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## PRACTICE AREAS

Workers' Compensation  
Personal Injury  
Employment Discrimination  
Sexual Harassment  
Family Medical Leave Act  
(FMLA)  
Collections/ERISA

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The Illinois Workers' Compensation Act provides the only legal remedy against the employer for a worker injured on the job. This outline is not a substitute for legal advice and should not be relied on without consultation with an attorney from our office. This is a brief outline of the Act. The Workers' Compensation Statute and thousands of court and Illinois Workers' Compensation Commission decisions interpreting it, are quite complicated. The facts in every case make each claim unique. For complete information, [contact us](#).

## A SUMMARY OF THE ILLINOIS WORKERS' COMPENSATION ACT

If you are injured in the course of your work, you are entitled, at your employers' expense, to receive all necessary medical and hospital services. Your employer is responsible for paying 100% of all reasonable and necessary medical expenses. You may select any physician and go to any doctor or hospital you are referred to through that physician. You may also select one more such line of doctors. After that you must go to doctors selected by the employer, or else pay your own bills. You are not required to treat with the doctor to whom you were referred by the insurance company or your employer.

In addition to medical treatment, you may be entitled to various kinds of compensation payments as follows:

## YOUR COMPENSATION RATES

Your weekly compensation rates are the basis for figuring benefits under the Act. You have two compensation rates, both fixed as of the date of your accident. Both rates are a percentage of your average weekly earnings for the year before your accident, but are subject to certain maximum limits and also to minimums for low-paid workers. Overtime earnings may be included in the calculation of your weekly earnings. In addition, shift differential, COLA and production bonus / piecework is included in the average weekly wage.

One rate applies to three kinds of payments - TT, death and total disability.



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This rate is two-thirds of your average weekly earnings, limited by a maximum which is changed every January 15th and July 15th, according to fluctuations in the Statewide average wage. For example, for accidents from January 15, 2005 through July 14, 2005, this maximum rate is \$1,051.99.

The second rate applies to permanent partial disabilities, such as specific loss, and is set at 60 percent of your average wage. The maximum for this rate was fixed at \$567.87 per week for accidents from July 1, 2004 through June 30, 2005.

## KINDS OF PAYMENTS

### Temporary Total Compensation ("TT")

If, because of an injury on the job, you are unable to work for more than three working days, you are entitled to weekly payments in the above amounts. Payment for the first three days are due if your period of total disability extends for more than 14 calendar days from the date of injury. These dates need not be consecutive days of lost time.

Temporary total compensation continues as long as you are totally disabled and under treatment. You may also be entitled to receive "maintenance" benefits if your injury limits your work ability and your employer cannot accommodate your restrictions. "Maintenance" is usually paid at the temporary total disability rate.

You may be entitled to additional compensation if you can qualify for any one of the following:

#### I. Specific Loss Compensation

A "specific loss" is a permanent disability to certain specific "members" of parts of the body. The number of weeks of compensation allowed by the statute for total loss of each such member is set forth below:

Thumb 70 Weeks  
Index finger (forefinger) 40 Weeks  
Middle finger 35 Weeks  
Ring finger 25 Weeks  
Little finger 20 Weeks  
Great toe 35 Weeks



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Other toes (each) 12 Weeks  
Hand 190 Weeks  
Arm\* 235 Weeks  
Leg\* 200 Weeks  
Foot 155 Weeks  
Eye sight (1 eye) 150 Weeks  
Hearing (one ear, complete)\*\* 50 Weeks  
Hearing (two ears, complete)\*\* 200 Weeks  
One testicle 50 Weeks  
Two testicles 150 Weeks  
Fracture to a vertebrae at least 6 Weeks  
Skull fracture (cranial vault) at least 6 Weeks  
Facial bone fracture at least 2 weeks

\*Additional compensation is provided for amputations above the knee or elbow and for enucleation of an eye.

\*\*The statute sets out a complicated formula for determining the degree of hearing loss.

Where the injury results in permanent or partial loss of use of any of the listed "members" of the body, compensation is based on the percentage of loss of use of the member. Recovery is allowed for partial loss of hearing due to industrial noise.

### II Disfigurement Compensation

An employee who suffers permanent scars on the hand, head, face, neck, arm, upper chest or the leg below the knee, may recover for disfigurement. The amount payable varies in each case, depending on the seriousness of the disfigurement, but it can in no case exceed 150 weeks of permanent partial disability payments.

### III. Fatal Injury Compensation

Where an employee dies as a result of accidental injuries on the job, leaving a widow (or widower), children or other dependent heirs, compensation is payable. A widow (or widower) receives the compensation rate each week until he or she dies, up to a maximum of 20 years or until he or she has received \$250,000, whichever is greater. However, if the widow (or widower) remarries at a time when there are no dependent children he or she receives only a lump sum of 2 years compensation. Children may receive benefits up to age 25 if they are students. Under some circumstances the employer may



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deduct amounts paid under group life insurance policies.

### IV. Person as a Whole

A worker who is disabled may receive up to 500 weeks of compensation for partial disability to the whole body. Injuries to the low back, neck and other areas of the body which are not on the schedule are compensated under this provision. A partial loss of a specific body part may be compensated under this provision if the loss affects the ability to earn your full wages, such as the ability to work overtime.

### V. Permanent Earnings Loss

A permanent reduction in earnings capability is also compensable. The wage loss is subject to a cap. With this award, the insurance company or your employer has an obligation to provide you with vocational assistance. Permanent earnings loss is payable as long as the disability lasts. This is paid as 66 2/3% of the difference between the post-injury earnings and what you could expect to make in the full performance of your regular job. This payment, like all workers' compensation payments is tax-free.

### VI. Permanent Total Disability

1. Inability to Work. If an injury results in complete disability so that the employee is wholly and permanently incapable of work, compensation is payable weekly until death or until the employee is able to return to work.

2. Disability Based on Specific Loss. The loss of use of both hands, or both arms, or both feet, or both legs, or both eyes, or any two of them - as for example, one arm and one leg - suffered in an accident constitutes permanent total disability and entitles the employee to weekly compensation payments until death, even if the employee can do some work.

## HOW TO QUALIFY FOR BENEFITS

Report any accident to the employer within 45 days. This can be done orally or in writing to the foreman or the plant nurse, or any other management representative of the company. If notice of the accident is not given in time, the claim may be barred.

Have a claim filed with the Illinois Workers' Compensation Commission, 100 W. Randolph St., Chicago 60601 within three years after the accident, or, where weekly compensation ("TT") was paid, within two years from the date



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of the last payment, whichever is later. Payment of medical expenses through workers' compensation may extend the statute of limitations. Payment of non-occupational benefits for a work-related injury tolls the date required for giving notice and filing your claim. Unless the application is filed within the required time, the Statute of Limitations will forever bar the claim.

## CAUTION

**WARNING:** Do not rely on the advice of insurance adjusters or company doctors concerning the settlement value of your claim. Contact an attorney who limits his/her practice to workers' compensation. If an offer is made, ask for it in writing. Usually family doctors do not understand how the Commission evaluates permanent disability. Sometimes, in order to save the company money, a personnel manager will urge an employee to say that the accident did not happen at work and to claim group insurance or sickness and accident benefits instead of Workers' Compensation. Once a worker states that he was not injured at work, it may be impossible to collect compensation benefits. Compensation is more generous than group insurance for the injured worker because it pays all medical costs, not just some, pays higher weekly benefits in almost all cases, and makes substantial payments for disfigurement and disability which are generally non-existent in group insurance. A lump sum settlement, approved by the Commission, closes a case and ends a worker's right to further medical treatment for that accident. In contrast, an award of benefits after trial at the Illinois Workers' Compensation Commission entitles the worker not only to compensation payments for the permanent disability suffered, but also to the right to reopen the case within 30 months if the disability materially increases and in addition, provides payment for all medical, surgical and hospital treatment needed at any time in the future as a result of the accident in question.

## HELPFUL FACTS

Recovery as outlined above is also allowed for disability due to occupational diseases such as hearing loss, dermatitis, asbestosis and other lung diseases, carpal tunnel syndrome, etc.

1. Keep in mind that some "natural" illnesses, such as heart attacks or strokes may be brought on by work stresses. If so, valuable benefits are available



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under this Act.

2. If the accident is caused by the negligence of someone other than the employer, the worker can file a civil suit for damages against the negligent third party, in addition to a compensation claim against the employer.

3. Illinois law specifically protects the right of injured employees to file claims under this law. Employers and insurance companies are prohibited from discriminating in any way against an employee for filing a claim. Illinois courts enforce these protections.

4. Recovery as outlined above is also allowed for disability due to occupational diseases such as hearing loss, dermatitis, asbestosis and other lung diseases, carpal tunnel syndrome, etc.