

# WHAT EVERY LOUISIANA WORKER NEEDS TO KNOW ABOUT WORKERS' COMPENSATION

No one expects to get hurt when they show up for their shift at work. Sadly, on-the-job accidents and injuries happen all the time—every seven seconds, according to the National Safety Council (NSC)—and when they do, victims can find themselves out of work for days, weeks, months, or even longer while their medical and household bills mount. Finding yourself in this situation can be truly distressing. Fortunately, there's help.

Louisiana law requires all employers to carry workers' compensation insurance on employees and provide them with benefits if they're injured on the job. If you suffered a serious workplace injury, you probably have lots of questions about your rights and options. Read on for an overview of what you need to know about workers' compensation claims—and how the skilled legal team with Neblett, Beard & Arsenault can help you collect the benefits you deserve.

## Louisiana Workers' Comp Eligibility & Benefits

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Find out if you might qualify for workers' compensation and, if so, what types of benefits may be available to you.

### Am I eligible for workers' compensation benefits?

Most employees are covered by their employer's workers' compensation insurance and are eligible for benefits for an on-the-job injury, regardless of whether they work full time, part time, seasonally, or are under the age of 18. Though independent contractors usually aren't entitled to workers' compensation benefits in Louisiana, there are some exceptions, and it's not uncommon for workers to be misclassified. If you think you may be eligible for benefits, contact us to discuss your case and options.

### What benefits am I entitled to after an injury at work?

Workers' compensation provides medical treatment and wage benefits. It covers all reasonable and medically necessary care for the injury, including emergency treatment, doctor visits, hospitalizations, surgical procedures, prescriptions, rehabilitation services, prosthetics, wheelchairs or other assistive devices, and reimbursement for mileage to and from appointments and the pharmacy. Wage benefits, which are only available if a doctor has taken you off work or restricted your work duties, pay a percentage of your average weekly wage.

### How much does workers' compensation pay?

In Louisiana, workers' compensation pays roughly 66 percent of your average weekly wage, up to a cap that changes annually. As of 2019, Louisiana workers' compensation wage benefits are limited to a maximum of \$665 per week.

### Can I still receive benefits if the accident was my fault?

Yes! Since Louisiana workers' compensation is a "no-fault" insurance system, fault isn't a factor in determining eligibility. You're entitled to benefits if you were hurt on the job—even if the accident was your fault.

## How long can I stay on workers' compensation?

Workers' compensation medical benefits can go on indefinitely—potentially for the rest of your life—as long as you're seeking regular treatment for your workplace injury. However, a lengthy lapse in treatment may cause medical benefits to stop. Wage benefits can last up to 520 weeks, or 10 years.

## Is there a statute of limitations for seeking certain workers' compensation benefits?

Waiting too long to seek wage benefits can cause your ability to collect these benefits to expire. After an on-the-job accident, you have just one year from that date to submit a claim for wage benefits. If you submit the claim after the year-long statute of limitations has passed, you will not be paid. Don't let this happen to you.

# Louisiana Workers' Comp Basics

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Learn what to do after a workplace accident, how to start the workers' compensation claims process, and more.

## What should I do if I've been hurt at work?

Report the injury to your supervisor right away—even if you're hesitant to do so. If you wait too long to report the accident, or act like it was no big deal and try to tough it out, it could harm your ability to collect the workers' compensation benefits you deserve. Verbally inform your supervisor of the injury as soon as possible, then follow up the conversation with an email so you have a written record of the report. If you need medical treatment for your injury, please let your employer know.

## How long do I have to file a Louisiana workers' compensation claim?

As a general rule, workers have one year from the date of the injury to file a workers' compensation claim. However, it's often wise to initiate this claim sooner, rather than later. Contact us if you have any questions about when—or how—to file your Louisiana workers' compensation claim.

## What is my case worth?

What a workers' compensation settlement is worth can vary dramatically from case to case. Every case—and settlement—is different because every injury is different. However, workers' comp settlements are comprised of two main components: wage benefits and the cost of future medical care. With more information about your case, we can help you estimate the potential value of your claim.

## Can I collect compensation for pain and suffering?

Workers' compensation benefits only include coverage of reasonable and necessary medical treatment, as well as wage benefits for income lost while you were out of work recovering from your injuries.

## What are the benefits of settling a workers' compensation claim?

Though it's possible to collect workers' compensation benefits on an ongoing basis, many injured Louisiana workers opt to settle their claim instead. There are a number of advantages to accepting a settlement, including receiving a lump sum payment and no longer having to deal with the workers' compensation system, which means you'll no longer have to seek approval for every little medical treatment or test. We can negotiate with your employer's insurance company to reach a fair settlement on your behalf.

## Workers' Comp & Seeking Medical Treatment for Workplace Injuries

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You don't have to jump through hoops to get needed medical treatment after a workplace accident. Here's what you should know about this essential part of the workers' compensation process.

### When seeking immediate medical treatment, do I have to use an approved workers' compensation doctor?

No. Right after an on-the-job accident, you can be treated by emergency department or urgent care physicians—or even your own family doctor. Make sure you inform your employer if you do.

### Can I choose my own doctor?

Yes! After your initial treatment, if you require ongoing medical care, you can choose to see any doctor who accepts workers' compensation insurance. Additionally, if your employer decides to send you to their doctor, you can go to your own doctor for a second opinion. Beware of signing a Choice of Physician form if your employer asks, as it will lock you into seeing the doctor they've chosen, which may not be in your best interests.

### Do I have to work with a nurse case manager?

Nurse case managers serve as a liaison between you, your doctor, your employer, and the insurance company. They usually get involved in a workers' compensation claim at the insurance company's request to help keep costs down. However, you're not required to work with a nurse case manager.

### Why isn't the insurance company approving my prescription, test, or procedure?

Workers' compensation insurers follow specific guidelines when determining whether to approve medical treatments. If the procedure or prescription your doctor recommended doesn't make the cut, you can appeal the denial. We can help walk you through the appeal process and coordinate with your medical team to ensure that your efforts to receive care are documented properly.

# Returning to Work After an On-the-Job Injury

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If all goes according to plan, you'll eventually be able to return to work when you've recovered from your injury. This part of the process can be particularly confusing; here's what to expect.

## What if the doctor tries to get me to go back to work before I'm ready?

If you were injured in the workplace and are collecting workers' compensation benefits, it's almost inevitable that the doctor treating you will try to get you to return to work before you feel you're ready. As frustrating as this can be, it's important to follow the doctor's orders and try your best. If you return to work and make an effort, but are still unable to do what's expected of you, return to the doctor immediately to have your condition and progress reevaluated.

## What happens if I am unable to go back to the job I was doing?

Sometimes injuries sustained on the job can prevent you from returning to work in the same capacity. If your job can't accommodate your work restrictions, you can continue to collect wage benefits while undergoing vocational rehabilitation. In some cases, your new job may pay less than your last position; if it pays less than 90 percent of your previous wage, you could be entitled to supplemental income.

## Does my employer have to accommodate my limitations after a workplace injury?

No. However, even if your employer is unwilling or unable to accommodate your injury-related limitations, you can still collect workers' compensation benefits.

## If my employer fires me, am I still entitled to workers' compensation?

Yes! Even if you lose your job, your workers' compensation benefits continue.

## Can my employer spy on me?

Yes, they can. Oftentimes, an employer's insurance company will hire a private investigator or assign an adjuster to check out a worker to confirm they're as injured as they claim, or even cast doubt on the severity of their injuries. This may include actual physical surveillance to catch you doing things your injuries should prevent—such as mowing the lawn, chopping wood, or lifting heavy objects if you've reported a back injury—or going through your social media accounts with a fine-tooth comb. Don't give the insurance company information they can use against you: Never push through the pain to complete a strenuous household chore, and avoid posting about the workplace accident, your injury, or the activities you're doing until your workers' compensation claim is resolved.

# Hiring a Louisiana Workers' Compensation Attorney

Successfully negotiating a fair workers' compensation settlement requires an in-depth knowledge of relevant laws as well as significant legal experience. Don't go it alone when skilled legal help is available.

## Why I should hire a workers' compensation attorney?

Louisiana's workers' compensation is a complex system, and the claims process is rife with paperwork, red tape, and plenty of potential pitfalls. As a result, it's nothing you want to have to navigate on your own—especially when there's so much at stake. At Neblett, Beard & Arsenault, our skilled workers' compensation legal team is here to guide you through the claims process and help you get the benefits to which you're entitled.

## How much does it cost to hire a workers' comp attorney?

People of modest means often assume that they can't afford to hire an attorney after being injured on the job. Fortunately, this simply isn't true. At Neblett, Beard & Arsenault, we work on a contingency fee basis, meaning we only charge for our services if we secure a settlement or financial award for you. There are no up-front costs and, if we can't obtain an award for you, there's no fee.

## What should I do if my workers' compensation claim was denied?

Contact us immediately! We'll review your case, discuss your legal rights and options, and figure out if we're able to assist you. Depending on the circumstances of your accident, injury, and claim, we may be able to help you secure benefits. Working with a knowledgeable workers' compensation attorney can simplify the process for you.

## Take Advantage of a Free Initial Case Consultation

Hurt on the job? Think you might be eligible for workers' compensation benefits but aren't sure how to start—or navigate—the claims process? Have questions about your legal rights and options after a workplace injury? We can help. Contact Neblett, Beard & Arsenault today to schedule an appointment for a free initial case consultation.

**800.256.1050**

**NBALawFirm.com**

**2220 Bonaventure Court, Alexandria, LA**

