UPDATED

Please keep us informed of any forms that you receive from the insurance company or your employer so that we can advise you on your next steps and timelines, as some of these forms are time-sensitive. Also, please keep us updated on any changes in your medical care.

MEDICAL TREATMENT

Without a strong medical opinion, you are at a disadvantage. Pond Lehocky has an on-staff medical team dedicated to getting you to the right doctors at the most convenient locations.

Our medical team handles all scheduling and follow-up of your appointments. The insurance company should not have control over your

treatment. We want your medical treatment to be in the best possible hands.

THE RIGHT TO SEE YOUR OWN DOCTOR: THE 90-DAY RULE

Under very limited circumstances, you may be required to treat with a panel doctor for 90 days.

The 90-Day Rule gives employers the right to establish a list of the designated health care providers (also known as a “panel” or “panel doctors”).

90-Day Rule Guidelines:

- Your employer must provide a written notice to you of your rights and responsibilities.
- You must sign the notice at the time of hire, whenever changes are made to the list, as well as at the time of the injury.
- The list must contain at least six providers and three of the six providers must be physicians.
- Providers must be geographically accessible.
- Providers must contain specialties appropriate for your anticipated work-related medical issues.
- If a particular specialty is provided on the list you are given, and that specialty care is reasonable and necessary for treatment of your work injury, you will be allowed to treat with a health care provider of your choosing.
- At the end of the 90-day period, or when you are discharged from the care of the panel doctor, you can treat with a doctor of your choice.

Important to note:

Even if the above requirements are met by the

employer/insurance company, you are still free to go off panel if you wish as long as you pay for the medical provider's services out of pocket or the medical provider wishes to see you *gratis* for the first few visits. [If the above conditions do not exist, you are free to treat with your own doctor from day one.](#)

Important Information

You may come across many new terms and practices unfamiliar to you. In this section, you can find information about common procedures and definitions for these terms.

DEPOSITION TESTIMONY

Testimony can be taken by deposition, which is when you testify outside of court and under oath. Workers' compensation often involves medical issues. Since doctors are very busy, we usually take their depositions in their offices. We can't control the schedules of doctors or other attorneys, but that won't stop us from fast, effective defense of your case.

HEARINGS

Whenever you receive a notice of a hearing, you should always call your attorney to see if you need to be at that hearing. Workers' compensation hearings are usually held in the county where the injured worker resides. Many times, your presence is not required, and our attorneys will fight on your behalf.

Litigating a workers' compensation case from start to finish could take anywhere from 90 days to 18 months. At the first hearing, the

workers' compensation judge must set forth a mandatory trial schedule. The trial schedule will include specific dates and times for a mediation conference and a final hearing.

MEDIATION

This is an attempt to settle your case. Your attorney and the employer/insurer's attorney will meet with a judge in an attempt to agree to a settlement. Please note: not all mediations lead to settlements.

SETTLEMENTS

Under Pennsylvania Workers' Compensation Act, you may be able to settle with the insurance company for a lump sum.

It is a one-time payment that can replace your weekly workers' compensation checks, medical bill payments or both. If you are receiving Social Security disability benefits, a settlement may result in an increase of those benefits. To learn more, call us at 800-568-7500.

DECIDING YOUR CASE

Workers' compensation cases are heard and decided by a judge.

Once the hearing process ends, the briefing process begins. Here the judge gives each party a timeline to submit documents in support of their case. The judge reviews these documents and briefs, along with all of the evidence on the record, and then issues a decision, which is mailed to each party.

AVERAGE WEEKLY WAGE (AWW)

Injured workers are entitled to indemnity (wage-loss) benefits equal to two-thirds of their weekly

wage for a work-related injury.

However, there are minimum and maximum adjustments provided in the Act, and the benefit rate is set using the annual maximum in place at the time of injury. The maximum is based on the Department of Labor and Industry's calculation of the statewide average weekly wage.

YEAR	2019	2018	2017	2016
MAX COMP	\$1049.00	\$1025.00	\$995.00	\$978.00
66 2/3%	\$1573.50 \$786.76	\$1537.50 \$768.76	\$1492.50 \$746.26	\$1467.00 \$733.51
SET RATE	\$786.75 \$524.50 \$582.78	\$768.75 \$512.50 \$569.44	\$746.25 \$497.50 \$552.78	\$733.50 \$489.00 \$543.33
90%	\$582.77 Less	\$569.43 Less	\$552.77 Less	\$543.32 Less

- For example, if you were injured in 2018 and your AWW is \$1,537.50 or greater, you collect \$1,025.00 per week in total disability benefits. If your AWW falls between \$768.76 and \$1,537.50, you collect 66 and 2/3 percent of your AWW on a weekly basis.
- If your AWW falls between \$569.44 and \$768.75, you collect \$512.50 in weekly total disability benefits.
- If your AWW is \$569.43 or less, you collect 90 percent of your AWW on a weekly basis.

ADDITIONAL LAWSUITS

In Pennsylvania and other states, a worker who is injured on the job is able to collect workers' compensation benefits but is generally precluded from suing his or her own employer for injuries. However, when someone other than the employer caused the accident, the worker may also be able to recover from that "third party." These "third-party cases" may be brought in addition to the workers' compensation case. It is important to

remember that workers' compensation does not provide recovery for all of a worker's lost wages or for pain and suffering. However, these losses can be recovered in a third-party case.

Pond Lehocky can help you file your third-party claims so that you can collect additional benefits. Call us at 800-568-7500 and chat anytime at pondlehocky.com.

Types of Workers' Compensation Benefits

If you or someone you know may be eligible for benefits, call 800-568-7500.

PAYMENTS FOR LOST WAGES

Wage-loss benefits are available if it is determined that you are totally disabled and unable to work, or partially disabled and receiving wages less than your pre-injury gross wages. Please see the [total and partial disability benefits status](#) sections for further information about disability status.

DEATH BENEFITS

If the injury results in death, surviving dependents may be entitled to benefits.

SPECIFIC-LOSS BENEFITS

If you have lost the permanent use of all or part of your thumb, finger, hand, arm, leg, foot, toe, sight, hearing, or have a serious and permanent disfigurement on your head, face or neck, you may be entitled to a specific-loss award.

MEDICAL CARE

You are entitled, if covered under the Act, to

payment for related reasonable surgical and medical services rendered by a physician or health care provider.

PARTIAL DISABILITY BENEFITS STATUS

This benefit status is for a maximum of 500 weeks, which is paid if you can, or do, return to work at a lower paying job within work-related restrictions, or if you are found not totally disabled.

TOTAL DISABILITY BENEFITS STATUS

This applies to injured workers when they are considered totally disabled and unable to work. After 104 weeks of such status, the employer/insurer can require a medical examination to determine if the employee is at least 35 percent impaired based upon his/her work injury. If the 35 percent threshold is not met, the employee's status can change to partial disability.

More Information

Please visit WWW.PONDLEHOCKY.COM to learn more about workers' compensation and how we can assist you. There you can chat anytime with our specialists and learn more about our team of expert attorneys.

You can also review our **"What to Expect"** videos on our YouTube channel to gain a better understanding of a typical workers' compensation case.

We help with all legal matters, including:

- **SOCIAL SECURITY DISABILITY**
- **LONG - TERM DISABILITY**
- **SHORT - TERM DISABILITY**
- **EMPLOYMENT LAW**

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ADDITIONAL OFFICES NATIONWIDE