

Why You Should Hire A Workers' Compensation Attorney Kansas City

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Introduction

For various reasons, injured workers occasionally try to handle their workers' compensation claims on their own without hiring an attorney. In most cases the reason for not hiring an attorney is the thought that they can save money by not having to pay an attorney fee. Saving money is a great idea, but not hiring an attorney to handle your workers' compensation case, generally will not only not save you money, but in the long run will likely mean that you will get less in settlement for your injuries. As a general rule, claimants who hire attorneys receive more for their workers' compensation settlements and awards than claimants who do not hire attorneys. The following will point out some of the pitfalls in handling workers' compensation claims and will explain why you should hire an attorney to handle your workers' compensation claim.

Over Time The Workers' Compensation System Has Become More Complex

Over the years more and more changes in Workers' Compensation laws have been enacted by the state legislatures. As a result of these changes and modifications, moving workers' compensation claims through the workers' compensation system has become more complex. There are now many steps that must be followed and more hoops that have to be jumped through in order to get your case through to a settlement or award. If you fail to follow or satisfy each step, your claim may be diminished and in some cases destroyed.

Claims Must Be Filed Within Certain Periods Of Time And In Certain Ways

When injured you must file your claim for compensation in a certain way and within a certain period of time. There are generally notice requirements that require you to give

notice to your employer within a specified period of time, and in a specified manner. Claims must be filed on certain claim forms, filed in certain ways, and served on the employer in certain ways. There have been cases where injured workers have received notices from a Division Of Workers' Compensation, or have received communication from their employers and the employers' insurance company about their claim, which caused the claimants to think that they had properly filed claims, only to later learn that even though they were getting notices from the Division Of Workers' Compensation or the employer or the employer's insurance company, that they had not actually filed a proper claim in the proper manner, and their claims were ultimately dismissed and denied. If you hire a lawyer to handle your case, the attorney will have the forms you need to fill out to file your claim and will know when the claim must be filed and how it must be filed and served in order to be valid. Going through this process without a lawyer exposes you to having your claim dismissed or denied on statute of limitation grounds for failing to follow proper procedure in the appropriate time period.

You Need To Obtain A Fair Disability Rating In Order To Obtain Fair Compensation

Unlike other civil damage suits, settlements and awards in workers' compensation claims are based on disability ratings. Workers' compensation claims do not award money for injuries generally or for pain and suffering. Rather, workers' compensation awards and settlements are based on formulas that, in turn, are based on a percentage disability rating to the part of your body that was injured. These disability ratings can only be rendered by a physician. In workers' compensation cases, the employers are allowed to select and hand pick the physicians that will provide your medical treatment. At the end of treatment the physician who was selected by the employer will issue a disability rating. The lower the disability rating the lower the settlement or award and the higher the disability rating, the bigger the award or settlement. When you think about it, employers know that if the doctor they select to treat you gives you a large generous disability rating that they will be required to pay more money in settlement. In the same way, physicians are aware that if they give a generous high rating to a claimant for an injury, that the employer that hired them will be required to pay more money in settlement for the workers' compensation claim. As a result of this system, there is pressure on the employers and insurance companies to hire doctors who will provide more conservative lower disability ratings, and there is pressure on the doctors to provide more conservative lower disability ratings for the claimants they have provided treatment to. There are physicians who generally provide more conservative disability ratings and it makes economic sense for the employers and insurance companies to select those doctors who are more conservative and who will

provide lower more conservative disability ratings. Thus, as a rule, the doctors that have been selected by the employer will provide conservative disability ratings that do not necessarily reflect the actual disability that resulted from your injury. Going further, there are a few doctors that regularly provide ridiculously low disability ratings that would result in an extremely unfair settlement if their ratings were used as the basis for an award. Lawyers who regularly handle workers compensation claims are fully aware of the intricacies of this system, and are knowledgeable about those physicians who regularly provide low disability ratings.

Given that the doctors that have been selected by the employer will provide more conservative lower disability ratings, in order to obtain a fair settlement, it is generally necessary to obtain a disability rating from an independent physician of your choosing. An attorney who handles workers' compensation cases will be aware of those physicians who are knowledgeable about the workers compensation system, and will provide fair independent evaluations and disability ratings. Your lawyer will arrange for you to be evaluated by an independent physician in order to obtain a fair disability rating, which will in turn allow you to obtain a fair settlement or award.

In order to get a disability rating from a physician of your choice, you will need to obtain and provide all of your medical records to the examining physician and pay the doctors fees for the evaluation and rating in advance. The cost of obtaining the medical records may be in the hundreds of dollars, and the physician fees for evaluating you and determining your disability rating will be substantial. A lawyer who routinely handles workers' compensation claims will know who to send you to, will gather all of your medical records to provide to the doctor, and will pay the doctor's fees for your examination and rating. Attorneys are ethically allowed to advance and pay the expenses for your disability rating, if you agree by contract to reimburse the attorney for the medical records and physician fees out of the settlement or award. Most attorneys will agree that, if for some reason you do not obtain a settlement or award, that you do not have to reimburse them for the legal expenses they have expended on your case.

Assuming that the rating you obtain from the doctor your attorney selects is higher than the rating provided by the physician who was selected by the employer, your attorney will be able to use this higher disability rating to obtain a larger settlement than you would have received if you had agreed to settle on the basis of the of the rating of the physician selected by the employer. Based on the issue of the ratings alone, as a general rule, with the services of a knowledgeable attorney, even after

paying an attorney fee, you will more than likely receive more than you would have received without an attorney.

You Have To Follow Certain Steps To Get Your Case To And Through A Trial

In order to get your workers' compensation claim to and through a trial you need to go through certain steps and jump through certain hoops. Not only are there requirements and steps you have to satisfy in order to get your case to and through a trial, but these steps and requirements vary from state to state. In most cases, in order to get to a trial you have to go through mediations or pre-hearing conferences. Most states have certain steps that you have to satisfy to set up mediations and pre-hearing settlement conferences. In order to get to trial you have to satisfy certain requirements in order to obtain a trial setting. Once you get to a trial, you have to have your medical records and evidence in a certain form or it will not be allowed into evidence. In trying get through the system there will be a skillful lawyer representing the employer and insurance company whose job will be to minimize the amount of money that the employer/insurance company ultimately pays on the claim and in some cases to completely defeat the claim. Without adequate knowledge of the workers' compensation system, you will be at the mercy of the employer/insurance company and their attorney.

Determining Your Average Weekly Wage

In addition to your final settlement being based on your disability rating, it is also based on what is know as your "average weekly wage." The higher the average weekly wage, the higher the settlement calculation. If your average weekly wage is not correctly established you will not receive a fair settlement. If you are a part time worker with a lower average weekly wage, there are specific rules that, in some states, may be applied that allow you to increase the amount of your "average weekly wage rate."

Future Medical Treatment

You may be entitled to and need future medical treatment as a result of your work relating injury. Employers and insurance companies do not like to leave medical open because it leaves the case and the possibility of future benefits being paid open, and they do not always offer future medical benefits or voluntarily agree to provide future medical benefits. In some states, even if you are awarded future medical benefits, the benefits are many times only available for a limited period of time, and are only obtainable if applied for in a certain way. If you have a prosthesis, you may need

future replacements. If you have pins and screws in your bones, you may need treatment in the future to remove or replace the hardware. If you have had surgery to support structures in your body, you may need future care and treatment for those injuries. These benefits are not always routinely offered or agreed to.

There May Be Social Security Implications From Your Workers' Compensation Settlement

If you receive a lump sum settlement payment and then unexpectedly suffer a disability and receive social security benefits, in some cases the Social Security Administration may be able to reduce your Social Security payments for a period of time based on the amount of your workers' compensation settlement. In some jurisdictions, it is possible to file a Social Security Addendum to your workers' compensation settlement that can help reduce any future offset or reduction to your social security benefits. There may also be Medicare set aside implications for your case.

Conclusion

The above discussed issues and aspects of workers' compensation claims, as well as many others that have not been discussed, are matters that must be considered and resolved in order to obtain a fair workers' compensation settlement or award. The above is not legal advice and is not given as such, but is only offered to point out, that in most cases you will best be served to hire a lawyer familiar with the workers' compensation system to handle your workers' compensation claim.

One final point should be made about hiring an attorney to handle your workers' compensation claim. In most states, the percentage that an attorney may charge for a workers' compensation claim is set by statute. Additionally, when settlements are approved, attorneys are required to set out the fee they are charging which insures that you will be charged a fair fee. As a result, in most states, including Kansas and Missouri, as a rule, most lawyers handling workers' compensation claims charge the same percentage for attorney fees. Whether you hire the best lawyer in town or the worst lawyer in town to handle your claim, you will pay the same percentage fee, so you might as well hire the best and most knowledgeable attorney you can find.

If you need a workers' compensation attorney in Kansas City, call the Wells Law Firm. The Wells Law Firm will help you evaluate your case and provide you with the legal representation you need.

Find out more about Robert Wells Law at our website!

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