SCHAFFER & ASSOCIATES LPA

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THIS ISSUE:

Workers' Comp FAQ
What to Know Before Applying for Disability Benefits

A serious injury is the last thing anyone wants or expects to happen.. They can be painful, debilitating, expensive, and even traumatic. Such an injury occurring at work only complicates matters further. Filing and managing a claim with the Ohio Bureau of Workers' Compensation (BWC) is often a lengthy and rocky process.

If you've found yourself in this situation, you've probably found yourself with a lot of questions. At Schaffer & Associates, we want you to be empowered and informed during the whole life of your claim.

1. Why is it important to report an injury at work?
While an injury may seem like no big deal at first, there is a chance it could turn into a larger problem down the road. Reporting an injury is the start of a paper trail that can help support your claim.

It's also important to know every work injury has a one year statute of limitations. This means you have one year from the date of your injury to file a claim with the BWC. As a general rule, the claims process will run more smoothly if you're not trying to file your claim long after the fact.

Some employers may discourage you from claiming an injury with the BWC. You are well within your rights to file a claim for workers' compensation if you are injured at work. You are under no obligation to inform your employer should you choose to do so.

2. Do you need a lawyer to file a workers' compensation claim?

You are not required by the BWC to retain an attorney before filing a claim. However, it's never a bad idea to seek counsel. The claims process can be tumultuous, overwhelming, and even intimidating. Your employer may argue the legitimacy or your injury; you may be denied reimbursement for medical treatment. Certain claims can be active for decades.

The job of a workers' compensation attorney is to manage the ins and outs of this process so you don't have to. At Schaffer & Associates, we keep tabs on your claim activity while simultaneously keeping you informed of your rights and entitlements.

3. How do you file a claim for a work injury?

It is absolutely essential to have a medical diagnosis that supports your injury claim. A doctor who examines and diagnoses you after your injury can help you fill out a First Report of Injury, Occupational Disease or Death (FROI) form. While you can also fill out an FROI online for yourself, it can be beneficial to contact an attorney to help you begin the claims process. At Schaffer & Associates, we have a multitude of experience filing FROIs and can most definitely assist you with filing your claim.

Once filed, the BWC will review your FROI and either deny or allow your claim. If you receive a denial, you have fourteen days to file an appeal. Once appealed, the BWC will send it to the Industrial Commission for a formal hearing. In addition to helping you complete the FROI, a Schaffer & Associates attorney would also appeal any denials and represent you at any hearings.

4. Who pays workers' compensation?

Most employers pay into the Ohio state fund, the BWC, who then pays your compensation. Some companies, usually those who are very large, will receive permission to opt out of the state fund. These are called self insured employers. In this case, they are responsible for paying your compensation from an allowed claim.

5. How is the amount of a workers' compensation payout calculated?

The BWC uses their own formulas to calculate what you are owed. There are several factors that go into these calculations and/or determine your eligibility. These factors include but are not limited to what types of medical treatments you need, if your injury leaves you temporarily or permanently disabled, how long your injury keeps you from working, etc.

At Schaffer & Associates, we make sure you receive all benefits to which you are entitled, and the amounts of these payments reach their highest potential.

6. Can you receive workers' compensation while working?

If the circumstances allow it, yes. On a case by case basis, our attorneys can help you receive medical treatment reimbursement, temporary or permanent disability payments, and/or settlements. Some injured workers may be eligible to receive supplemental pay (called working wage loss) if their injury leaves them unable to continue performing regular job duties or hours.

7. Are there injuries the Bureau of Workers' Compensation won't cover?

The BWC may be less inclined to allow an injury if it was related to a pre existing condition, or if you were under the influence of drugs or alcohol during the time of injury. If you presume the BWC may not allow your injury, it's always a good idea to speak to an attorney.

8. Can the Bureau of Workers' Compensation ask for money back?

In some situations, yes. This most typically occurs when you are awarded compensation on an allowed condition that is successfully appealed by your employer. The BWC will then keep 40% of any compensation later awarded, until the balance is paid off.

More rare instances of the BWC taking funds back include fraudulent activity, such as collecting compensation under the guise of a disability while still working elsewhere. This behavior can lead to criminal charges. It's also worth noting that any workers' compensation you receive is tax exempt.

WHAT TO KNOW BEFORE APPLYING FOR DISABILITY BENEFITS

The Social Security Administration doesn't just provide retirement benefits; Social Security benefits can also help to replace a portion of lost income if you or a loved one becomes significantly disabled. If you are unable to work due to a serious medical condition, you may be eligible to receive Social Security Disability Insurance benefits.

The application process can be arduous and time consuming, so it's helpful to know if you meet the basic criteria before applying. While the SSA will examine a multitude of evidence when considering an application for disability benefits, there are two main factors that go into an applicant's determination.

1. The applicant has been diagnosed with a medical condition severe enough that it makes doing past work or adjusting to a new job impossible.

The SSA has specific criteria a severe medical condition must meet in order to count as a disability. Physical or mental diagnoses can qualify as a disability, but they must render you incapable of performing past job duties or adjusting to new work. In addition, the impairment must be expected to last a minimum of one year or end in death.

These benefits are intended for people who are totally disabled, and not for those with short term or partial disabilities. Therefore, the SSA remains strict on their definition of a disability. In fact, the SSA reported 63% of initial applications for SSDI were denied in 2019.

2. The applicant has worked long and recently enough in a job covered by Social Security.

The SSA uses work credits, as well as the age during which you became disabled, to determine if you meet this qualification. Unless you have special circumstances, 40 credits are required to qualify. 20 of those 40 credits must have been earned in the past 10 years. While the amount changes annually, you can currently earn 1 credit for every $1,410 you earn at a maximum of 4 credits per year.



If you think you may meet the criteria for SSDI, or even if you're unsure, it's a good idea to meet with an attorney. If you don't meet this criteria, you may still be eligible for Supplemental Security Income, or "SSI". This government program provides financial assistance to disabled and low income people of all ages.

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