

HIGHLIGHTS REGARDING WORKERS' COMPENSATION

Workers' Compensation is payment of sick leave and medical expenses for service connected disability.

NJSA 34:15-1 et seq.

School employees are covered by the Workers' Compensation Act. This law provides a fixed weekly payment after a 7 day waiting period.

Workers' Compensation is a right. Employees are statutorily protected from any form of retaliation by employers because they filed a claim.

18A:30-2.1 WORKERS' COMPENSATION:

In addition to the Workers' Compensation Act, school employees are covered by NJSA 18A:30-2.1 which provides them with full salary from the day of the incident without the absences being charged to sick leave.

If any part of your absence is charged against your sick days, you have 90 days to reclaim them by filing a petition with the Commissioner of Education.

Though the employee receives full salary during the *waiting period*, the Workers' Compensation insurance does not reimburse the BOE until the employee is absent 7 days. Hern vs. Union City BOE (App. Div. 1991).

To be compensable, an injury must take place at the workplace during the workday or while engaged in an activity incidental to those duties. Thering vs. Reinkemeyer, 117 NJ Super 176, (Law Div. 1971).



MUST I USE A BOARD APPROVED HOSPITAL OR DOCTOR?

NJSA 34:15-15 gives the board the right to select the physician and the course of treatment. The employer is afforded the opportunity to provide what it considers to be reasonable and necessary treatment, prior to an employee seeking his/her own treatment.

If the board fails to do so, the employee can seek treatment, and then obtain reimbursement from the board. These issues are

governed by statute and they are not negotiable.

DO I NEED AN ATTORNEY?

An application for benefits filed with the Division of Workers' Compensation by a qualified attorney is the safest way to ensure eligibility for benefits.

A lawyer representing a Workers' Compensation claim **may not**, by statute, charge a fee.

The fee provided to a Workers' Compensation attorney is usually 20% of the settlement, depending on the difficulty of the case. The employer is responsible for 60% of the attorney's fee and 40% is paid by the injured employee out of his/her award.

If needed treatment is not authorized, the employee should immediately consult an attorney to file a Motion for Medical and Temporary Benefits. The employee may have to submit to evaluative examinations with a physician of the insurance carrier's choosing.

MEMBER ADVISORY

ON INJURIES RESULTING FROM WORK ACTIVITIES

1. Report the injury immediately to the appropriate school personnel. Tell them how the accident occurred and the nature of your injury.
2. Request immediate medical attention from a BOE approved physician.
3. Request that an incident report be prepared. Keep a copy of the report for your records.
4. Once seen by a board authorized physician, obtain notes from him/her authorizing any need for time off from work and submit a copy to your supervisor or the school board office. You should retain an original or copy for yourself.
5. If you are out of work as a result of your injury and such absence is authorized by the BOE's physician, your absence should not be charged to your sick leave.
6. You must go only to authorized BOE doctors for treatment. If you are seen at a hospital on an emergency basis, you must contact the BOE immediately upon your release to request follow-up care by a BOE authorized physician. Only in limited circumstances will you be allowed to be treated by your family physician.
7. You must keep your board and supervisor up-to-date regarding your ongoing absences.
8. When the authorized treating physician has released you to return to work, you must do so unless other arrangements are made.
9. If there are medical bills which you incur, which have been authorized by the BOE, then copies must be submitted to the board. You should retain copies for yourself.
10. Following your release from medical treatment, you may be entitled to a monetary award for partial permanent disability, if you are still experiencing the residual effects of the injury.
11. If there is a delay of more than two weeks in obtaining compensation benefits or a delay in being sent to an authorized physician, contact your UniServ Representative.

REMEMBER THE TIME LIMITS

1. Receipt of benefits is contingent upon the employee's prompt notification to the employer of the incident.
2. Report forms should be completed as soon as possible to avoid forfeiture of benefits. Taking 7 to 14 days is probably okay and taking up to 30 days with a reasonable explanation is probably acceptable.
3. Actions must be filed with the Division of Workers' Compensation within two years of the injury or the last issuance of medical treatments or temporary wage loss benefits.
4. A case can be re-opened up to 2 years from the last date a benefit (check) was issued or medical treatment was rendered.
5. If the BOE charges the absences to sick leave, you have 90 days to file a petition with the Commissioner of Education to have them reinstated.

