

A GUIDE TO

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# Workers' Compensation

Know your rights.



**POND LEHOCKY**

800.568.7500 | [PONDLEHOCKY.COM](http://PONDLEHOCKY.COM)

We help with **all legal matters**, including:

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- **Workers' Compensation**
- **Long - Term Disability**
- **Short - Term Disability**

## **Main Office:**

One Commerce Square  
2005 Market Street, 18th floor  
Philadelphia, PA 19103

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**HELPING DISABLED AMERICANS IN ALL  
50 STATES.**

# What to Know

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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 or by self-insured employers. Employers in Pennsylvania are required to maintain workers' compensation insurance.

## **I WAS INJURED AT WORK. WHAT NOW?**

There are strict deadlines to report your injury to your supervisor or manager when they occur, after which your claim may be barred. For repetitive/cumulative trauma injuries, you must report to your employer when a physician diagnoses you with a work related injury or condition.

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.

Always remember: you are entitled to see a doctor of your own choosing!

## **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, we do not recommend that you represent yourself 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 defend against challenges to your benefits and medical treatment by the insurance company. Such challenges may limit your access to treatment altogether. Also, if your medical bills are not being paid by the insurance company, there are processes in place to get them paid so that your medical care is not delayed. We have successful attorneys and medical teams to help you every step of the way.

## **WHAT IS A DME?**

DME stands for Defense Medical Examination.

When you file a workers' compensation claim against your employer, expect to be scheduled for a medical exam at the request of the insurance carrier. 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**

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### **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 scheduling the initial appointment. 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**

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.
- You are permitted to see any doctor of your choosing under the law.



## **Important to note:**

Even if the requirements are met by the employer/insurance company, this only controls whether or not doctors outside the panel will be paid by the insurance company. The law does not state that you are forced to undergo medical treatment with a doctor on the panel. **If the above conditions do not exist, you are free to treat with your own doctor from day one.**

## **Important Information**

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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 prosecution 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.

## **LITIGATION OF YOUR CASE**

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

Once litigation ends, the Judge will give each party time to submit their written legal briefs, arguing for their clients. The Judge will review all of the evidence which was submitted during litigation, as well as the written legal argument, before issuing a Decision and Order.

## **AVERAGE WEEKLY WAGE (AWW)**

Injured workers are entitled to indemnity (wage-loss) benefits typically equal to two-thirds of their pre-tax weekly earnings before their 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<br>\$786.76            | \$1537.50<br>\$768.76            | \$1492.50<br>\$746.26            | \$1467.00<br>\$733.51            |
| SET RATE | \$786.75<br>\$524.50<br>\$582.78 | \$768.75<br>\$512.50<br>\$569.44 | \$746.25<br>\$497.50<br>\$552.78 | \$733.50<br>\$489.00<br>\$543.33 |
| 90%      | \$582.77<br>Less                 | \$569.43<br>Less                 | \$552.77<br>Less                 | \$543.32<br>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 prosecuted 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](https://pondlehocky.com).

## Types of Workers’ Compensation Benefits

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### **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**

The loss of a body part due to injury may entitle you to additional benefits beyond wage loss benefits and the payment of medical bills through a “specific loss award”. In addition, if your injury has caused permanent loss of use of a body part, you may still qualify for specific loss of that body part under the Act. Finally, an injury that results in permanent scarring or disfigurement on your neck, face, or head can be compensable.

## **MEDICAL CARE**

You are entitled, if covered under the WC PA 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.

**Call us to find out if you are eligible today!**

We pride ourselves on helping you at every step along the way. Whether you are interested in applying for the first time or have been denied at any stage, call us today or visit us at:

**[pondlehocky.com](http://pondlehocky.com).**

# Convenient Office Locations

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## Main Office:

One Commerce Square  
2005 Market Street, 18th Floor  
Philadelphia, PA 19103

## Additional Offices:

Northeast Philadelphia, PA  
Harrisburg, PA  
Pennsauken, NJ



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