

**Legal News You Can Use**  
**The Client Newsletter of The Law Offices of**  
**David L. Moffitt & Associates**

30600 Telegraph Rd., Bingham Farms,  
MI 48025 248 644.0880

Award Winning Legal Representation  
For Over 25 Years

## **Questions And Answers About Work Injuries**

### **What should I do if I am injured at work?**

First of all, inform the employer that you have been injured. If the injury happens in front of other employees or your supervisor, it may seem obvious that they know, but the law requires that the injured worker give notice of the injury to the employer within 90 days of the happening of the injury. Failure to give notice of the injury, disease, or disability, however, is not fatal, unless the employer can establish that the employer was prejudiced by failure to provide that notice. First time claims for compensation for your work related injuries must be made within two (2) years of the occurrence of the injury.

Most employers will document an injury by way of an "incident report," or on a state approved form, known as an "Employers Basic Report of Injury." However, to be safe and thorough, all injuries should be reported to the employer at the earliest practicable time. If an incident report is prepared and/or an employer's Basic Report Of Injury form is filed, the injured employee can request a copy.

### **What benefits are available to me if the injury I receive on the job disables me from my employment?**

An employee disabled by work related injuries is entitled to several benefits under the law. Benefits include wage loss benefits, medical care for the work related injury as well as possible vocational rehabilitation. There are conditions upon which of these benefits are available to the

disabled employee. Each benefit is discussed separately below.

#### **Wage Loss Benefits**

An employer is not obligated to pay wage loss benefits unless the injury incapacitates the employee from earning full wages for a period of at least one (1) week. If the incapacity extends beyond the period of one week, compensation should begin on the eighth day after the injury. If the incapacity continues for two weeks or longer, compensation is computed from the date of the injury. Wage loss benefits are based on your after- tax average weekly wage. Each year the figures are revised. Our law office has the most recent weekly benefit tables available and should be able to determine your weekly benefit amount entitlement.

#### **Medical Care**

When an employee receives a personal injury arising out of the course of employment, an employer must furnish or make available reasonable medical, surgical and hospital services and other medicines when they are needed. Often times an injured employee will ask to be treated by their own physician. The law provides that after ten (10) days from the inception of medical care, the employee may treat with a physician of their own choice. In short, the employer has the right to direct your medical care for the first ten (10) days. If you choose to treat with a physician of your own choice, you must give the employer (in writing, if possible) the name of that physician and your intention to treat with that physician.

A disabled employee is entitled to vocational rehabilitation services, including retraining and job placement. If vocational rehabilitation services are not voluntarily offered and accepted, the disabled employee may formally petition for such rehabilitation services. Rehabilitation services are at the expense of the employer. Vocational rehabilitation training should not extend for more than fifty-two (52) weeks.

### **Do I have to attend medical examinations set up by my employer and/or its insurance carrier?**

The law provides that when the employer is given notice of the injury and from time to time during the employee's disability, the employer may require the disabled employee to submit to an examination by a physician. The employee is entitled to a copy of the examining physician's report. The disabled employee's right to compensation can be suspended for obstructing or refusing to submit to the examination. Accordingly, it is important to cooperate with requests for these examinations.

### **What should I do if my employer refuses to provide me my workers compensation benefits?**

You should immediately contact our office. If your employer has refused to pay your benefits, despite your requests, it is unlikely that those benefits will be paid unless and until you have retained an attorney. Again, assuming you have medical evidence which indicates that you have a work related disability, you should let us know at once. Our office will be happy to initially discuss the matter with you at no charge.

### **What is involved in pursuing a workers compensation claim?**

Typically, if there is a dispute between your employer regarding your disability or the

Let's face it, making auto insurance payments is no fun. But take warning, it's a big

### **Vocational Rehabilitation Services**

relationship of your disability to your employment, our office will file an Application For Hearing with the Bureau of Workers Disability Compensation in Lansing. The form will be processed and sent to the appropriate bureau, most likely in the county where the injury occurred. We will want to gather medical evidence, schedule medical appointments for you, and otherwise represent you on your claim. Because of the large number of disputed claims, it may take a long period of time before your case is resolved either by way of settlement or trial. Acting to contact legal counsel quickly is the best way to get paid quickly.

### **Because of my injury, I am not receiving any income; how can I afford an attorney ?**

Generally, we accept cases in the workers compensation area on a contingency fee basis, meaning, "no recovery, no fee." The attorney fees in workers compensation cases are fixed by law according to administrative rules of the bureau.

For cases tried to completion before a magistrate, an attorney fee is no less than 30% of the balance after deducting the reasonable expenses incurred on the claimant's behalf. If a case is settled by way of redemption, the fee is 15% of the first \$25,000.00, and 10% of the remainder. An attorney is also entitled to be reimbursed for reasonable expenses incurred on the injured workers' behalf. Again, normally no fee is payable unless you recover money.

If you have questions or concerns regarding a work related injury, you should contact our office immediately for a free consultation at 248 644.0880 or toll free at 800 354.5202.

### **Uninsured driving, bad idea.**

risk to drive without it. Not only is it illegal, and you could be ticketed and receive a

whopping fine, but it's extremely financially risky to drive uninsured. You lose not only the various benefits your own insurance company is required to provide, you also lose all your rights to try to recover against the other driver who hit you, even when they're 100% at fault. If you drive a car that you own without insurance and a drunk driver hits you and puts you in a wheelchair, you get zero! Be sure to obtain auto insurance and keep it in force! Insurance cancelled the day before a big accident? Let us check to see if the insurer properly canceled the policy!

#### **Insurance benefits, generally**

If you have the misfortune of being in an auto accident in Michigan, three primary benefits are available through your own insurance company: 1) Wage Loss; 2) Medical Care, for life, as long as it's related to the accident; and 3) "Replacement Services" (up to \$20 per day) for someone to help you with household tasks you would have done yourself but had to pay someone to do because of your injuries. If you are unable to work, you will be paid limited wage loss benefits until you are able to return to your job. These benefits are available no matter who is at fault in the accident. Even if you fall asleep at the wheel and hit a tree, you are entitled to benefits from your own insurance company, as long as it is medically determined that you cannot work.

#### **After an injury accident call your attorney first!**

Say you've been hurt in an auto accident. What do you do? First of all, contact us at 248.644.0880, before you contact your own insurance company if possible. Your insurance company will want to take a statement, and may not do so in a manner that would be helpful if you were later determined to have a potential injury case. They will require you to fill out an "Application for Benefits" and to sign records release forms, so that they can investigate your injury and claim of work loss for themselves.

#### **Wage loss**

If you're injured in an auto crash, the financial pressure of being without an income can be devastating. It is hard to focus your energies on healing when your mortgage payment is due and you are unable to work because of your injuries. The financial pressure and stress of being off work can make you vulnerable to caving in to a quick settlement, lower than it should be, from the other driver's insurance company simply to pay off debts.

Under current law, as long as you medically cannot work, your insurance company must pay 85% of your after tax wages for a period of 3 years, to a maximum of around \$3,500.00 per month. Don't count on your insurance company to explain all of this. Many of them gloss over important information concerning your legal rights.

What if you didn't have a job at the time of the accident or were temporarily laid off from work? You can still collect benefits if you were only temporarily unemployed.

#### **Medical treatment**

You are also entitled to medical treatment for life as long as it is related to the automobile accident. Often, an insurer will send you to a "cut off" doctor, who simply conducts a cursory examination and concludes you're fit as a fiddle. Don't stand for this.

Call our office. We have handled hundreds

of auto insurance claims at all stages, and can help establish your claim to lost wages, your right to have unpaid medical bills paid, and your right to continuing treatment by physicians of your choice.

There is no charge to discuss your case, and

we'll take deserving cases on a "no-recovery, no-fee" basis.

In next month's news letter read the story of

our crushing trial victory last month over a

hard-ball-playing auto insurance company.

**Know Someone You'd Like To Receive This Newsletter?**

Call and leave the name and address of someone you'd like to receive our newsletter. They'll be informed of important developments in the law that may directly

Our office handles all personal injury claims, including automobile, workman's compensation, slip and fall, animal bites, nursing home abuse, as well as all criminal cases, from traffic tickets to federal indictments, and every day legal needs such as name changes, guardian and conservatorships, small business assistance, and more.

**How to contact us**

Communication with our clients is important to keep you updated on what is going on with your case, and to keep us informed on what is happening with you.

Here's how to contact us:

**Call**

toll free 1-800-354-5202  
office 248-644-0880

In after-hours emergencies, call

cell 248-318-2300  
home 248-538-0880

Call us to tell us about new addresses and phone numbers, new medical treatment for your injuries, important developments, to ask questions about something we've sent you, and if you feel you haven't heard from us recently.

**Fax** 248-644-0019

**Email**

[dloffittassoc@ameritech.net](mailto:dloffittassoc@ameritech.net)

**Mail**

30600 Telegraph Rd. Ste 3250, Bingham Farms, MI 48205 Mail to us those documents you could not fax. Just call if you need us to send you a pre-addressed, postage-paid envelope.

Remember we are working hard to move your case

affect them, and they will have an attorney they know, trust, and can ask questions of.

Just leave their name and address with our office, and we'll do the rest, telling them, too, who was kind enough to help them stay legally alert.

**What kind of legal work we do**

forward, and cannot easily always immediately return your call, every time you call. Sometimes information or questions are best taken by our staff, who can call back with your attorney's answer.

**Did You Know...?**

1. That Mr. Moffitt is one of the few recipients of the "Most Distinguished Brief To The Michigan Supreme Court" Award?

2. That about 99.4% of all civil cases settle without trial?

3. That evidence of polygraph ["lie detectors"] test results is not admissible into evidence in a criminal trial to determine guilt or innocence?

4. That Mr. Moffitt, who retired undefeated from 20 years in public office on 1-1-05, was named by SEMCOG in 2004 as one of the two "Most Outstanding Elected Officials in Southeast Michigan", and attended the John F. Kennedy School of Government at Harvard University during that year on a full scholarship?

5. That you can legally record phone calls in Michigan without a "beep tone" where one party [you] to the call consents?

**Next Issue: Attorney Moffitt takes a "hardcase" "no-pay" auto insurer to trial 3-14-05 with devastating results!**

**Coming To Our Website Soon: Attorney Moffitt recovers \$50,000.00 for office worker trapped in elevator for 1 hour.**

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