

I WAS HURT AT WORK  
WHAT DO I DO?

On July 20, 2005, Governor Rod R. Blagojevich signed HB 2137 amending the Workers' Compensation Act and Workers' Occupational Diseases Act. Be the first to know your rights under the NEW LAW! Sections of the NEW LAW have already taken effect!

Womick Law Firm, Chtd. 1-800-598-2440

P.O. Box 1355

1020 W. Main St.

Carbondale, IL 62903

618-529-2440

Herrin Location

618-993-0911

501 Rushing Drive

Herrin, IL 62948

Belleville Location

618-632-6037

333 Salem Place

Suite 180

Fairview Heights, IL 62208

Created by Jill Womick-Bloodworth

**TABLE OF CONTENTS**

INCLUDE PAGE NUMBERS ONCE IT IS SET UP AS PAMPHLET

- I. Introduction
- II. Act Now, Don't Wait

- III. What is Work Comp and Am I Covered?
- IV. What does Workers' Compensation Pay?
  - A. Medical
  - B. Temporary Workers' Compensation
  - C. Lump Sum Settlement
- V. They Cut Me Off! What Do I Do Now?
- VI. If I Hire A Lawyer, What Do I Need to Know?
- VII. Miscellaneous
- VIII. Examples Under Workers' Compensation
- IX. Other Examples
- X. Minimum and Maximum Rates of Compensation
- XI. Conclusion
- XII. Permanent Partial Disability Benefits Table
- XIII. Frequently Asked Questions
- XIV. Helpful Web-Addresses
- XV. About the Womick Law Firm
- XVI. You May Need an Attorney If...

**CAUTION:** The information contained herein is not a substitute for legal advice. Laws change from time to time. If you are injured protect your rights. **SEE AN ATTORNEY**

Created by Jill Womick-Bloodworth

## I. INTRODUCTION

If you are hurt while working, you have certain rights. If you were hired in Illinois, injured in Illinois, or your employment was localized in Illinois, then you are more than likely covered by the Illinois Workers' Compensation Act. The Illinois Worker's Compensation Act coverage begins the moment you begin your job. **Your employer is liable to pay medical bills, temporary workers' compensation payments while you are off work recuperating, and a lump sum amount of money if your injury leaves you with a permanent disability or scar.**

## II. ACT NOW, DON'T WAIT! TAKE THE FOLLOWING STEPS TO PROTECT YOUR RIGHTS.

**STEP 1: IMMEDIATELY NOTIFY YOUR SUPERVISOR OF YOUR INJURY.** Fill out an accident report if available. If no accident report is available, then write a note to your supervisor telling him/her of your injury and keep a copy of it. Include in the note the date and location of your injury. There are time limits for notifying your employer, so act now, don't wait! For accident injuries, you must notify the employer within 45 days after the accident. For injuries resulting from radiological exposure, you must notify the employer 90 days after you know or suspect that you have received an excessive dose of radiation. For occupational diseases, you must notify the employer as soon as practicable after you become aware of the condition. As soon as you have been diagnosed with a repetitive trauma injury you must report to your employer immediately, but no longer than 45 days after your doctor diagnosed it. If you have any type of an accident even a slip and fall, you should report it. You may find out later that you are injured or aggravated a prior condition, and it may be too late. Report even minor accidents or injuries. If you fear you have missed one of the time limitations, contact an attorney anyway. An experienced attorney can help you determine whether the employer was given proper notice within the meaning of the law.

**STEP 2: SEEK MEDICAL TREATMENT FROM A MEDICAL DOCTOR OF YOUR CHOOSING.** You do not have to go to just the company doctor for treatment. You are entitled to go to an independent medical doctor or a hospital of your choosing. The employer's responsibility is to pay for all first aid and emergency services, two treating physicians, surgeons or hospitals of the employee's choice, and any additional referrals by the two physicians, surgeons, or hospitals.

**STEP 3: PROTECT YOUR RIGHTS.** If you are hurt while working, you have certain rights. You may be covered by workers' compensation or by some other law. See an attorney. At the Womick Law Firm, Chtd. **there is no charge for the first meeting and we always work on a contingency basis.** Workers' compensation is not designed to completely compensate the injured worker. It is designed only to help the worker until he can get back to work. For example, a man making \$10.00 per hour might only receive \$ 56,400 for the loss of his arm under workers compensation. However, depending upon the situation, the potential is there to be compensated for more, which is why it is so important to contact an experienced plaintiff's injury lawyer. An experienced attorney can evaluate your case and determine whether you

have some rights other than just a workers' compensation claim. For example, you may have what is referred to as a third party case, that is, a regular civil lawsuit against someone where a jury can make an award for pain and suffering; disfigurement; disability; and for the nature and extent of your injuries. You may be able to receive an adequate reward – far more than you would receive under workers' compensation.

**STEP 4: BE CAREFUL WHAT YOU SIGN – YOU MAY BE SIGNING AWAY YOUR RIGHTS.** Illinois law does not allow your employer or their insurance company to contact your treating doctors. They may contact them if you sign a waiver allowing them to do so. It is probably not in your best interest to allow a direct line of communication between your employer or employer insurance company and your treating doctor. Usually, your employer will have a workers' compensation packet of forms for you to fill out. You will probably be told that you need to fill out these forms in order to start getting workers' compensation pay. The forms usually include an accident report and Medical releases. Be careful what you sign. **Only sign a medical release that is for medical records only (including x-rays and lab tests). Do not sign a generic medical information release that allows for communication with your doctor.** If your employer says you won't get your workers' compensation unless you sign everything, you may need to see an attorney.

### **III. WHAT IS WORKERS' COMPENSATION AND AM I COVERED?**

A. The Illinois Workers' Compensation Act is legislation designed to protect workers. The Act is based upon a **no-fault** system of compensation so that workers hurt while working are given some benefits. **Even if you are hurt at work because of your own fault, you are still entitled to the workers' compensation benefits.**

B. Almost every worker in Illinois is covered by the Illinois Workers' Compensation Act, even employees of the State of Illinois. Some jobs are not covered such as independent contractors, some farming jobs, certain domestic jobs, and certain commission salesman. If you are hurt from a work related incident, consult an attorney to determine if you are covered.

C. The employer is required to provide benefits. Most employers carry insurance to cover workers' compensation, but even if the employer has no workers' compensation insurance the employer is still liable.

D. Railroad Workers, Longshoreman, River Workers, and Federal Workers are covered under Federal Law. The Jones Act, the Federal Employees Liability Act, and the Longshoreman's Act and Harbor Workers' Compensation Act may be applicable. If you work in one of these areas, you will want to pursue your federal rights. See an attorney.

### **IV. WHAT DOES WORKERS' COMPENSATION PAY?**

#### **A. MEDICAL**

1. All first aid, medical, surgical, hospital and pharmaceutical expenses connected to your injury at work are supposed to be paid by your employer, or your employer's insurance company.
2. Expenses related to physical or mental rehabilitation, and vocational retraining, may also be recovered if you can no longer do the job you could do prior to your accident.
3. You can choose the doctor and/or hospital you desire for treatment. You are

also entitled to a second opinion. However, if you seek a third doctor on your own, without referral from a previous doctor, then you must pay for the third doctor's expenses.

4. Your employer or your employer's insurance company can send you to a doctor of its choosing for an examination and evaluation. This is at the employer's expense and it must PREPAY your travel expenses. The **NEW LAW** requires your employer to deliver to you with the notice of the time and place of examination sufficient money to cover travel expenses. Travel expenses include a sufficient amount of money to defray travel expenses and the cost of meals necessary during the trip. Also if the you lose time from work, the employer must provide reimbursement for those lost wages. The doctor chosen by the employer must report the same information to both parties. You are entitled to complete copies of all medical reports and records obtained by or in the possession of the employer. This provision of the new law is effective immediately.
5. Travel expenses for treatment with your own doctor is generally not recoverable.
6. The **NEW LAW** allows for your medical provider to bill your employer directly.

This law is effective immediately. You have to notify the provider that this is a work-related injury or illness and give them the name and address of your employer. If the employer contests your injury and the payment of your bills, the provider can then bill you. However, to stop all collection efforts on the bills that are being contested, all you have to do is file an application with the Commission to resolve the dispute over the payments and then notify the provider that you have filed that application. If you have received medical treatment or services for a work related injury and you are now being pursued by collections, you may want to see an attorney with experience in Workers' Compensation.

## **B. TEMPORARY WORKERS' COMPENSATION**

1. Temporary workers' compensation payments are referred to as "TTD." TTD stands for temporary total disability. Your TTD benefits are paid to you on a temporary basis until you are released from the doctor's care to return to work, or until you have reached maximum medical improvement (MMI).
2. The payments represent two-thirds (66 2/3%) of the employee's average weekly wage during the year before the accident or last exposure, subject to certain limits. If you were working two jobs at the time of your injury and your employer knew, your TTD rate would be based on the average income from both jobs.
3. No compensation is payable for the first three working days, unless the lost time continues for 14 or more calendar days from the date of the injury.
4. If TTD benefits are not paid within 14 days, and the employer cannot justify the delay in payment, the employer may be required to pay a penalty to the employee. **IF YOU ARE NOT GETTING TTD PAYMENTS, YOU MAY NEED TO CONTACT A LAWYER.**

## **C. LUMP SUM SETTLEMENT**

1. A third benefit an injured worker may be entitled to is a lump sum settlement or award. This is an amount of money to compensate you for any permanent injury sustained as a result of your accident.

2. There are two permanent awards available under this benefit:
  - a. "PPD" and "TPD"
  - b. "PPD" is permanent partial disability. PPD is the MOST COMMON settlement or award under the Workers' Compensation Act. PPD compensates a worker for any permanent injuries. These benefits are determined in two ways. The first method depends on the body part that is injured and the extent of the loss. The law places a value on certain body parts, expressed as a number of weeks of compensation for each part. For example, the loss of a thumb is worth 70 weeks. Compensation for a partial loss of use is calculated by multiplying the percentage of loss by the number of weeks listed. Your settlement award is arrived at through a simple mathematical formula:
    - i. The formula is  $PPD = Rate \times Weeks$
    - ii. The rate for PPD is 60% of the average wage you made one year before your accident. Note, TTD is two-thirds (66 2/3%) of the same average wage, whereas PPD is only 60%
    - iii. The amount of PPD you are entitled to depends on what part of your body is injured and by the nature and extent of your injuries. Consult the chart and examples in this booklet to understand how the weeks are determined.
    - iv. For example, if you strain your back at work you may have been permanently injured to the extent of 5% of your body or 5% of "a man as a whole." If you averaged \$200 per week the year before the accident, you can calculate your PPD; Rate = 60% of \$200 or \$120. Weeks = percent of 500 weeks, or 25 weeks.  $PPD = \$120 \times 25 \text{ weeks}$ , or \$3000. This is \$3000 you may be paid by your employer in addition to your medical benefits and in addition to your TTD benefits.
  - c. The second type of permanent settlement or award you may be entitled to is "TPD." TPD stands for total permanent disability. This is a very serious disability which renders the injured worker unable to ever work again. TPD benefits are paid for your **WORK-LIFE** at the same rate TTD is paid, that is, two-thirds of the average wage the worker made one year prior to the accident.
3. **DEATH BENEFITS** may be payable as settlements or as arbitration awards. Death benefits are payable to a spouse, or dependent children or dependent parents.
  - a. Death benefits include burial expenses. The law allows for burial expenses in the amount of \$4200. However, the **NEW LAW** raises the amount to \$8000 for accidental deaths that occur on or after February 1, 2006.
  - b. The death benefit rate is the same as the worker's TTD rate. The rate is paid to the surviving spouse until she/he remarries and the children are no longer dependent on her or, if the surviving spouse never remarries, then death benefits cease after 20 years or the payment of \$250,000, whichever

is greater. Under the **NEW LAW** death benefits cease after 25 years or the payment of \$500,000. If there is no eligible spouse, benefits are paid to children until age 18; or until age 25 if a full-time student; or if physically or mentally incapacitated, for the duration of the incapacity. If there is no eligible spouse or child, the benefits will be paid to totally dependent parents. The new law applies to accidental deaths that occur on or after February 1, 2006.

## **V. THEY CUT ME OFF! WHAT DO I DO NOW?**

A. If your employer's insurance company stops paying your temporary workers' compensation or TTD, an emergency petition can be filed before an arbitrator of the Illinois Workers' Compensation Commission. An arbitrator is the equivalent of a judge. The same action can be taken if your employer stops paying your medical bills.

B. To file an emergency petition you must file your workers' compensation case with the Illinois Workers' Compensation Commission.

C. Workers' Compensation forms can be obtained from the Illinois Workers' Compensation Commission in Chicago, Illinois. Some forms are also available through the internet at the following website: [www.iwcc.il.gov](http://www.iwcc.il.gov). You must file your case within three years of injury or within two years of the last date you received payment of TTD. If you don't file within that time period, you LOSE ALL BENEFITS!

D. Practically speaking, if your benefits are cut off, contact your employer or its insurance company and find out the reason. It could be a clerical error, or a form might have to be filled out prior to reinstating your benefits. If your employer or its insurance company unreasonably refuses to reinstate your benefits, then you should seek legal counsel or file your workers' compensation case yourself.

E. While the law requires the insurance company to pay TTD until you recover from your injury, often payment is stopped. When this happens your attorney can file a petition with the Commission, asking to have the payment started again.

F. If your accident involves any other persons, firms, businesses, or corporations other than your co-employees, or a defective product, or a construction site, you may have a personal injury lawsuit in addition to your workers' compensation case.

## **VI. IF I HIRE A LAWYER, WHAT DO I NEED TO KNOW?**

A. For Workers' Compensation, Attorneys' fees are set by law and are 20 percent of your lump sum settlement or disputed death benefits plus expenses. Your attorney may also be entitled to 20 percent of TTD and medical bills if both of these items are disputed by your employer and the attorney has to perform legal services to reinstate these benefits.

B. Remember, all fees in this area are contingent. That means, if a lawyer takes your case, he gets paid out of the money recovered. You do not have to pay him by the hour. This applies to personal injury cases too, but the rate is usually 33 1/3% and the fee is not set by law.

C. Find out what experience the lawyer has in injury cases. Is he qualified to handle third party cases? Does he ever work for insurance companies?

D. For a free consultation contact the Womick Law Firm, Chtd. **1-800-598-2440**

## **VII. MISCELLANEOUS**

- A. Workers' Compensation benefits currently are not subject to state or federal taxation.
- B. Workers' Compensation benefits will affect Social Security disability payments and medicare eligibility.
- C. If you were working two jobs at the time of your injury, and the employer knew this, your TTD rate would be based upon the average income of both jobs.
- D. It is against the law in Illinois to harass or fire an employee when he/she is injured at work and exercises her rights under the Workers' Compensation Act. It is illegal for an employer to fire a worker because a claim is filed or while the case is pending.

**VIII. EXAMPLES UNDER WORKERS' COMPENSATION**

1. The doctor says that I have lost 20% of the use of my left arm and I made on the average \$400 per week the year before my injury. What am I entitled to?

Answer: You are entitled to TTD, medical care and PPD in the following amount:

TTD RATE = 2/3 of \$400 = \$266.66 per week

PPD RATE = 60% of \$400 = \$240 per week

WEEKS = 20% x 235 weeks (arm) = 47 weeks of compensation\*

PPD = \$240 per week x 47 weeks = \$11,280

MEDICAL CARE = 100%

\* Under the **NEW LAW**, loss of an arm is worth 253 weeks. So your PPD \$240 x 50.6 weeks = \$12,144. See page 13 for effective date of new law.

2. I am married and have five children under the age of 18 years. The year before I was injured I earned an average of \$350 per week as a construction laborer. In the fall I suffered a fracture of my left leg and a herniated disc at L-5, S-1. My medical bills are not being paid and I am not receiving TTD although my treating doctors have not released me to return to work.

Should I see a lawyer?

Answer: See an attorney. He can file an emergency petition to reinstate your medical pay benefits and your TTD benefits. You also may have a third party case.

**IX. OTHER EXAMPLES**

A. **Fingers:** loss of the part of the finger or thumb up to the first knuckle from the tip, is considered loss of one-half of the digit. Loss of one-half of the thumb would entitle the worker to 35 weeks of PPD. Loss of the finger or thumb beyond the first knuckle is considered 100% loss of thumb or finger. Loss of the entire thumb would entitle the worker to 70 weeks of PPD. Under the **NEW LAW\***, the loss of the entire thumb would entitle the worker to 76 weeks of PPD and loss of one-half of the thumb would entitle the worker to 38 weeks.

B. **Arms:** If the arm is amputated above the elbow the worker is entitled to 250 weeks of compensation. If the arm is amputated at the shoulder joint and no artificial arm can be used, then the employee is entitled to 300 weeks compensation. Under the **NEW LAW\***, above the elbow is 270 weeks and at the shoulder is 323 weeks.

C. **Leg:** if a leg is amputated above the knee, the employee is entitled to 225 weeks. If a leg is amputated at the hip joint and no artificial leg can be used, then the employee is entitled to 275

weeks of compensation. Under the **NEW LAW\***, above the knee is 242 weeks and at the hip joint is 296 weeks.

D. If an **eye** is removed, the injured worker is entitled to 160 weeks of compensation. If the employee had 20/20 vision prior to an eye accident, and thereafter has only 20/50 vision, then the employee has suffered 25% loss of the use of his eye. If the vision after the accident is 20/100 the employee has suffered 75% loss of the use of his eye and if his vision is 20/200 after the accident then he has sustained the equivalent of 100% loss of the use of the eye. Under the **NEW LAW\***, if the eye is removed the injured worker is entitled to 173 weeks.

E. **Hearing:** The loss of hearing in one ear is compensable in the amount of 50 weeks if caused by accident. If caused by an occupational disease then loss of hearing is worth 200 weeks. The loss of hearing of both ears is worth 200 weeks of compensation. Under the **NEW LAW\***, one ear is 54 weeks and both ears is 215 weeks.

F. **Fractures:** Every fracture must result in permanent disability or there is no entitlement to a lump sum settlement or lump sum award. If the fracture results in a permanent disability, then the scheduling of an award is at the following minimum rates:

- i. Fracture of vertebra: At least 6 weeks
- ii. Skull Fracture: At least 6 weeks
- iii. Facial bone fracture: At least 2 weeks
- iv. Fracture of a spinous or transverse process: At least 3 weeks

\* See page 13 for information on when new law becomes effective.

## X. MINIMUM AND MAXIMUM RATES OF COMPENSATION

1. The **minimum TTD** payment is 66 2/3 % of the gross average weekly wage earned by the employee in the year before the injury or exposure, or the following amounts, whichever is lower:

Single Person	\$100.90/week
Married, no children	\$105.50/week
One Child	\$108.30/week
Two children	\$113.40/week
Three children	\$117.40/week
Four or more children	\$124.30/week

\* Under the **NEW LAW**, the minimum shall not be less than 66 2/3 % of the sum of the Federal minimum wage or the Illinois minimum wage, whichever is more, multiplied by 40 hours. This percentage rate is to be increased by 10% for each spouse and child not to exceed 100% of the total minimum wage calculation nor to exceed the employee's average weekly wage. This will become effective 2/1/06.

As of 2/1/06, the Illinois minimum wage of \$6.50 per hour will apply.

Base Rate	\$6.50 x 40 =	\$260
Single Person	\$260 x 66 2/3%	= 173.32
Person with 1 dependent	\$260 x 76 2/3% =	199.32

Person with 2 dependents	$\$260 \times 86 \frac{2}{3}\% =$	225.32
Person with 3 dependents	$\$260 \times 96 \frac{2}{3}\% =$	251.32
Person with 4+ dependents	$\$260(100\% \text{ of calculation})$	

2. The **maximum TTD** benefit can be no more than 133 1/3% of the statewide average weekly wage on the date of the injury or last exposure. Effective July 15, 2005, to January 14, 2006, the maximum amount of TTD available to an injured worker is **\$1078.31 per week**.

3. The **minimum PPD** benefit is 60% of the gross average weekly wage actually earned by the employee in the year before the injury or exposure, or one of the following amounts, whichever is lower:

Single Person	\$80.90/week
Married, no children	\$83.20/week
One Child	\$86.10/week
Two Children	\$88.90/week
Three Children	\$91.80/week
Four or more children	\$96.90/week

\* Under the **NEW LAW**, the minimum shall not be less than 66 2/3 % of the sum of the Federal minimum wage or the Illinois minimum wage, whichever is more, multiplied by 40 hours. This percentage rate is to be increased by 10% for each spouse and child not to exceed 100% of the total minimum wage calculation nor to exceed the employee's average weekly wage. This will become effective 2/1/06.

4. The **maximum PPD** benefit is calculated using a formula established by law and published by the Commission. The rate is based on rate of increase in the statewide average wage. The maximum benefit is 60% of the employee's average weekly wage, or the published maximum PPD rate, whichever is lower. Effective July 1, 2004, to June 30, 2005, the maximum amount of PPD available to an injured worker without an amputation or enucleation is **\$567.87 per week**. (This may be changed annually)

## XI. CONCLUSION

If you get injured at work, or anywhere else, you have to protect your rights. You never **have** to hire an attorney, but you know that the insurance company usually has hundreds of adjusters and attorneys and they are not there to help you get what you deserve.

You may have rights under the Workers' Compensation Act or some other law. In order to make sure your rights are protected, talk to an attorney experienced in representing injured people – not an insurance company paid lawyer nor an alleged specialist from 300 miles away – but a lawyer who you can see in person and call any time in Southern Illinois.

**XII. PERMANENT PARTIAL DISABILITY BENEFITS  
For 100% Loss of Use  
In Weekly Equivalents**

<u>Body Part</u>	<u>Weeks Paid</u>	<u>NEW LAW*</u>
The thumb		70
		76
The 1 <sup>st</sup> (or index) finger	40	
	43	
The 2 <sup>nd</sup> finger		35
	38	
The 3 <sup>rd</sup> finger		25
	27	
The 4 <sup>th</sup> finger		20
		22
The great toe		35
	38	
Each other toe		12
	13	
The hand		190
	205	
The arm		235
	253	
The foot		155
	167	

The leg		200	
	215		
The loss of one testicle	50		
	54		
The loss of both testicles	150		
	162		
The sight of one eye	150		
	162		
The removal of one eye	160		
	173		
<i>The hearing of one ear:</i>			
Due to an accident or trauma	50		
	54		
Due to an occupational disease	100		
The hearing of both ears	200		215
<i>Fractures resulting in permanent disability:</i>		<u>Not less than</u>	
Skull fracture			
		6	
Fracture of a facial bone	2		
Fracture of a vertebra	6		
Fracture of a spine or transverse process		3	
Removal of a kidney, spleen or lung			10

**\*Effective Date:** HB2137 does not list an effective date for these increases; therefore, it is in dispute as to whether these increases are effective immediately for accidents occurring on or after 7/20/05 or whether they become effective on February 1, 2006.

### XIII. FREQUENTLY ASKED QUESTIONS

*Q: How do you give notice to the employer of the time and place of an injury that took years to become apparent, for example, carpal tunnel syndrome?*

A: Give an employer notice of the date when you became aware that your injury could be work related.

*Q: I have been working on the line doing repetitive action but did not have a particular accident. Am I covered?*

A: Yes, possibly. It is important for you to consult with an attorney to protect your rights and to help you get adequately compensated. Just because there isn't a specific event or accident that causes your injury doesn't mean that your injury is not work related. Many workers suffer from repetitive trauma injuries, where doing the same motion day after day for a period of time causes wear and tear on their body and eventually, injury. These types of injuries are compensable but you have to take steps to protect your rights.

*Q: I was injured in an accident at work. I was off work for 6 weeks because of my injury. The company agreed to pay me 3 1/2 weeks pay. Is that all I'm entitled to?*

A: You may be entitled to more. You need to consult an attorney so that you may protect your rights and be certain that you are adequately compensated for your injury and lost wages.

*Q: I'm a truck driver for X Company and I was injured in an accident caused by another driver. I've been paid workers compensation. Is that all I'm entitled to?*

A: You may also have what is referred to as a third party case, that is, a regular personal injury lawsuit against someone where a jury can make an award for pain and suffering; disfigurement; disability; and for the nature and extent of your injuries. You may be able to receive an adequate award – far more than you would receive under workers compensation. With all cases there is a time limit from the date of the accident within which you have to file a case. To protect your rights you should contact an attorney.

*Q: How do I know if I'm getting the right amount of TTD?*

A: TTD is two-thirds (66 2/3%) of the employee's gross average weekly wage, subject to certain limits. The average is based on the employee's wages during the year before the injury or exposure. The rate is fixed at the time of injury, and does not change with changes in the employee's salary or the statewide average weekly wage. If you don't think you are getting the right amount of TTD, contact a lawyer.

*Q: I got hurt at work when I fell off a scaffold work. It was my fault, though, so am I entitled to workers compensation?*

A: Workers' compensation is a no-fault system of benefits provided by law to most workers who have job-related injuries or diseases. These benefits are paid regardless of fault. The amount of the benefits is limited by law. Further, it may not have been entirely your fault and you may have a claim against others such as the general contractor.

*Q: Are workers' compensation benefits subject to state and federal income tax?*

A: No. Workers' compensation payments are not subject to state or federal income tax and do not need to be reported on your tax returns as income.

*Q: Am I entitled to pain and suffering for my work related injury?*

A: No. Under Workers' Compensation the amount of benefits for a work related injury is limited by law. Pain and suffering is not part of the workers' compensation benefits. However, if you were injured by a third party, you could possibly have a regular lawsuit where a jury can make an award for pain and suffering.

*Q: I want to file a workers' compensation claim for my work related injury, but I can't afford to be considered a trouble-maker and possibly lose my job. What should I do?*

A: You should file a comp claim. It is against the law for the employer to harass, discharge, refuse to rehire or in any way discriminate against an employee for exercising his or her rights under the Workers' Compensation Act. Such conduct by the employer may give rise to a right to file a separate lawsuit for damages against the employer.

*Q: Do I have to file a claim with the Commission to receive benefits?*

A: No. It is not mandatory. However, if you are not receiving all the benefits provided by law, you should file a claim. Even if you are receiving benefits, if you are concerned about protecting your rights to receive future medical care and compensation for disability, then you should file.

*Q: I have accepted payment of workers' compensation benefits and medical benefits from my employer, have I given up my rights under the Workers' Compensation Act?*

A: No. In order to close out your rights, a settlement must be written on the pink form called "Settlement Contract Lump Sum Petition and Order" provided by the Commission. The Commission must approve the settlement before your rights are terminated. If you dispute the amount of compensation you are receiving, you have at least two years from the date of the last voluntary workers' compensation payment to file a claim with the Commission.

*Q: When should I go back to work?*

A: You should go back to work as soon as your doctor releases you to go back to work and as soon as you are well enough to return to your job. The purpose of the Workers' Compensation

Act is to treat the injured worker and to get them back to work. You won't be compensated for being off work for an unnecessary amount of time if your injuries do not warrant the time off.

*Q: I am receiving Social Security Disability Benefits, does this affect my workers' compensation claim?*

A: Yes. If you are receiving SS disability or are considering applying for disability, you should be aware that your workers' compensation claim may be affected by this. It is important to discuss your disability application with your workers' compensation attorney before settlement.

**XIV. Helpful Web Addresses:**

The Illinois Workers' Compensation Commission website: [www.iwcc.il.gov](http://www.iwcc.il.gov)

For more information on Leading lawyers: [www.leadinglawyers.com](http://www.leadinglawyers.com)

The Illinois State Bar Association: [www.isba.org](http://www.isba.org)

## **XV. About The Womick Law Firm**

34 years ago, when John Womick graduated from the University of Illinois College of Law he came home to Southern Illinois to open his own law practice and he couldn't even afford to hire a secretary. Today, his law practice includes three locations, in Jackson, St. Clair, and Williamson Counties, seven attorneys, and a legal support staff with nearly 20 people. Since the day he opened his first office, he has been dedicated to helping working men and women. He is the only member of the Leading Lawyers Network in Southern Illinois recognized in all three areas of Workers' Compensation Law, Personal injury, and Medical malpractice. The Leading Lawyers Network is a very select group of lawyers and only the lawyers who were most often recommended by their peers in a statewide survey may call themselves Leading Lawyers!

The Womick Law Firm has nearly 70 years of combined legal experience. In addition, three attorneys are licensed to practice in both Illinois and Missouri and one attorney is licensed to practice in Illinois and Indiana. The 20 people who make up the support staff include paralegals, legal assistants, investigators, and secretaries.

The Womick Law Firm is a family business. For over 20 years John's brothers have been working along side him as part of our very experienced legal support staff. In addition, three of the attorneys on staff at the Womick Law Firm are family members. His daughter, Jill Womick-Bloodworth joined the law firm's team of attorneys in 2002 and plans to carry on the tradition of advocating for working people. His son-in-law Ralph R. Bloodworth, III joined the law firm in 2001 and his son-in-law Casey VanWinkle joined the law firm in 2003.

If you have been hurt at work you may need an attorney. We hope that you will consider the Womick Law Firm and allow us to put our experience and dedication to work for you!

**YOU MAY NEED AN ATTORNEY IF...**

You aren't recovering TTD (work comp check)

Company using sick and vacation pay and not paying TTD.

You are taking sick days instead of getting workers compensation

The Insurance company is not paying your medical bills

The Work Comp insurance company will not pre-certify medical testing

You have reached MMI and insurance company wants to discuss case with you.

You have received an offer to settle and you don't feel that it fully compensates you for your injury

Your claim has been denied by the workers' compensation insurance company

If a 3<sup>rd</sup> party – other than employer is responsible for your injury.

You are injured and can NOT return to your usual and customary line of employment.

You are injured and totally disabled from doing any job.

**IF ANY OF THE ABOVE ARE TRUE YOU MAY NEED TO SEE AN ATTORNEY.  
CALL THE WOMICK LAW FIRM TODAY FOR A FREE CONSULTATION.  
1-800-598-2440**