



RAMOS
LAW FIRM

How to Win Georgia Workers' Compensation Claims



REPRESENTING
GEORGIA'S
INJURED
WORKERS
SINCE
2005



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Introduction

In theory, workers' compensation is a powerful system designed to ensure workers are not left facing financial devastation after a workplace accident due to the cost of their medical treatment, transportation to and from medical appointments, or lost wages if they are unable to work. However, in reality, securing these benefits is often met with great resistance from insurance carriers and employers, and the process of documenting and properly filing a claim can be technically challenging.

As a result, receiving income and medical benefits can be a struggle that is needlessly complex and overwhelming. The system is designed by insurance insiders for insurance people to "adjust" workers' cases or settle for as little as possible. Even worse, it is common for legitimate claims to be denied altogether, which literally adds insult to injury.

At the Ramos Law Firm, Georgia workers' compensation is our exclusive focus. We understand the many challenges injured workers face in getting the medical treatment and income benefits they need. We have created this ebook to guide you in navigating the deceptively complex world of workers' compensation and its processes from start to finish.

By the end, it is our hope that you will have a better understanding of:

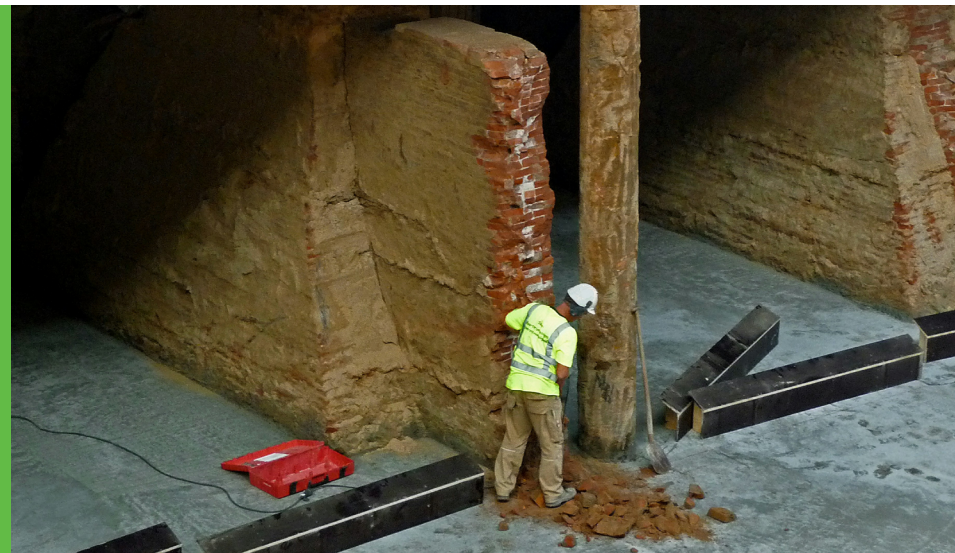
- What benefits you are entitled to;
- How to build a strong claim and avoid common pitfalls;
- What your options are when it comes to settlements and appeals; and
- How working with an attorney can benefit you.

This information is strictly for educational purposes and is not a substitute for legal advice. Every case is different and largely depends on the facts and circumstances surrounding the injury and employment.

Understanding Workers' Compensation

What is Workers' Compensation?

Workers' compensation is a state-specific system designed to provide workers with immediate medical care and income supplements for injuries that result from an accident on the job. In the event of a worker's death, this system may also provide the worker's family with funeral and burial assistance.



In Georgia, any business with three or more employees is required to obtain workers' compensation coverage. These employees may be full-time, part-time, or seasonal workers. In fact, there is no minimum amount of time employees must have worked before being covered under the Georgia workers' compensation system. Injuries may occur during on-the-

job orientation, training, or normal work, and those injuries may be deemed “compensable” under the Workers’ Compensation Act. The workers’ comp system is also a “no-fault” system, where the injured employee is not forced to prove negligence.

Therefore, if any employee gets injured while on the job, he or she should qualify for workers’ compensation. Right? As simple as that may seem, the devil is in the details, and workers need to be prepared for a fight.

Who is Eligible to Receive Workers’ Compensation Benefits?

EMPLOYEES

If a worker is considered an employee, he or she is generally eligible for workers’ compensation benefits as long as his or her injury arose out of and was in the course of his or her employment. The workers’ compensation system applies to all areas of employment, from retail to construction, healthcare, food service, and ordinary office and administrative jobs. Moreover, it applies to the private sector as well as to Georgia state and local government workers. However, if the worker is an “independent contractor” or “owner-operator,” he or she would not be covered under workers’ compensation as that “worker” would not be classified as an “employee.”



SEASONAL OR TEMPORARY WORKERS

Like traditional employees, seasonal and temporary workers have the right to pursue and obtain workers' compensation benefits if they are injured on the job. However, some may be disqualified depending on their occupation. Farm workers are one such group that is generally considered exempt. That being said, employers may voluntarily offer health insurance or workers' compensation insurance to these types of workers.

UNDOCUMENTED WORKERS

So long as they are considered an employee (whether full/part-time, temporary, or seasonal), undocumented workers are eligible to receive workers' compensation benefits if they are injured on the job. However, undocumented workers may face unique challenges given the political climate. In these cases, it is highly recommended that they hire an experienced Georgia workers' compensation lawyer or law firm like Ramos Law Firm.

Who is NOT Eligible to Receive Workers' Compensation Benefits?

FEDERAL EMPLOYEES

While state and city employees are covered by workers' compensation, federal employees are usually exempt. Instead, injured federal employees can file under the [Federal Employees' Compensation Act](#) (FECA), which offers similar protections.

INDEPENDENT CONTRACTORS

True "independent contractors" are not eligible for workers' compensation benefits. However, in some cases, workers classified as "independent contractors" have successfully recovered workers' compensation benefits because they were miscategorized by their employers in order to avoid

paying benefits. The issue will turn on the level of “control and dominion” the employer had on the worker, and the particular facts of the case.

For example, if you hire a painter to paint your home, you would expect him or her to have paint brushes, scaffolding, and other specialized tools to complete the job. You would agree on a price and a general time for completion. You are not supervising him or her on how to use the paint, operate the scaffolding, or when to take breaks. You are also not taking taxes out of the payment and filing it with the IRS. You just want the job done. This is a classic example of an “independent contractor.”

Contrast the painter scenario with a typical worker at your favorite fast-food establishment. He or she would have a uniform, be expected to clock in and out, be supervised, and not be expected to bring his or her own cash register or spatula. This employee would have taxes taken out of his or her paycheck and report according to a schedule prepared by the restaurant. This person is the typical “employee.”

Again, every claim is fact-sensitive and must be determined on a case-by-case basis.

VOLUNTEERS AND UNPAID INTERNS

In most cases, unpaid workers like volunteers and interns are not considered employees and thus are not eligible for workers' compensation. In some situations, however, a court may determine that an employer-employee relationship was established if the employer benefits substantially from the worker's services, dictates how and when the work is performed, and retains the authority to terminate the relationship.



Which Injuries Does Workers' Compensation Cover?

Generally, injuries need only be a result of a worker's work duties to be covered by workers' compensation. Georgia workers' compensation is a "no-fault" system, meaning that even if the injuries were caused by a mistake the worker made themselves, they can still receive benefits.

However, there are some exceptions. Workers' compensation will be denied if the worker intentionally caused the accident or the injury was a result of his or her intoxication (whether through alcohol or illicit substances). In addition, a worker may not be covered if he or she was injured while "off-the-clock" and doing things not arising out of the course of employment. Whether the accident is covered is very fact-sensitive. Finally, a worker's injuries must first be physical in nature to be covered or accepted under workers' compensation. Psychological injuries are allowed and potentially compensable if they result from an initial physical injury occurring at work.

Benefits Workers Are Entitled To Receive

Injured workers are entitled to certain benefits ranging from coverage of medical treatment to income (also known as "indemnity") payments. They may also receive compensation for a residual impairment as long as the medical consequences are permanent, as determined by the treating physician. As you can surmise, the type and duration of the workers' compensation benefits are dependent on the nature and severity of the occupational injury.

Medical Benefits

Workplace accidents and injuries often result in steep medical expenses. Workers' compensation may cover medically-related costs, such as ambulance trips, hospital stays, surgery, prescriptions, and durable medical equipment, as long as they are borne from the occupational accident. A worker may also receive reimbursement for the mileage traveled in their personal vehicle when visiting authorized treating facilities and doctors.

In most cases, the employer and insurance company control (and pay for) the worker's related medical care. In other words, workers may not see their own doctor. Instead, they are required to receive remedial care from a medical provider from their employer's "panel of physicians." This is a list of at least six (6) physicians whom the worker's employer or its insurance company has pre-approved for treatment. The only exceptions to this rule are if the employer did not have a valid panel of physicians or the worker needed emergency care, and there was no time to find an approved provider.

Disability Benefits

If a worker's occupational injury prevents him or her from performing job duties at the same level as before, or causes him or her to be **unable to work at all**, he or she may be entitled to workers' compensation income benefits.

TEMPORARY PARTIAL DISABILITY

Temporary partial disability (TPD) benefits are designed to compensate injured workers who can return to work but cannot perform the full shift responsibilities due to the work injury. As a result, they are working fewer hours and making less money because of the underlying occupational accident and injury.

In these cases, the injured worker may receive weekly payments of two-thirds of the **difference** between his or her pre- and post-injury average weekly wages. Under Georgia law, injured workers are entitled to a maximum of 350 weeks of TPD benefits.



TEMPORARY TOTAL DISABILITY

Temporary total disability (TTD) benefits are allocated for workers who cannot return to work at all during their recovery process, or whose employers cannot accommodate their request for a lighter workload while they heal. In these cases, the injured worker may receive two-thirds of their average weekly wage up to the statutory maximum related to the date of the accident.

Under Georgia law, injured workers may be entitled to a maximum of 400 weeks of TTD benefits.

PERMANENT PARTIAL DISABILITY

Permanent partial disability (PPD) benefits attempt to address the residual physical effects the work injury has had on the worker. Generally, once an injured worker reaches a point of maximum medical improvement, the point where no further significant medical recovery is expected, the physician will determine what permanent impact the occupational injury has on the injured worker.

The physician will express his assessment in a "percentage of impairment" in terms of the worker's physical abilities. This medical "impairment rating" should be conducted pursuant to the AMA Guides to Impairment, 5th Edition. This assessment is commonly referred to as the "PPD rating." In turn, the PPD rating will be used to calculate the duration of weekly payments the worker may receive.

For example, under Georgia law, an arm injury may carry a permanency rating of up to 225 weeks of impairment. If the treating physician certifies that a worker lost 10% use of his or her arm due to a compensable work injury, the worker may receive weekly payments at his or her respective "comp rate" for 22.5 weeks (10% of 225). Presuming the comp rate is \$800, he or she may receive \$18,000 in PPD benefits. ($\$800 \times 22.5$).

CATASTROPHIC DESIGNATION OR LIFETIME CLAIMS

Catastrophically designated claims, or lifetime claims, are reserved for workers who suffer devastating permanent injuries that prevent them from returning to work in any capacity for the rest of their lives. This may include significant burns, traumatic brain injuries, paralysis, or permanent loss of both arms, legs, feet, hands, or eyes.

These severe injuries allow the State Board to award the injured worker “lifetime” medical and income benefits that do not expire after 400 weeks like all other workers’ compensation claims. They are also entitled to receive vocational rehabilitation and other special benefits uniquely designed for severely injured workers.

VOCATIONAL REHABILITATION

If the worker cannot return to his or her original occupation due to the injuries, workers’ compensation may provide financial assistance for school tuition, job retraining programs, career counseling, or job replacement services. The goal of vocational rehab is to ensure that the worker increases the chances of obtaining a job that aligns with his or her physical capabilities after the occupational injury.

DEATH BENEFITS

If a worker suffers a fatal accident in the workplace, a workers’ compensation carrier may be required to provide the worker’s family with death benefits that cover funeral and burial expenses as well as any medical bills the worker may have incurred due to the injury. Additionally, the dependents may be eligible to receive indemnity benefits. If there are no dependents, the employer may pay a fee to the State Board’s registry.

Steps to Take After an Injury

Suffering from an accident at work can be overwhelming, but what a worker does immediately afterwards can make or break their workers' compensation claim.

In this section, we will address three essential steps to take after an on-the-job injury. These steps protect the injured worker's health and position the claim for a better recovery.

1. Report the Injury to the Employer

Most employers require workers to report all injuries sustained on the job to the supervisor, manager, or whoever is in charge. However, simply reporting the accident and injury is not just a matter of following company policy; it is crucial to initiating a workers' compensation claim.

When a work injury happens, the first step should be to report the incident to the supervisor or manager, either verbally or in writing, or both, as soon as possible. Under the law, the employer must be notified within 30 days of the worker suffering the occupational injury. If a worker fails to notify their employer in this timeframe, they may not be able to receive benefits.

In reporting the accident, the worker should be prepared to provide the following details:

- The time, date, and place of the accident;
- The events leading up to the accident;
- The body parts that were injured;
- The names of any witnesses and people involved; and
- Whether there were any cameras that may have recorded the event.

It is helpful to write this information down in a report or narrative as soon as possible. After reporting the work injury, the employer should file a "First Report of Injury" with its workers' compensation insurance company to begin the claim process. Additionally, we strongly recommend that the worker take pictures of the accident scene, injuries, and other areas that may be important when proving the case.

2. Seek Medical Treatment With the Right Provider

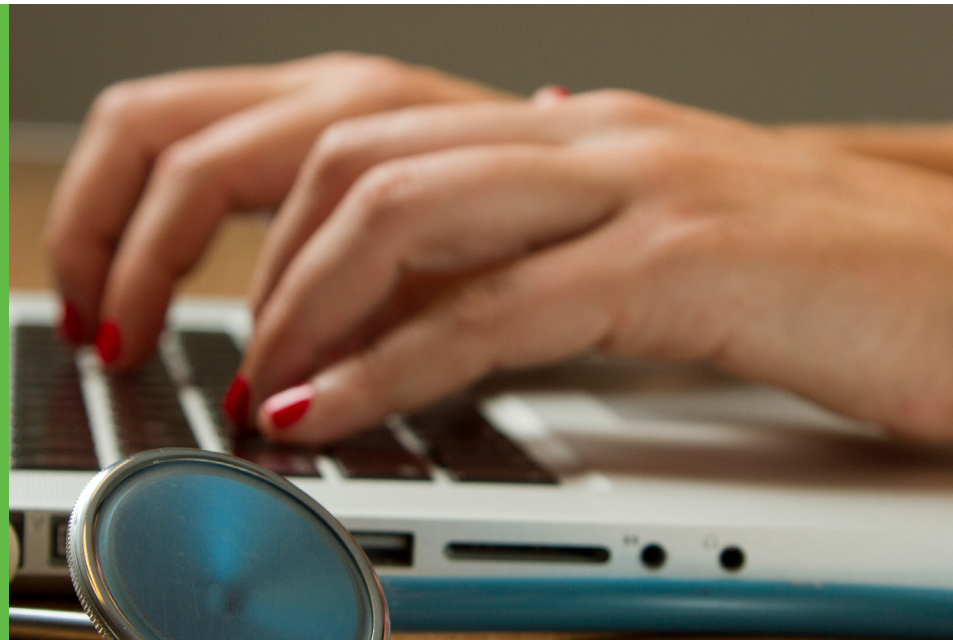
If emergency medical treatment is required, the injured worker may be seen by any doctor in the nearest emergency room (ER). However, if he or she does not need to visit the ER or will need an immediate follow-up, we recommend that he or she ask the supervisor for direction as to where to go for remedial medical care. By doing this, the injured worker will have a stronger case when asking the employer to pay for the visit. Practically, the employer may not authorize the worker to receive treatment from his or her own doctor.

In most cases, the worker will be required to choose a physician from the employer's "panel of physicians." This panel is a list of doctors the employer's insurance company has pre-authorized for the treatment of workers' compensation accidents. A panel is required by law for Georgia employers with three or more employees. The panel must consist of at least six physicians, including at least one orthopedic physician, and can have no more than two physicians from industrial clinics. If there is no panel of physicians, the worker may have the right to see a doctor of his or her choosing.

Employers may also contract with a Workers' Compensation Managed Care Organization (WCMCO) certified by the State Board of Workers' Compensation (SBWC). A WCMCO has its own network of physicians as well as certain rules and regulations for the treatment of injured workers.

During the worker's appointment with the authorized physician, it is important to be consistent and comprehensive as to what body parts have been injured and how the injury occurred. The worker should also be truthful about the level of pain he or she is experiencing and avoid exaggerating any of his or her symptoms. If, at any time after his or her accident, the worker begins experiencing new pain that may be related to the accident, he or she should report this pain to the physician as soon as possible and explain how it is related.

For example, presume the worker suffers a knee injury and she is prescribed the use of crutches. Subsequently, she develops shoulder pain. This pain is likely the result of using crutches, which is directly related to her knee injury. Hence, this shoulder pain should be reported to the treating workers' comp doctor so that the shoulder treatment may be included in the overall workers' compensation claim.



3. Create a Record Surrounding the Work Accident and Injury

While the employer's insurance company will ideally pay workers' comp benefits without issue or hesitation, it is best to prepare for the potential denial of a claim, partially or in full. We recommend that the worker gather all relevant documentation regarding the accident and witnesses, as well as any information pertinent to the resulting injuries.

For example, most employers require an incident report to be completed after an accident. We recommend that the worker obtain a copy of the report, as well as other documents, such as:

- Photos of the injury and accident scene;
- Medical records, bills, and medication receipts;
- Names of people involved and what instructions were given;
- Communications regarding the claim (whether from the employer, doctors, or insurance company); and
- Pay stubs that document the worker's earnings before and after the work injury.

A Look at the Claim Process

As we discussed in the previous chapter, the workers' compensation claim begins with the accident and the reporting of the accident to the employer. Once this has been done, the claim process generally involves the following steps:

1. The Employer Files a “First Report of Injury” (WC-1)

The employer is required to complete a [WC-1 form](#) and submit it to its workers' compensation insurance company within 21 days after the report of the work-related injury. The WC-1 provides the insurance company with the worker's personal information along with details about his or her employment, the resulting work injuries, and the accident itself. This form is designed to notify the State Board and the parties as to how the case is being handled by the insurance company.

2. The Insurer Investigates the Accident and Injuries

The insurance company will generally conduct an investigation to determine whether the worker is eligible to receive workers' compensation benefits. During this process, the worker may be asked to provide additional details about the time, place, and cause of the accident, the location of his or her injuries, and whether he or she has had pain in those areas of the body before the accident.

Note that the insurance adjuster is looking for ways to deny the case in full or in part. Anything the worker says will be used against him or her at some point in time.

3. Fighting for Benefits

If the claim is approved, the worker should begin to receive medical or income benefits based on the nature and severity of the work injury, as outlined in Chapter 2. It is important to make sure that the worker is being paid accurately and on time. The same goes for the payment of the medical providers.

If the claim is denied, the worker has the right to request an evidentiary hearing before an administrative law judge. In order to do so, he or she must complete and file the State Board Form WC-14 with the Georgia State Board of Workers' Compensation. This filing should result in the worker receiving notice of a court date and the litigation process starting.

4. Ongoing Monitoring and Adjustments

After the worker receives his or her benefits, the authorizing physician will continue to monitor the worker's health status as it relates to the underlying claim. In theory, this ensures that the worker is recovering from the accident. However, it also signals to the insurance company when it can stop the benefits.

For example, the benefits may be reduced if the treating physician determines the worker is well enough to return to work in a light-duty capacity. If the physician determines the worker is in full or normal duty work status, the insurance company will have the right to stop the income benefits entirely after providing notice.

There is no doubt that authorized treating physicians play a very important role in the administration, commencement, and suspension of Georgia workers' compensation benefits.

When Does the Worker Start Receiving Workers' Compensation Payments?

If the case is deemed compensable or "accepted," the injured worker should be entitled to weekly indemnity (income) benefits when the occupational injury causes him or her to miss more than seven (7) consecutive days of regular work.

However, the law does provide the insurance company a "waiting period" to conduct an investigation. If everything goes well for the worker, he or she can expect to receive a check within twenty-one (21) days. Note that the worker will not receive payment for this seven-day period unless he or she was out of work for over 21 days.

If the worker's employer and its insurance company fail to pay him or her in a timely manner, they may be hit with a 15% penalty fee applied for each late payment. Under [O.C.G.A. § 34-9-221](#), a workers' comp check is considered late when it is postmarked outside of the week for which benefits are due. If the company's insurer is based outside of the state of Georgia, then the worker's disability check must be mailed three days prior to the due date.

Common Mistakes to Avoid in the Claim Process

Unfortunately, not all workers' compensation claims end with the worker receiving the benefits they need and deserve. There are many factors that can jeopardize a claim or result in the compensation being reduced, stopped, or even denied from the outset. Here are some of the most common mistakes that can negatively impact a workers' compensation claim.

1. Failing to Properly Report the Injury or Providing Conflicting Information About the Accident

Workers should always report injuries to their supervisor or manager immediately after the accident. While a verbal report will technically suffice, it is best to create a written report, even if a verbal one was already made. Again, the worker only has 30 days after the accident to make a report. Failing to meet this deadline may forfeit the ability to receive workers' compensation benefits in the future.

In addition, reporting sooner rather than later is often best. This minimizes the potential for friction in the claim process. Waiting a few days or even weeks before reporting could lead the employer or their insurer to question the severity of the workplace injury and whether it actually occurred at work.

Also, it is very important to keep to the facts and consistently report the same set of facts to the employer, the medical personnel, and any other relevant party. The insurance adjuster and their army of attorneys will look for inconsistencies to attack the worker's credibility every chance they get!

2. Seeking Medical Care From an Unauthorized Physician

Outside of emergency medical care, workers are generally required to receive all medical treatment from one of the physicians on the employer's panel or a physician from the employer's WCMCO, if it has one. The only exception to this rule is if the employer has no valid panel of physicians or WCMCO. If the worker treats with an unauthorized physician, the cost of that treatment will generally not be covered by workers' compensation. Moreover, the insurance company will not give it the same weight as the treating physician. With that being said, the health of the worker is paramount.

If he or she believes the current panel doctor is not helping or even hurting them, the worker should look to change. If the worker is not satisfied with the doctor he or she initially selected from the employer's panel or WCMCO, then he or she has the option to change to another within the panel or WCMCO without approval from the SBWC or the insurance company.

Note that this change is **only allowed once**.

3. Providing Inconsistent Information About Injuries

Whether the injured worker is speaking with a physician, the employer, or the insurance company, he or she should stick to the same set of facts. The worker should be honest and candid about the symptoms he or she is experiencing and the events surrounding the accident. If it is discovered that the injured worker is hiding or misrepresenting information, including concealing previous injuries or preexisting conditions, this will greatly jeopardize or minimize the case.

Injured workers should keep in mind that insurance companies may hire a surveillance team to “spy” on them or at least confirm the claims about the severity of their injuries. Surveillance will likely involve monitoring social media accounts, following the worker in public, or even talking to his or her friends and family to try and catch any inconsistencies in the claim. In other words, it is their job to make the injured worker look dishonest.

4. Missing Doctor’s Appointments

In the course of receiving workers’ compensation benefits, the injured worker has the right to schedule his or her own appointments with the authorized physician. However, the employer or insurance company may also unilaterally schedule medical examinations for him or her at “reasonable times.” These appointments can seem inconvenient, and the worker may feel tempted to avoid attending them, but it would not be in his or her best interest to do so.

Failing to appear for an appointment or to cooperate with a medical examination can have serious consequences. The employer, upon learning that the worker has failed to appear or refused to cooperate, will often petition the SBWC to stop the worker’s benefits until he or she complies or attends the medical appointment. If the SBWC does not find a justifiable reason for the refusal to attend the appointment, it may grant the petition and stop benefits. It is important to note that the benefits missed during the suspension cannot be recovered.



Controverts and Denials

If the insurance company denies the claim in full or even in part, this is generally referred to as a “controvert.” While the worker can ask the adjuster to reconsider the denial, it is more likely that the injured worker will be forced to ask for a judge to decide whether the worker is entitled to income or medical benefits. It is highly advisable to have a lawyer at this stage.

1. Complete and Submit Form WC-14 to the SBWC

The State Board Form WC-14 allows parties to request an evidentiary hearing with the SBWC. For all practical purposes, this is a request for a trial. This trial will be before a judge, not a jury.

In order to get a court date, the worker or their attorney must file the WC-14. This process can be technical and must be handled carefully. This starts the litigation process, and the insurance company will hire a lawyer or engage one of its staff attorneys to represent it.

2. Engage in Discovery

After submitting the request for trial, the worker and the employer or its insurance company will exchange information in a process known as “discovery.” The purpose of this process is to allow both parties the opportunity to collect evidence that will support their claims, such as medical records, security camera footage, or witness testimony. A thorough investigation of the worker will be conducted, and he or she will be required to submit to a formal deposition. The worker has the same access to the discovery tools as the insurance company, provided he or she knows how to properly engage and use them under Georgia law.

3. Attend the Hearing (Trial)

The hearing is supposed to take place between 30 and 90 days after submitting the request. During the hearing, the parties present their cases before an administrative law judge. Based on the arguments presented, the judge will determine whether the worker is entitled to receive workers' compensation benefits. The judge must draft an order outlining his findings of fact and conclusions of law.

4. Appeal the Judge's Order

If either party is dissatisfied with the judge's ruling, either party may appeal to the Appellate Division of the State Board of Workers' Compensation. There are several procedural requirements the parties must comply with to ensure the notice and appeal are properly filed. Moreover, there are strict timelines that must be met in these cases. We strongly urge non-attorneys to retain a lawyer, as it can be very technical and complicated.



Understanding Workers' Legal Rights

Whether the injured worker is planning to file or has already filed for workers' compensation, it is important to understand the worker's rights when it comes to taking legal action against the employer.

Injured workers in Georgia have the following rights:

ACCESS TO MEDICAL CARE

The injured worker has the right to receive medical treatment for a work-related injury, including hospital care, physical therapy, prescriptions, and necessary travel expenses. In an accepted claim, the employer is required to post a list of six approved doctors or the name of its WCMCO. The injured worker may choose a physician from that list and may switch doctors once without approval. In emergencies, the injured worker may see any provider until the emergency ends. If there is no panel, the worker may be treated by a doctor of his or her choosing.

INCOME REPLACEMENT BENEFITS

If the work injury keeps the injured worker from working, he or she may qualify for weekly income benefits. These payments are designed to partially replace lost wages and help support the worker during recovery. If the worker is able to return to work in a reduced role or at lower pay and does so, he or she may be entitled to partial wage replacement.

ADDED SUPPORT FOR SERIOUS INJURIES

Georgia law classifies some injuries, such as paralysis, severe burns, or amputations, as "catastrophic." In these cases, the worker may qualify for

vocational rehabilitation, housing and transportation accommodations, and lifetime benefits.

DEATH BENEFITS FOR DEPENDENTS

If an on-the-job injury results in death, the worker's dependents may be eligible for regular income payments as well as funeral and burial expenses.

TIMELY PAYMENTS

In accepted claims, the employer and its insurer must issue benefit payments on time. These payments must be made before or during the week in which the worker is unable to work. If the income check is mailed from outside of Georgia, it must be mailed three days before the last day of the payment period. If the insurer fails to make payment on time, they may have to pay a penalty in addition to the benefits owed.

These protections are designed to support injured workers after a workplace injury, but disputes and complications can still arise. Two common questions we hear at our firm involve job security and whether injured workers can take action.

Let's take a closer look at both.



Can a Worker Be Fired After a Workplace Accident?

Georgia is an employment “at-will” state. This means that the workers’ employment is generally at the will of the employer. Therefore, an employer may terminate a worker for any reason, at any time. Historically, there have been protections against terminating workers because of their race, gender, religion, and other similar grounds.

If a worker is terminated because of an accepted workplace accident or injury, the employer and insurance company must pay workers’ compensation benefits, provided the worker has some medical limitations imposed by the authorized treating physician. In other words, workers who have been terminated are still eligible to receive workers’ compensation benefits.

While the Georgia Workers’ Compensation Act does not provide for any specific penalty, the worker may have grounds to sue the employer outside of workers’ compensation under another theory of law, such as the Americans with Disabilities Act.

Can the Worker Sue the Employer for a Work-Related Injury?

If the occupational injury was caused by the employer’s negligence, it seems reasonable to assume that the worker could file a lawsuit against the employer outside of workers’ compensation. However, this is **not the case**.

In Georgia, injured workers are subjected to the “exclusive remedy” when they are hurt on the job. This means that employers are immune from tort liability if the worker’s injury arose out of and was in the course of employment. Hence, workers cannot “sue” an employer for a work-related injury.

This principle is a core aspect of Georgia’s workers’ compensation and tort

law. The exclusive remedy rule is a trade-off whereby injured workers are able to receive “guaranteed” benefits in exchange for giving up their rights to file a lawsuit against the employer for the work injury.

While workers cannot sue their employers, they might be able to file a personal injury claim against a negligent **third party**. For instance, if the injury was caused by defective machinery or by a contractor on the job site, the injured worker could pursue a lawsuit against the responsible third party. This allows the worker to seek additional compensation outside of the workers’ compensation system.

What to Expect When Returning to Work

There is no dispute that the goal is to safely return to work after an occupational accident. However, returning to work after a job-related injury can feel like a big step. The worker is generally balancing his or her health and the need for a full paycheck during this time.

In this section, we will explain what “light duty” means and how it can affect a workers’ compensation claim. Also, we will cover “permanent work restrictions” and what to do if the employer assigns tasks that don’t align with the injured worker’s medical limitations.

What is “Light Duty?”

Generally, “light,” “modified,” or “restricted” duty means that the physician believes that the worker can return to work, but not at full capacity. This release signals to the employer that the worker will require accommodations for the physical restrictions related to the work injury.

The employer may make adjustments to the worker’s normal duties, such as limiting how much weight the worker must lift or allowing him or her to sit instead of stand while performing the job. In some cases, the worker may be given a different role altogether.

If the employer is unable to accommodate the worker’s medical restrictions, it must commence income benefits to the worker.

DO INJURED WORKERS NEED TO ACCEPT LIGHT DUTY?

If the worker has been receiving income benefits and the employer is attempting to return him or her to work, the Georgia Workers' Compensation Act has special provisions to make that happen safely. After evaluating the medical limitations issued by the doctor, the employer will propose a job to the doctor for clearance. If the doctor clears the job, the employer will formally offer it to the injured worker.

If the worker refuses, the insurance company may stop his or her benefits. If the worker successfully returns, the employer may also stop benefits since the worker would be earning his or her normal wages. If the worker attempts the job but cannot sustain it, the insurance company must recommence benefits if the worker cannot continue to work longer than 15 days after returning.



HOW DOES LIGHT DUTY IMPACT AN INJURED WORKER'S BENEFITS?

- **If no light duty is available**, the injured worker can continue to receive income benefits. The duration of these benefits is limited to 52 consecutive weeks or 78 nonconsecutive weeks. After that, the benefits may be reduced if proper notice is given.
- **If the light duty pays less** than previously earned prior to the work injury, the worker may receive reduced income benefits to accommodate for the difference.
- **If the light duty pays the same or more** as before the work accident, the worker will no longer receive income benefits but will receive his or her regular wages.

What Happens if Permanent Work Restrictions Are Imposed?

In some situations, the physician will determine that the injured worker has reached maximum medical improvement. This is the point where the treating physician determines the worker is *"as good as he or she is going to get."* There will be no more invasive procedures, and the medical condition is not expected to improve significantly. There may be some pain management prescribed, and the worker will *"never be the same,"* but the doctor will certify that the medical condition is stabilized.

At this stage, the worker may have "permanent medical / work / physical restrictions" as a result of the work accident and injury. This is tantamount to a "permanent impairment," but the physician may clear the worker to return to work in a limited capacity. If the employer cannot accommodate these permanent restrictions, then it may be liable for continued workers' compensation benefits until it reaches the statutory cap.

What Should a Worker Do if His or Her Employer Is Ignoring Work Restrictions?

If the worker returns to work on light duty only to realize that the assigned tasks are not compliant with the doctor's orders, it is important for the worker to speak up rather than try to power through, as continuing to work could lead to further injury and additional time missed from work.

Should a worker find himself or herself in this situation, the first step should be to bring the issue up with the supervisor or manager. This can take the form of an in-person conversation or a written email. The worker should calmly and professionally explain which tasks fall outside the doctor's restrictions with reference to the physician's written instructions. In some cases, the issue may simply be the result of an oversight or misunderstanding that can be resolved through clear communication.

However, if the employer ignores medical limitations, retaliates, or terminates the worker, it would be prudent to retain an attorney as quickly as possible.

If The Worker Cannot Return To Work, Is the Employer Required To Offer Vocational Rehabilitation?

No. In general, only workers who have suffered a "catastrophic injury" are required to receive vocational rehabilitation services to help retrain him or her into a different career. Unfortunately, employers will not voluntarily offer these services unless ordered by the Court.

Settlements

What Does it Mean To “Settle” a Workers’ Comp Claim?

“Settlement” in a Georgia workers’ compensation context translates to a mutual, voluntary closure of the pending case in which the injured worker releases the employer from all liability related to the occupational accident and injury. After settlement, the employer will no longer be responsible for paying for any wage loss benefits, vocational rehabilitation services, or medical treatment, but in exchange, the injured worker receives a sum of money.

While the parties are not required to settle the case, the workers’ compensation law in Georgia encourages it whenever possible. Of course, timing is everything.

Should an Injured Worker Settle?

Settling a workers’ comp case is a big decision. On the positive side, doing so grants the injured worker the freedom to fully take control of the medical care without the interference or meddling from the insurance adjuster or defense attorney. Additionally, the “watchful eye” of the insurance company will be lifted. Once the case is settled, it can also grant the injured worker greater flexibility in moving forward with life. He or she can freely choose to pursue further education or explore new career opportunities.

There is a potentially significant downside to settling, however. Under most settlement agreements, the insurance company will require the worker to voluntarily resign from his or her current employment. This may mean

forfeiting monetary bonuses, health insurance coverage, and other corporate perks. In addition, the insurance company will also insist that the injured worker execute a “general release” of all other possible claims against the employer. These other claims include discrimination, past payment of wages, and other employment causes of action.

When deciding whether to settle the workers’ comp claim, an injured worker should consider the following:

1. His or her **future healthcare needs**, as the injuries may require ongoing treatment;
2. The **availability of suitable employment** after the claim is resolved; and
3. Whether the **amount of the settlement** is reasonable under the circumstances.



What is the Settlement Procedure?

If there is sufficient interest in settling a case from both parties, the process begins with the injured worker or their attorney submitting a settlement demand to the insurance company. This demand is a starting point for the parties to negotiate a settlement figure and terms necessary to close the case. The insurance company may reject or accept the demand, or counter with a new offer. Negotiations will ensue until both parties have agreed on a settlement amount. If they are unable to agree, the claim remains open.

A workers' compensation settlement in Georgia is purely voluntary. Neither the SBWC nor a judge can force the parties to settle the claim. Both parties must agree to the settlement terms and conditions. Subsequently, the SBWC will have the opportunity to review the settlement terms, and it must approve the agreement to make it legally effective.

While rare, the parties may also cancel the settlement at any time before the SBWC approves it. Once the SBWC's Settlement Division approves the settlement, it generally cannot be canceled or undone. The injured worker is entitled to payment after 20 days once the SBWC approves the settlement documents.

How Can an Attorney Help?

If a worker has been injured at work, one of the first questions they will have is, “Do I need a lawyer?” Well, it depends on whether he or she wants to maximize the recovery.

While workers are not required to hire a lawyer to file a claim or receive benefits, the Georgia workers’ compensation system is deceptively complex. As the insurance company and its army of attorneys are trained to “adjust” a worker’s claim off of its full value, it only makes sense that an injured worker would want to “level the playing field” and bring in his or her own expert.

When Should an Injured Worker Hire an Attorney?

Choosing to hire an attorney immediately after suffering a work injury is helpful for navigating the system (built by the insurance company) more effectively. It is true that not every claim will require legal assistance, especially if it involves a minor injury. However, hiring an attorney will likely cost the worker nothing unless he or she secures income benefits.

Here are some signs that it’s time to speak with a workers’ compensation attorney:

- The worker is seriously injured on the job.
- The worker needs surgery because of the work injury.
- The adjuster is not returning the worker’s calls.
- The worker is facing delays receiving income benefits.
- The worker has been fired from his or her job because of the work accident.
- The worker is being asked to return to work but has not recovered.

Most workers' compensation attorneys offer free consultations. If they don't, keep looking.

What Are the Benefits of Hiring an Attorney for a Workers' Compensation Claim?

Having a workers' compensation attorney on the worker's side is not just about making the process easier. It is about restoring dignity and a respectable quality of life. Workers' compensation is a serious matter, as injured workers have a lot to lose.

An experienced workers' compensation attorney can help by:

AVOIDING FILING MISTAKES

The workers' comp process involves a maze of forms and documentation that must be completed accurately and on time. Missing deadlines or overlooking rules can lead to losing the case before it starts.

MAKING SURE THE MEDICAL CARE IS PAID FOR AND RENDERED TIMELY

Workers' compensation rules and regulations are designed to limit access to quality healthcare providers and care. An experienced workers' comp attorney will help ensure that remedial medical care is received at the employer's expense.

ENSURING ALL BENEFITS ARE SECURED

Injured workers "don't know what they don't know." An experienced workers' comp lawyer identifies all the benefits an injured worker is entitled to receive. This includes reimbursement for personal travel costs to doctors, income benefits, and medical care. A good lawyer will identify these benefits so that the injured worker will not be leaving any money or services on the table.

BUILDING A STRONG CASE TO CHALLENGE DISPUTES

If the claim is disputed or denied, or the benefits are cut off, a good lawyer can gather evidence from medical records, the employer's files, and witnesses to effectively fight for compensation and medical care. It will be a fight, and the insurance company is ready for it.

NEGOTIATING THE HIGHEST POSSIBLE SETTLEMENT

When it is time to settle the workers' compensation claim, an experienced workers' comp lawyer can calculate the true value of the case, including both current and future medical costs, and negotiate with the insurance company to secure the maximum recovery possible under the circumstances. Additionally, the insurance companies know which lawyers are willing to go to court and which will roll over.

Why Choose Ramos Law Firm For Your Workers' Compensation Case?

At the Ramos Law Firm, our legal team is 100% dedicated to workers' compensation.

When you work with us, we prioritize your health and recovery first. The claim is about you and how we can best help you get the maximum recovery for your case.

We work with injured employees all across Georgia. Our clients are state, county, and municipal workers. They are construction, retail, hospital, and restaurant workers. They are office employees and administrative workers. We help the working class navigate the workers' compensation system and win their cases.

WHAT MAKES THE RAMOS LAW FIRM DIFFERENT?

- **Exclusively focused on workers' compensation:** We know Georgia's work comp laws inside and out and have represented thousands of injured workers since 2005.
- **Experience from both sides:** Our founder spent years as an insurance defense attorney. We understand how insurers operate and use this insight to fight for you.
- **Direct attorney involvement:** When you work with us, you will always speak directly with your attorney and legal team, not a case manager or assistant.
- **Prepared for every step:** We anticipate pushback from insurers and build your case with the assumption it may go to trial, so you're never caught off guard.
- **Honesty and integrity:** We provide straightforward advice, never make empty promises, and don't get paid unless we win your case.

Conclusion

Over the past chapters, we have walked through the key parts of Georgia's workers' compensation system. We have covered (1) which benefits injured workers are entitled to receive; (2) what steps to take after an injury; (3) how the claim process works; (4) what an injured worker's rights are; (5) the common pitfalls, and (6) how an experienced attorney can help win a workers' compensation case.

Here is the bottom line: Georgia workers' compensation is designed by insurance companies to save money. Unless you have a strong advocate on your side, the insurance company will "adjust" your claim to zero. Legitimate claims are routinely delayed and denied in the hopes that Georgia's workers will just give up.

If the system isn't working the way it should, it's time to reach out to us. At the Ramos Law Firm, we have spent over two decades supporting injured workers across Georgia. No matter what industry you're in, we understand the challenges you will face if you are hurt on the job, and we are committed to helping you every step of the way.

[Contact us today for a free consultation.](#)



OUR ADDRESS

14 Lenox Pointe, NE, Atlanta, GA 30324

PHONE

(770) 637-0105

EMAIL

info@ramoslawfirm.com



RAMOS
LAW FIRM

