

WORKERS' COMPENSATION UPDATE

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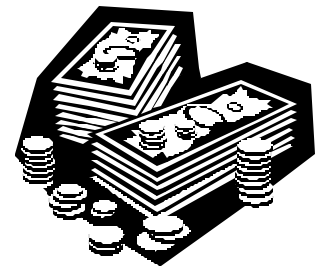
Centralia Worker Awarded \$300.00 Per Week For Life

In a recent case which I argued before the Illinois Industrial Commission, a 45 year-old Centralia woman was awarded the sum of \$300.00 per week for life because the injuries she sustained caused the complete disability of the woman rendering her wholly and permanently incapable of work. Prior to trial, the woman's employer had terminated her weekly workers' compensation benefits and had refused to pay for additional medical care and treatment. In addition to awarding future benefits at the rate of \$300.00 per week for life, the Industrial Commission also awarded \$300.00 per week for a period of 170 weeks representing the time that the woman remained off from

work and did not receive past payment of weekly workers' compensation benefits. This represents past due benefits awarded in the amount of \$51,000.00. In addition, the Industrial Commission awarded \$2,455.25 in unpaid medical expenses which were submitted at trial. As part of the award, the injured worker retains her rights under Section 8(a) of the Act which requires that her employer pay for all future reasonable, necessary, and related medical expenses.

In addition to the Award before the Industrial Commission, we were successful in obtaining our client's social security disability benefits which entitle her to a monthly check from the Social Security

Administration. By obtaining her social security disability award, the injured worker was



automatically entitled to obtain her monthly disability payments from her union pension.

Hard work, persistence, and determination were all factors in obtaining the maximum amount of benefits allowed by law for the injured worker.

Increase the amount of your workers' compensation benefits

- Report your injury immediately
- Don't give recorded statements
- Request your wage records
- Request reimbursement for mileage expenses
- Seek immediate medical attention
- Inform your doctor of all complaints

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\$29,500 SETTLEMENT FOR CARPAL TUNNEL SYNDROME

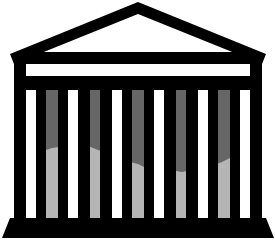
Most cases of carpal tunnel syndrome result from repetitive trauma and excessive use of the hands. I recently handled a case for a 36 year-old cabinet maker who accidentally shot a nail into his forearm with a nail gun. The injury resulted in development of carpal tunnel syndrome in the worker's left

hand and wrist. The worker was right hand dominant. The worker underwent a carpal tunnel syndrome release which was performed by his board-certified hand surgeon. After the client successfully returned to work, I obtained a settlement in the amount of \$29,500.00 by arguing that the percentage of

disability should be attributable to the arm rather than the hand because the injury arose from a puncture wound to the arm.

By using creative arguments, you can substantially increase the value of a client's workers' compensation settlement.

ILLINOIS SUPREME COURT FINDS THAT PENALTIES MAY BE IMPOSED AGAINST EMPLOYER IN WORKERS' COMPENSATION CASES FOR DELAY IN PAYING MEDICAL EXPENSES



Illinois Supreme Court

“An employer’s refusal to pay for an injured employee’s medical expenses can be devastating.”

The Illinois Supreme Court recently held that penalties may be imposed against an employer in a workers’ compensation case for unreasonable and vexatious delay in paying medical expenses. A majority of the Illinois Supreme Court held that the refusal of an employer to pay for an injured employee’s medical expenses is contrary to the purposes of the Illinois Workers’ Compensation Act. The Court found that an employer’s refusal to pay for an injured employee’s medical expenses can be as devastating as the employer’s refusal to compensate the employee for lost earnings arising from a work-related injury. The Court found that it would make no sense to say that employees should be allowed to recover their attorney’s fees when they are forced to retain counsel to obtain compensation for their lost earnings, but not when they have to hire a lawyer to compel payment of their medical expenses.

The Court went on to state that to the extent that non-payment of medical expenses may imperil the employee’s ability to obtain future treatment, the consequences of the employer’s actions may actually be far worse.

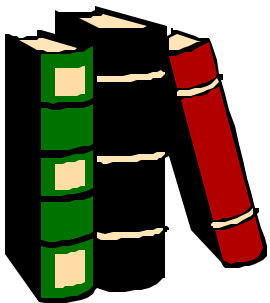
In many cases, an injured worker will need medical treatment and/or surgical intervention before being able to return to work. A workers’ compensation carrier may deny payment of the medical expenses which will deprive the injured worker from obtaining much needed medical treatment and also prevent the injured worker from returning to work in a prompt fashion. The employer’s actions will result in the injured worker losing money from earnings and will also jeopardize the health of the injured worker.

According to the Court in McMahan, if the payment of medical expenses is late, for whatever reason, and the employer and carrier cannot show an adequate justification for the delay, an award of the statutorily specified additional compensation is mandatory.

In the McMahan case, the employee injured his back when he fell at work. He received prescription medications, physical therapy and epidural injections for his low back pain. However, his low back pain did not relent. His treating physician

opined that surgery was necessary to relieve his symptoms and that his condition was related to the injury he sustained at work. No other physician gave a contrary opinion. The employer made an intentional decision not to pay the injured worker’s medical benefits based upon the employer’s failure to comply with the requirements of its insurance policy and its unwillingness to pay benefits out of its own pocket. The Court held that the employer’s delay in paying workers’ compensation, temporary total disability benefits and medical expenses was reasonable and vexatious, thus requiring imposition of penalties and attorney’s fees.

The McMahan case will be a helpful tool for injured workers to use in getting their employers to pay outstanding medical expenses on a timely basis.



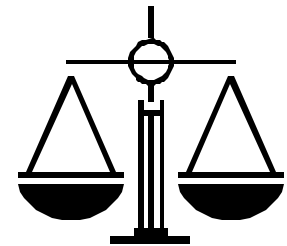
McMahan v.
Industrial Commission

Mileage Expenses To Treating Physician Are Awarded

Many times I am asked whether or not travel expenses to and from an injured worker's treating physicians are to be paid by the employer and/or workers' compensation carrier for work-related injuries. I have been successful in obtaining mileage expenses for injured workers reimbursing them for the mileage expenses they have incurred while seeking care and treatment for their work-related injuries. The Illinois Industrial Commission has previously found travel expenses to be compensable under Section 8 (a) of the Illinois Workers'

Compensation Act as part of the reasonable and necessary expenses for medical treatment. Many injured workers travel to and from physicians at great distances. They make numerous trips to and from physical therapy facilities while seeking treatment for their work-related injuries. The injured worker should keep track of the mileage expenses incurred while seeking care and treatment for their work-related injuries and submit them to the workers' compensation carrier requesting prompt

payment. Even if the workers' compensation carrier refuses to pay the travel expenses at the time they are incurred, the Industrial Commission will award mileage expenses at the time of trial. I have been successful in obtaining thousands of dollars in mileage expenses for my clients for trips they have made to their own treating physicians while seeking care and treatment for their work-related injuries.



Call for free consultation
Toll free: 877-235-2562

Overtime Hours Are Included In Calculation Of Workers' Compensation Benefits

The employee's "average weekly wage" determines the amount of their weekly workers' compensation benefits and the amount of the settlement at the end of the case for permanent partial disability pursuant to the Illinois Workers' Compensation Act. By including earnings for overtime hours worked, the injured worker can maximize the amount of recovery at the end of the case and increase the amount of weekly benefits he or she receives. I always request a wage statement to verify the correct calculation of the average weekly wage.

Many employers and/or workers' compensation carriers fail to include overtime hours within the calculation of the average weekly wage thereby reducing the amount of money that the injured worker receives while he or she is off from work due to a work-related injury. It is very important to determine the correct calculation of the average weekly wage. In addition, if an employee works more than one job, the employer is required to include the second job within the calculation of the average weekly wage if the employer knows that the

employee is working a second job.

By determining the correct amount of the average weekly wage, I have been successful in increasing the amount of weekly benefits received by my clients. I have also been successful in increasing the amount of the settlement at the end of the case by forcing the employer and/or workers' compensation carrier to recalculate the amount of the average weekly wage to include overtime.



Increase the amount you receive for your injury.

CALL FOR FREE CONSULTATION



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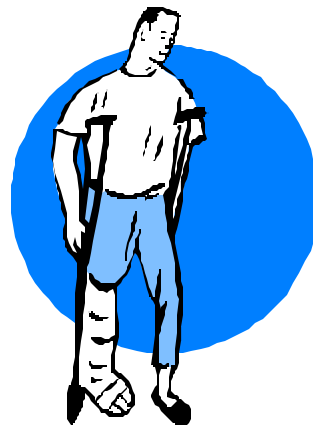
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Social Security Disability Recipients Placed Under Surveillance

According to *The Workplace Injury Litigation Group*, a pilot program is underway in seven states to place social security disability income benefit recipients under surveillance. The aim is to “combat disability fraud,” and the program is called “cooperative disability investigations.” The office of the Inspector General is performing investigations with teams consisting of its employees, state law enforcement officials, and others. The program is expected to expand nationally by 2003. The pilot program is underway in at the following sites: Atlanta, GA;

Baton Rouge, LA; Chicago, IL; New York, NY; Oakland, CA; St. Louis, MO; and Salem, OR. According to recent congressional testimony by the Social Security Administration, as of February 2000, the CBI units had processed 2,231 case referrals, supported 699 denials, and “saved” \$37 million.

Unfortunately, surveillance may be misleading if it only depicts what a person is capable of doing for a limited period of time.



Helping the injured client is our most important goal.