

# Florida Workers' Compensation Law

## A Summary For The Injured Worker



### Introduction

This pamphlet was written by Dennis A. Palso of the Law Office of Dennis A. Palso, P.A., an attorney who specializes in Florida workers' compensation law representing injured workers throughout West Central Florida. Mr. Palso was admitted to the Florida Bar in 1983 and has handled hundreds of workers' compensation cases representing injured workers. He is a member of various legal bar groups, including the American Bar Association; the Florida Justice Association (formerly called Academy of Florida Trial Lawyers); the Florida Bar (workers' compensation section); the national Workplace Injury Law and Advocacy Group; and is a founding member and director of Florida Workers' Advocates, a Florida statewide organization of lawyers who represent injured workers.

Mr. Palso is board certified by the Florida Bar as an expert in workers' compensation law, a distinction earned by less than 1% of Florida lawyers. He is AV rated by Martindale-Hubbell Legal Directories which is the highest attorney competency rating given by Martindale-Hubbell, the nation's largest and most prominent national attorney rating company.

Mr. Palso represents only injured workers - never insurance companies. The law firm's main office is in St. Petersburg (where all workers' compensation cases for Pinellas

County and Pasco County are heard). Additionally, the firm has a consultation office in New Port Richey. For more information, see us at [www.palsolaw.com](http://www.palsolaw.com).

### **Hiring a Lawyer**

A workers' compensation lawyer may be able to help you even if the insurance company tells you that you are receiving everything to which you are entitled. Many lawyers make you pay costs, win or lose, and take a percentage from all your current workers' compensation checks. Dennis A. Palso, P.A. does not charge you any attorney fees or any costs unless they get you a settlement you want or they recover benefits for you. Consultations are free and confidential.

You should consider the following before consulting with a lawyer: (1) is the lawyer's practice highly concentrated in job injuries? (2) Does the lawyer represent only injured workers? (3) Is the lawyer among the less than 1% of Florida lawyers who are board certified in workers' compensation?

**IMPORTANT** -you do not actually hire a lawyer to work on your case until you sign a written contract (retainer agreement) with that lawyer.

### **Florida Workers' Compensation Basic Facts**

- Workers' compensation benefits cover work-related injuries. Benefits are paid by your employer or by its workers' compensation insurance carrier (employer/carrier).
- You may be able to recover for pain and suffering and other losses by way of a negligence lawsuit if you were injured due to negligence. A lawyer with expertise in job injuries can advise you of your rights.
- Workers' compensation disability benefits end after a certain period of time unless you are permanently unable to perform almost any work and meet other requirements.
- Workers' compensation medical care coverage never ends unless you allow your case to close.
- Your rights to all benefits will close forever unless you file a written Petition for Benefits with the Florida Division of Administrative Hearings within either one year from your last medical or disability benefit or within two years from your accident,

whichever is later.

- The employer or its workers' compensation carrier (employer/carrier) must provide all necessary and reasonable medical treatment such as: doctors; prescription medications; diagnostic tests such as x-rays and MRI; assistance devices such as casts and canes. The employer/carrier must provide all necessary medical care regardless of overall cost.
- You are entitled to reimbursement of the cost of transportation to medical care and testing.
- Although your right to select your own doctors may vary depending upon the employer/carrier's medical plan, you have a one-time right to change doctors.
- Except for emergency treatment, all medical treatment must be authorized (pre-approved) by the workers' compensation insurance carrier.
- Except for treatment in a medical emergency, the employer/carrier is only responsible for medical bills for treatment that it authorized (pre-approved).
- If you treat with an unauthorized medical provider, and it is not an emergency, you may be responsible for the bill.
- You do not have to pay for your authorized medical care before reaching maximum medical improvement. After you reach your maximum medical improvement, you must pay \$10.00 per visit for medical care unless it is an emergency.

### **Disability and Impairment Benefits (Money Benefits)**

- The only money benefits available are the following classes of disability and impairment benefits. These are all based upon your:

(AWW) - average weekly gross earnings for the 13 weeks before the accident, which may include health insurance and other benefits.

(MMI) - maximum medical improvement, meaning your injuries have healed as much as possible.

- Except for impairment benefits (IB) which may be paid weekly and supplemental income benefits (SIB) that may be paid monthly, the disability money benefits are paid in biweekly (14-day) installments.
- You may be entitled to penalties and interest on late payments.

- The combination of temporary total disability (TTD) and temporary partial disability (TPD) benefits are capped at 104 weeks of benefits.
- All money benefits except permanent total disability (PTD) benefits end 401 weeks after the accident.

(a) Temporary Total Disability Benefits (TTD)

- Not yet reached MMI
- Unable to perform work of any kind
- Benefit is 66 2/3% of AWW (up to a maximum amount), but may be temporarily higher in certain serious accident cases

(b) Temporary Partial Disability Benefits (TPD)

- Not yet reached MMI
- Unable to do your usual work, but not disabled from all work
- Benefit is 64% of AWW (up to a maximum amount) but is reduced if you work

(c) Impairment Benefits (IB)

- Reached MMI with permanent impairment
- Benefit is  $\frac{3}{4}$  of TTD for accidents occurring on or after October 1, 2003 and  $\frac{1}{2}$  TTD for accidents that occurred before that date
- Paid regardless of work and earnings, except may be reduced due to earnings for accidents occurring on or after October 1, 2003
- Number of weeks paid depends on permanent impairment percentage

(d) Supplemental Income Benefits (SIB)

- Only awardable for accidents that occurred before October 1, 2003
- Reached MMI with a permanent impairment rating of at least 20%
- Have drawn out IB
- Unable to do your usual work, but not disabled from all work
- Benefit is 64% of AWW (up to a maximum amount) but is reduced if you work

(e) Permanent Total Disability Benefits (PTD)

- Reached MMI with permanent impairment

- Unable to perform almost all work, not just your usual work
- Must meet specific disability guidelines or have a certain type of severe injury
- Benefit is 66 2/3% of AWW (maximum benefit changes yearly)
- Also receive a cost-of-living allowance
- Paid as long as requirements are met, even for life

### **Death Benefits**

Funeral expenses and money benefits to your dependents may be available if your workers' compensation injuries cause your death.

### **Job Retraining and Schooling**

Based upon your injury and other factors, you may qualify for retraining through the Florida Department of Education that may entitle you to additional TTD benefits.

### **Hearings and Litigation**

If you are denied workers' compensation benefits, you must file one or more claim forms, which must be legally specific, with the Florida Division of Administrative Hearings in Tallahassee. This is similar to starting a lawsuit. You will have to appear at a mediation, perhaps some depositions, and then a trial-type hearing held by a workers' compensation judge. At the trial, you may introduce evidence, call witnesses, cross-examine other witnesses, and make a closing argument. Specific laws on procedure and evidence apply. Your lawyer will handle all this for you. If you have not hired a lawyer, you can obtain blank forms and some information from the Florida Division of Administrative Hearings.

### **Settlements**

Settlements are voluntary on both sides. Settlement amount and terms are negotiable. If you do not have a lawyer, the settlement must be approved by a workers' compensation judge at a hearing. The language in the settlement document often affects your other legal rights and therefore should be carefully drafted by you or by a lawyer working solely to protect your interest.

**Dennis A. Palso**

Attorney at Law

Florida Bar Board Certified

Workers' Compensation Law Specialist

*Representing only injured workers, never insurance companies*

- free confidential consultations •

Pinellas	(727) 578-5911
Pasco	(727) 849-9356
Hernando	(352) 686-2658

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