

THE INJURED WORKER BILL OF RIGHTS

By members of the Pennsylvania Federation of Injured Workers

ARTICLE I

Right to Worker's Compensation

Injured workers shall have the right to a worker's compensation system based on the worker's compensation mandate as follows: "The object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly." 1 Pa. C.S.A. §1921(a). The ultimate goal of the workers' compensation program is to make an injured employee whole. *O'Brien v. Workers' Compensation Appeal Board (City of Philadelphia)*, 780 A.2d 829 (Pa. Cmwlth. 2001).

ARTICLE II

Bureau of Worker's Compensation

Injured workers shall have the right to a worker's compensation system that conducts worker's compensation hearings in a timely manner without judicial prejudice.

Injured workers shall have the right to longer hearing sessions, to be held in a timely manner without dragging out the process.

Injured workers shall have the right to have complaints of fraud filed investigated before a claim can move forward. This shall include all parties associated to the claim such as private investigators, rehabilitation counselors and physicians. The investigation shall begin immediately upon the filing so that the fraud, if true, does not affect the outcome of the hearing.

ARTICLE III

Medical Treatment & Physicians

Injured workers shall have the right to be treated by a physician of their choice.

Injured workers shall have the right to a second opinion by a physician of their choice to make sure that they receive the best medical treatment available for the injury.

Injured workers shall have the right to privacy of medical records. All requests for medical records must go through the injured workers attorney.

Injured workers shall have the right to expect a physician to be truthful in a medical evaluation of an injury. When a physician commits fraud by fabricating a false medical evaluation legal action should be taken against the physician by the state.

Injured workers shall have the right to expect a physician to have a fiduciary duty to the injured worker.

ARTICLE IV
Legal Representation

Injured workers shall have the right to an attorney of their choice.

Injured workers shall have the right to recover legal fees when they prevail on a petition to terminate their benefits. There will be no exception to this section.

ARTICLE V
Independent Medical Examinations

Injured workers shall have the right to a legitimate Independent Medical Examination by a physician chosen by a neutral party. The physician must be an expert in the field of medicine for the injury type. All IME's shall be entered as evidence, not just the one chosen by the insurer/employer.

Injured workers shall have the right to be subjected to no more than one IME per year.

ARTICLE VI
Worker's Compensation Claim Limit

Injured workers shall have the right to worker's compensation as long as the injury is a disability. No time limit can be set for a claim.

ARTICLE VII
Cost of Living Increase

Injured workers shall have the right to a cost of living for every year they are on workers compensation.

ARTICLE VIII
Disability Evaluation

Injured workers shall have the right to a disability evaluation. If the evaluation determines that the injured worker is at maximum medical improvement all future attempts to terminate benefits shall not be allowed.

ARTICLE IX
Evidence

Injured workers shall have the right to rules for evidence entered during a hearing. All evidence must be fraud free and must be obtained legally.

ARTICLE X
Taxes

Injured workers shall have the right to be completely tax free during the time on worker's compensation. This will include all taxes even local school taxes but will not include sales tax.

ARTICLE XI
Social Security

Injured workers shall have the right to expect contributions to be made to their Social Security account while on workers compensation.

ARTICLE XII
Medicare

Injured workers shall have the right to expect contributions to be made to their Medicare account while on workers compensation.

ARTICLE XIII
Vocational Rehabilitation Counselor

Injured workers shall have the right to refuse an interview with a rehabilitation counselor if the counselor refuses to use the injured worker's treating physician's medical evaluation of the injury.

Injured workers shall have the right to choose the type employment they want to be referred to when a vocational rehabilitation counselor wants to find employment for the injured worker. This will include the time of day and the number of days.

Injured workers shall have the right to return to work in a gainful employment job. No temporary employment, funded employment or part time employment is allowed.

ARTICLE XIV
Ex-parte Communication

Injured workers shall have the right to know about all communications between all parties to their worker's compensation claim. Especially when it comes to requests for medical records.

ARTICLE XV
Denial of Injury Claim

Injured workers shall have the right to receive punitive damages when an employer denies an injury claim without justification.

ARTICLE XVI
Exclusivity Clause

Injured workers shall have the right to take legal action against any party that knowingly enters fraud into a worker's compensation claim. The law should not protect those that do illegal acts in an attempt to terminate a worker's compensation claim.