

TOP TEN THINGS UNION MEMBERS NEED TO KNOW ABOUT WORKERS' COMPENSATION

1. **Notify the Employer as Soon As Possible.** You should notify your employer as soon as possible after an on-the-job injury. The Workers' Compensation Law gives you 30 days, but delayed accident reports can cause the employer or its insurance company to contest your claim.

2. **See a Doctor That Handles Workers' Compensation Cases.** The workers' compensation system requires medical proof that you were injured on the job, as well as for wage loss benefits and approval for treatment. Hospitals, urgent care centers, and primary care doctors often do not file the necessary reports. You must see a doctor who is authorized to treat workers' compensation patients and who understands what the system requires. If necessary, Grey & Grey can recommend doctors for you.

If you are disabled from work then you must see the doctor at least once every three months in order to receive wage loss benefits. The employer or insurance company will not pay you for any period in which you do not have medical proof of disability.

3. **File a C-3 Form With the New York State Workers' Compensation Board.**

The law requires you to file your claim directly with the Workers' Compensation Board. Form C-3 is available from the Board or from Grey & Grey. In most cases, a C-3 form must be filed within two years of the date of the accident.

4. **Get Legal Representation.** It is difficult for unrepresented workers to understand the workers' compensation system and to get all of the benefits it provides. There are many technical rules and processes that have important legal consequences. In most cases, it is in the injured worker's best interests to have the assistance of an attorney who knows the rules. Workers' compensation attorneys are only paid if they obtain additional benefits for the worker – there are no out-of-pocket costs. It is usually best for the



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worker to retain an attorney sooner rather than later to avoid making mistakes that can cause problems later on.

5. **Keep Track of Out-Of-Pocket Expenses.** You are entitled to be reimbursed for travel to and from doctors, physical therapists, and “independent medical examinations.” You are also entitled to reimbursement for other out-of-pocket expenses like bandages, canes, crutches, etc. Expenses should be recorded on Form C-257, available from the Board or Grey & Grey.

6. **Keep Track of Your Earnings On Return to Work.** If you are making less money when you return to work, including loss of overtime due to injury, keep copies of your paystubs. The law provides benefits for “reduced earnings” if you are making less money after the accident than you were before as a result of your disability.

7. **Attend “I.M.E.” Exams.** The employer or insurance company may schedule you to see one of its doctors in connection with your workers’ compensation claim. If an IME exam is scheduled, you should keep the appointment. If asked about previous injuries or treatment that may relate to the on-the-job injury, you should give the IME an accurate history of any prior treatment. While having a prior injury or treatment is unlikely to have a negative impact on your case, falsely denying a prior injury or treatment can result in the loss of all benefits. You are entitled to bring someone with you to the IME appointment, and you are also entitled to record the examination. We recommend that you do so!

8. **Keep Track of Your Payments.** Although employers and insurance companies are supposed to file records of their payments with the Workers’ Compensation Board, mistakes can happen. It’s a good idea to keep a folder with compensation check stubs, or a list of payments.

9. **Read Notices from the Workers’ Compensation Board.** Once your claim is filed, you will receive notices from the Board. These notices may (a) close your case without making any findings at all; (b) make important legal findings that may or may not be accurate while closing your case and giving



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you a limited time period to object; (c) close your case without any compensation for permanent injury; (d) schedule a hearing; (e) approve or deny medical treatment; (f) pay or deny medical bills; or (g) a wide variety of other things. It is important to read these notices carefully and to make sure that your attorney is aware that they were issued so that action can be taken and objections filed when required.

If a hearing is scheduled, then you should be sure to get a copy of the most recent medical report from your doctor and speak to your attorney before the hearing to make sure they have the latest information about your work status and medical treatment.

10. ***Know ALL of Your Rights.*** There are a number of other rights that may apply to a work-related injury. Here are a few you should know and discuss with your lawyer as needed:

- **Personal Injury Lawsuit**: Although you can't sue your employer for an on-the-job injury, if someone outside the employment was negligent then you may be able sue that "third party" for personal injury. Examples would include motor vehicle accidents, construction site accidents, or trip and falls.

- **Social Security Disability**: If you are expected to be out of work for over a year, you may be eligible for Social Security Disability benefits.

- **Long Term Disability**: You may have a private insurance policy that offers wage loss benefits over and above workers' compensation.

- **Crime Victims Compensation**: If the injury was the result of an assault, you may be eligible for Crime Victims Compensation Benefits. Information and forms are available at www.ovs.ny.gov.

- **Unemployment, Disability Retirement and No-Fault** are just a few of the other benefits that may be available to supplement workers' compensation – in addition to the **Contract Benefits** available through your union.

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REPRESENTING WORKERS IN

WORKERS' COMPENSATION – PERSONAL INJURY – SOCIAL SECURITY DISABILITY

**PROUD SUPPORTERS
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