

Workers' Compensation

When an employee has sustained a work related injury notice must be given to the employer. Usually notice can be given on the hospital pass form that is signed by the employee. The employee should make sure that the hospital pass is filled out correctly and all statements made to the supervisor about events surrounding the injury are clearly noted. For example, "Employee states that at _____(time) he/she was lifting a _____(object) on _____(machine) and felt a pop in his/her back.

Cases with an actual incident of injury are disputed less by employers and much easier to prove that they are work related when they are disputed.

There are cumulative type injuries that occur over a period of time and do not have an actual incident of injury. However, these types of injuries are often times disputed by employers because they are much tougher to prove. Remember under Iowa comp law the burden is on the claimant to prove their injury is work related.

Notice of injury - (Iowa Code, Chapter 85.23)

When an employee has sustained a work related injury/illness, they have 90 days from the date of the injury/illness to give the Company "notice of injury". If there was not an actual incident of injury, in other words the injury developed over a period of time, it may be considered a "cumulative injury". With a "cumulative injury" the 90 day notice period would begin; 1) When the employee first misses a day of work as a result of the injury or, 2) When the employee is unable to perform the functions of their job as a result of a work related injury/illness.

Written notice of injury is the best form of notice, however a medical pass will suffice. If notice of injury is not given within the 90 day time frame, benefits can be withheld.

Statute of Limitations - (Iowa Code, Chapter 85.26)

Two Year Statute of Limitations

If within 2 years from the occurrence of the injury, the employee does not receive disability benefits, or file an application for arbitration, benefits can be denied.

Three Year Statute of Limitations

If disability benefits have been paid, the employee has three years from the last payment of disability benefits to receive additional benefits or file an action before the Workers' Compensation Commissioner. If not filed within the three year period, the benefits can be denied. This statute of limitation does not apply to medical expenses reasonably necessary to treat the injury.

In Solidarity,
Al Skinner

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