

WORKERS' COMPENSATION
BENEFITS FOR SERIOUSLY
INJURED WORKERS:
QUESTIONS AND ANSWERS

Law Office of Joseph L. Romano

Frequently asked questions about Workers' Compensation Benefits

Many workers who have suffered a traumatic brain injury (TBI), spinal cord injury (SCI), burns, or amputation will **not** receive all the necessary supports and services from the workers' compensation insurer *to regain their independence*. For that reason, it is important for the injured worker or family member to work with an advocate or attorney, as soon as possible, after a serious work-related injury.

Who is eligible to receive workers' compensation benefits?

- Employees
- Part-time employees
- Employees who aggravate a pre-existing condition
- Seasonal employees
- Employees injured in an out-of-state accident
- Undocumented workers

What does a workers' compensation insurance company have to pay for?

Workers' compensation insurance companies must pay all your medical bills for treatments related to your work-place injury. In addition, the insurance company must pay a percentage of your wage loss for as long as you are disabled.

Does the amount a person receives for workers' compensation wage loss increase each year?

No. The amount of wage benefits to which you are entitled are determined as of the day you are injured, and the amount you receive does not increase each year.

Do employers misclassify employees as "independent contractors" to avoid paying workers' compensation insurance benefits?

Yes. This is a serious problem nationwide. In the event of a serious injury, the employee's *job duties and the facts of how the injury occurred* must be carefully examined to determine **if the employee is correctly classified as an independent contractor, or if he/she is an employee who is entitled to workers' compensation benefits.**

Is an "undocumented worker," who is injured on the job, entitled to workers' compensation benefits?

Yes. Hiring undocumented workers is a common practice in the construction, landscape, and building trade industries. In these industries, there are millions of undocumented workers that do not receive the *benefits they are entitled to* under applicable state laws.

Can I sue my employer if I am injured in a work-related accident?

No. Employers are immune from suit – you cannot sue your employer but can only recover workers' compensation benefits.

Should I investigate what happened to cause my work-related injury?

Yes. A prompt investigation may provide you with a source of substantial additional benefits, including past and future pain and suffering, lost earnings, scarring and disfigurement. All construction sites and other accidents should be thoroughly investigated to determine whether there is a contractor, sub-contractor, or equipment manufacturer (other than the employer), against whom a claim can be made for damages.

Is the workers' compensation insurer required to pay for home modifications, vans and vehicle modifications, and state of the art prosthetics?

No. In most states, workers' compensation insurers have the discretion to determine what benefits they will pay for in TBI, SCI, burns, and amputation cases. Injured workers will need to negotiate with the case manager and the worker's compensation insurance adjuster to obtain *adequate* payments for home modifications, van and vehicle modifications, state of the art prosthetics, and home care benefits.

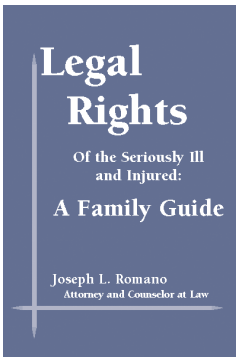
If I am receiving workers' compensation benefits, can I also receive Social Security Disability?

Yes. You can collect both at the same time. To receive social security disability, a doctor must state that you are *totally disabled and unable to perform any gainful employment for at least one year.*

What supports and services may be approved by your workers' compensation insurance carrier?

- Stair glides, specialized wheelchairs, wheelchair lifts
- Vans and vehicle modifications
- State of the art prosthetics
- Exterior ramps
- Home modifications
- Private duty nursing and personal care services
- Residential treatment programs
- Extended and outpatient therapies
- Cognitive and vision therapies
- Coma awareness programs
- Hyperbaric oxygen treatment
- Scar revision surgeries/laser resurfacing

Injured workers and their families need to fight for all their workers' compensation benefits and services.



If you have questions or if you would like to receive a FREE consultation or a copy of Joseph Romano's book "*Legal Rights of the Seriously Ill and Injured: A Family Guide*" in English or Spanish, call 800-331-4134.

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The Law Office of Joseph L. Romano handles cases in Pennsylvania. For cases outside of Pennsylvania, Joseph Romano works with local attorneys in each state, as applicable.

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