

# PFIW Newsletter



Your source for workers' compensation information

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**"An Injury to One is an Injury to All"**

March 2008

Issue 1

## President's Voice

We have a lot to do this year and we will start off the year with the annual injured worker rally at the Capitol in Harrisburg. The rally will be on April 28, 2008 and will start at 11:30 AM and run for an hour or so in the Capitol Rotunda Gallery. We are seeking speakers for the rally so if you want to attend and speak contact us at any of the Chapter headquarters. We also need volunteers to make signs and other display items. The most important thing we need from you is participation in the rally itself. Attend the rally and show your support for injured workers.

The PFIW Board of Directors has expanded and taken on five new members. Voted onto the Board was:

Bill George—PA AFL-CIO  
Carl Dillinger—PA AFL-CIO  
Carl Judd—Lehigh Valley Chapter  
John Donato—Berks County Chapter  
Dennis Straub—Berks County Chapter

Congratulations and welcome aboard I look forward to working with you on issues that confront injured workers.

I am looking for funding to attend the 7th Annual PA Workers Compensation Conference and additional funding for day to day operations of the PFIW. Donate today!

## For Your Information



**Pennsylvania Legislators  
on  
Workers' Compensation**

## No Tax Forgiveness, No Social Security or Medicare Contributions

Under section 306 of the Pennsylvania Worker's Compensation Act one third of an injured workers gross income is forfeited to the employer/worker's compensation insurance company when an injured worker starts to receive compensation for lost wages. This appears to represent the local tax, State tax, Federal tax, Social Security tax, Medicare tax and other taxes that would be deducted from a normal paycheck. It is not exactly clear why the figure of a one-third deduction is used but I can tell you that it is an unfair amount. Add the 20 % an attorney receives for the litigation portion of a worker's compensation claim and an injured worker has given up 50% of his/her gross income just for being injured on the job. Here are a couple of reasons why this section of the Pennsylvania Worker's Compensation Act is flawed:

1. When on worker's compensation an injured worker cannot file a federal, state, or local income tax return. This is unfair because the tax rate for a working person is adjusted when they file a tax return. The Pennsylvania Worker's Compensation Act prohibits an injured worker from filing a tax return therefore taking away any tax forgiveness they may be entitled to. An injured worker ends up forfeiting more money for the representation of tax payments than the working counterpart. How does this help an injured worker?
2. Another problem with this policy is there will be no credit for the Social Security tax withheld while on workers compensation. This takes away from the individual's retirement for Social Security while he/she is on worker's compensation. This means that because of a work related injury a worker will receive less retirement under Social Security because no contributions were made during the recovery period of a work related injury.
3. Another problem with this policy is there will be no credit for the Medicare tax withheld while on workers compensation. This takes away from the individual's medical coverage during retirement. This means that because of a work related injury a worker will receive less medical coverage during retirement under Medicare because no contributions were made during the recovery period of a work related injury.

Section 306. The following schedule of compensation is hereby established:

(a) (1) For total disability, sixty-six and two-thirds per centum of the wages of the injured employee as defined in section 309 beginning after the seventh day of total disability, and payable for the duration of total disability, but the compensation shall not be more than the maximum compensation payable as defined in section 105.2. Nothing in this clause shall require payment of compensation after disability shall cease. If the benefit so calculated is less than fifty per centum of the Statewide average weekly wage, then the benefit payable shall be the lower of fifty per centum of the Statewide average weekly wage or ninety per centum of the worker's average weekly wage.

During a recovery period for a work related injury an injured worker can use all the help possible to stay on top of their finances. This should include all contributions for medical coverage, retirement and tax forgiveness. Life is tough enough for an injured worker without worrying about other health issues besides the work injury and finances. Neither the employer nor the injured worker benefited from the one-third gross pay deduction, when a worker's compensation claim is filed. The worker's compensation insurance company pocketed all of that money as windfall profits.

Legislation is needed to put this money back in the hands of the injured worker, where it belongs. Perhaps an injured worker would be better served with the right to sue an employer instead of receiving worker's compensation that seems more and more to support the worker's compensation insurance industry.

I'm joining  
the PFIW  
today!



**PFIW  
Featured  
Panel Attorney**



**Peter J. Classetti**

Peter concentrates his practice exclusively on representing claimants in Pennsylvania Workers' Compensation and Social Security Disability cases.

An adjunct professor at the University of Phoenix, Mr. Classetti instructs law and law-related courses. He has lectured throughout Pennsylvania at public seminars focusing on workers' rights under the law, as well as before professional groups. He received his undergraduate degree, cum laude, from the University of Pennsylvania in 1972, and his law degree, cum laude, from the Beasley School of Law at Temple University in 1984. Admitted to practice in the Commonwealth of Pennsylvania and the State of New Jersey, he is a member of the Pennsylvania Bar Association, Pennsylvania Trial Lawyers Association, Philadelphia Bar Association, and their Workers' Compensation sections.

## Ex-parte Communication

Ex-parte communication is one of the worst aspects of the Pennsylvania Worker's Compensation system. It is strongly encouraged by the Pennsylvania Worker's Compensation Bureau. The justification behind ex-parte communication is that it cuts down on the expense and time it takes for an employer/worker's compensation insurance company to get medical information about an injured worker. Just in case you were wondering, ex-parte is defined the following way:

Ex-parte – (1.) Law. From or on one side only, with the other side absent or unrepresented. (2.) From a one sided or strongly biased point of view.

Why this is even allowed in a workers compensation claim is beyond me. All communications should be upfront and not hidden from either party of the worker's compensation litigation. According to section 1404 of the Pennsylvania Worker's Compensation Act 57, Referees/Judges are not permitted to participate in ex-parte communications but yet all other parties to a claim are permitted to use this form of communication.

Employers/worker's compensation insurance companies and their hired experts abuse ex-parte communication in the following manner:

- When a hired expert contacts an injured worker's treating physician they claim to be working on behalf of the injured worker. This is a lie they are working for the employer/worker's compensation insurance company. This is a form of fraud it is misrepresentation. By doing this, a treating physician may tend to be more cooperative when asked for something, like a work release even though the injured worker did not ask for it. Here is how they do it: They contact the doctor and say something like this "Mr. or Ms. X would like to return to work and have asked me to contact you to get a work release for them to do so". That is a fraudulent statement! The Pennsylvania Worker's Compensation Bureau supports this kind of action taken by an employer/worker's compensation insurance company because they do not instruct the Referees to ignore evidence that is gathered using this course of action.
- Hired experts of employers/worker's compensation insurance companies also use ex-parte communication to obtain medical records of an injured worker in order to defend itself from the litigation in a workers compensation claim. They are supposed to ask the injured worker's attorney for the information and it is the duty of the attorney to supply it. This is never done! They just go directly to the physician. There is really no problem with this except the hired experts also use this opportunity to send surveillance videotapes and reports to the treating physician with the expressed purpose of convincing the doctor to change his/her opinion about an injured workers medical condition. Fraudulent or exaggerated information is often sent to the treating doctor. If the doctor happens to believe this bogus information it can leave an injured worker with medical records tainted with fraud. This happens everyday, it happened to me.
- Hired experts of employers/worker's compensation insurance companies also use ex-parte communication to contact perspective employers about an injured worker and tell them nothing about the disability or disabilities that may prevent the employer from hiring the injured worker. This is a form of fraud by omission. The injured worker ultimately pays the price for this practice down the road when fired for withholding information about a pre-existing work related disability.

It doesn't appear as though the best interest of the injured worker is being looked out for when these so called experts use ex-parte communication to discredit an injured worker. This type of communication only benefits the employer/worker's compensation insurance company's need to reduce it's expense for being responsible for a work related injury. Ex-parte communication just allows them to perpetrate fraud behind the scene and remain unaccountable for their actions.

## From the Pennsylvania Bureau of Workers Compensation

### Change for IRE's

The 6th Edition of the AMA "Guides to the Evaluation of Permanent Impairment" (Guides) is to be released in November/December 2007. Per § 123.105 of the regulations, physicians who perform impairment rating evaluations (IRE) under the Workers' Compensation Act are required to use "the most recent edition" of the Guides.

The bureau will be sending notices to all IRE physicians in January containing information on their requirements. For example, IRE physicians will be required to meet the provisions set forth in § 123.103 of the regulations and attend an "approved training course" on the 6th Edition of the Guides. The deadline to obtain this training and reapply for inclusion on the 6th Edition bureau list of IRE Physicians will August 31, 2008.

The bureau will accept IREs performed using either the 5th Edition or 6th Edition of the Guides until August 31, 2008. effective September 1, 2008 the bureau will accept only IREs performed using the 6th Edition of the Guides. If you have questions, contact Eileen Madigan, chief of health care services review, at emadigan@state.pa.us.

### Update on the UEGF (Uninsured Employers Guaranty Fund)

The bureau has completed the process and procedure for administering the uninsured Employers Guaranty Fund (UEGF) and is currently accepting claims under those procedure. The necessary forms and instructions are available from the Web site at [www.state.pa.us](http://www.state.pa.us), PA Keyword: workers comp, Bureau of Workers Compensation, Uninsured Employer Guaranty Fund.

As reported previously, Act 147 established the UEGF extending benefits to injured workers whose employer failed to insure their liability for work-related injuries.

Initial monies for the UEGF were transferred from the Administration Fund, with future funding to be made from assessments to insurers and self-insured employers.

### 7th Annual PA Workers' Comp. Conference

This event offers valuable insight from experts in the field of worker's compensation. Representatives from the Department of Labor & Industry's Bureau of Workers Compensation, the Office of Adjudication, the insurance industry, employers claimant and defense counsel, labor and the health care industry come together to share their knowledge and experience with the Pennsylvania workers' compensation system.

#### Fee

Conference registration is \$225 per person. The fee includes admission to the conference workshops and exhibits, morning and afternoon breaks, lunches on May 5 & 6 and dinner on May 5.

#### Location

Hershey Lodge & Convention Center  
West Chocolate Avenue & University Drive  
Hershey, PA 17033

#### Who Attends the BWC conference?

Whether you're new to the world of workers' compensation or you've been involved for a while but could benefit from a fresh viewpoint, there's something for you.

The following groups of individuals attended last year's conference: case managers, attorneys, employers, exhibitor representatives, government employees, health care industry, insurance companies, third-party administrators, and union representatives.

## Statewide workers' comp rates heading for a fall

### Agency says firms should see an average drop of 10 percent

Pittsburgh Business Times—By Jennifer Curry

Workers' compensation insurance rates are expected to drop an average of more than 10 percent starting April 1, with some industry sectors potentially seeing decreases of more than 20 percent, according to new recommendations from a state regulatory agency.

The Pennsylvania Compensation Rating Bureau has proposed a 10.22 percent average reduction, which will serve as a benchmark for insurance companies to use when setting annual policy rates.

The PCRB looks each year at the overall average cost required to cover medical and disability benefits to injured workers and recommends how insurance companies should adjust their rates. Although the board's recommendations are not mandatory, most companies use these figures to set rates, according to Tim Wisecarver, the bureau's president.

The organization's proposed rate reductions must be approved by the Pennsylvania Insurance Department, likely near the end of this month. In recent years, the department has typically approved the bureau's recommendations.

And several area insurance companies say they'll follow the bureau's guidance.

"Pretty much, across the board, rates are going down 10 percent," said John Heher, president of Mount Lebanon-based Liberty Insurance Agency Inc. "From our business, we are now planning (for the 10 percent drop)."

Barry Thomas, assistant vice president of underwriting at Somerset County-based Rockwood Casualty Insurance Co., said although he's seen a slight uptick in the number of claims filed in the past few months, he's preparing to offer lower rates.

"We follow what the bureau does," Thomas said.

Maggie Sheehan, a spokeswoman for Canton, Mass.-based OneBeacon Insurance, which offers insurance coverage throughout the state, said her company will also likely follow suit, pending final approval from the Insurance Department.

"We consider Pennsylvania a good market for workers' compensation," Sheehan said. "We think there's the right balance of appropriate benefit levels and rates that are sufficient to cover both medical and indemnity costs."

Wisecarver said the proposed rate reductions are an indication that the number of loss claims has been falling.

"It's a good overall read about what the prevailing loss trends are in Pennsylvania," Wisecarver said. "One of the key things that's been happening for a significant period of time and continues to happen is that claim frequency has been improving. Fewer and fewer people have been hurt every year."

Wisecarver attributes the overall decrease to a drop in the number of claims filed last year and fewer outstanding claims that had been filed in previous years. The bureau uses data from individual insurance carriers, as well as the Department of Labor and Industry, to monitor claim levels.

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### The President's Report - Berks County Chapter

Dear Injured Workers and Friends,

Members please renew your membership for (2008), if you have not already; if you can not afford to pay just indicate hardship on your renewal form.

My next BCTV show is scheduled for May 5, 2008. My guest will be announced later.

Dennis Straub  
President, Berks County Chapter

### The President's Report - Lebanon County Chapter

Dear Chapter Members,

No Report

Larry Beam  
President, Lebanon County Chapter

### The President's Report - Dauphin County Chapter

Dear PFIW Member,

Our Chapter is really down on membership. We will continue our membership drive to increase our Chapter participation.

Mike Kerstetter  
President, Dauphin County Chapter

### The President's Report - Lehigh Valley Chapter

Dear PFIW Member,

At our last Chapter meeting the membership voted that because of our financial hardship we should move to a smaller office within the building we presently reside. The cost will be cut in half and we will be using the church across the street to hold our meetings at no cost to us. I would like to thank Rev. Gerry Hartman for his co-operation and for letting us use the church for our meetings.

Several years ago PFIW published a Cook Book. We will reproduce these recipes and add them to our Chapter newsletter. Feel free to submit your recipes, maybe we can publish a PFIW RECIPES Volume II.

Peter DePietro  
President, Lehigh Valley Chapter

## Chapter Events

### Berks County Chapter

**MONTHLY MEETING SCHEDULE—2nd Tues. each month:**

**Next Meeting** at 7:00PM:  
March 11, 2008 at 1055 Spring Street, Wyomissing, PA 19613

**BERKS COMMUNITY TV SHOW—1st Monday of odd Months:**  
(Channel 13 on Comcast, Channel 19 on Service Electric Cablevision):

**Upcoming Show — May 5, 2008** at 8:00 PM:

**Repeat shows on:**  
Sun. 9:00 PM,  
Mon. 8:00 AM,  
The following Wed. 2:00 PM.

### Lebanon County Chapter

**MONTHLY MEETING SCHEDULE—4th Weds. of every month:**

**Next Meeting:**  
March 26, 2008 at 6:30 PM at the Annville Free Library

### Dauphin County Chapter

**MONTHLY MEETING SCHEDULE—3rd Thurs. of every other month:**

**Next Meeting** at 6:30 PM  
March 20, 2008 at the Middletown Public Library

### Lehigh Valley Chapter

**MONTHLY MEETING SCHEDULE—4th Weds. each month:**

**Next Meeting** at 6:30 PM:  
March 26, 2008 at 612 Elm Street, Bethlehem, PA 18016  
Guest Speaker to be determined.

**BINGO—Thursday of every week** at 7:00 PM:  
Dewey Fire House, Hellertown, PA  
No Smoking  
Cash Prizes

## PENNSYLVANIA FEDERATION OF INJURED WORKERS

### Application for Membership

Select the Chapter you want to join then mail the form to that Chapter

<b>Berks County Chapter</b> P.O. Box 13213 Reading, PA 19612	<b>Dauphin County Chapter</b> 27 Rose St. Middletown, Pa	<b>Lebanon County Chapter</b> 484 Cleona Blvd. Cleona, PA 17042	<b>Lehigh Valley Chapter</b> P.O. Box 707 Bethlehem, Pa 18016
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**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City & State:** \_\_\_\_\_

**Zip Code:** \_\_\_\_\_ **County:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **E-mail:** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

- I am:**
- An injured worker
  - A family member or friend of an injured worker
  - A supporter or advocate of the Pennsylvania Federation of Injured Workers

**“An Injury to One is an Injury to All”**

**Join today!**  
Visit us on the web: [www.pfiw.org](http://www.pfiw.org)

## PFIW Worker's Compensation Panel Attorneys



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## PFIW O.W.C.P. Panel Attorneys (Federal Worker's Compensation Claims)



**Jeffery Zeelander**  
1608 Walnut St.  
Suite 1300  
Philadelphia, PA 19103  
Bus: (215) 545-2132

companies can start from when setting rates for different classes of companies. Insurance companies also take into account any changes in their own overhead expenses, so rates can vary by insurance company, according to Heher. Insurance companies must get approval from the Insurance Department for new rates if they decide to make additional changes.

New insurance rates vary by class of business depending on the number of claims filed in each class the prior year. There are more than 300 different classifications. For instance, printed circuit board assembly makers can expect to see one of the biggest decreases at 20.7 percent, while construction workers can also expect to see a 10.78 percent average decrease.

"You will be paying less money, which everybody likes to hear when it comes to insurance," said Kevin Heher, John Heher's son and a new business account specialist at Liberty Insurance. "There's a lot of big construction projects happening in 2008 -- the arena, Children's Hospital, North Shore. ... That typically means guys are going to be employed more. Fewer injury cases means fewer claims, which means fewer dollars out on claims."

Jason Koss, director of industry relations for the Constructors Association of Western Pennsylvania, a Dormont-based group that represents area contractors, said the anticipated decrease in workers' compensation rates is likely an indication that contractors have taken a more active role in implementing safety and risk management programs to reduce injuries.

### Continued from page 3

According to Bruce Decker, a senior vice president at the PCRB, the number of claims has been dropping over the past dozen or so years but has been offset somewhat by a rise in medical costs.

This year's decline bucks last year's trend, when the average rate went up 2.95 percent due to an increase in medical indemnity costs. The rates have been up and down over the past several years.

"It's hard to point to one single factor that relates to that (drop)," Decker said. "But there's been a shift from manufacturing to service positions, and technology has created more robots.

"Sometimes safety is a by-product of the production methods being used today."

Workers' compensation insurance covers both job-related accidents and occupational diseases. The percentages set by the state reflect a base rate that insurance

## PA Federation of Injured Workers

27 Rose St.  
Middletown, PA 17057-4674

Phone: 717-948-1735  
Email: [pfiw@comcast.net](mailto:pfiw@comcast.net)



The PFIW is always here for injured workers & workplace safety.

«AddressBlock»

“An Injury to One is an Injury to All”

We're on the Web!  
[www.pfiw.org](http://www.pfiw.org)

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Middletown,

## What Can I Do to Help Make a Difference?

Many times we are asked; "What can I do? I am only one person". The answer to that is very simple:

1. When a large number of people complain about something it tends to get attention. Contact your Legislators, both Senators and Representatives, to let them know about the problems you are experiencing and ask them to help reform the workers compensation act for injured workers and not employers and their insurers. Also contact the members of the Senate Labor & Industry Committee and the House of Representatives Labor Relations Committee.
2. The real power to make change comes from injured workers and injured worker advocates who have registered to vote and do so. Vote for politicians who care about injured worker rights.
3. You can attend the PA Workers Compensation Advisory Council meetings held at the Bureau of Workers Compensation. Once in a while they allow people who attend the meeting to speak to them. This council is supposed to write legislative recommendations to the Legislators on workers compensation reform. Call or e-mail the Bureau of Workers Compensation for meeting information. 717-783-5421 or [ra-li-bwc-helpline@state.pa.us](mailto:ra-li-bwc-helpline@state.pa.us)
4. Join the Pennsylvania Federation of Injured Workers. The more members we have the louder our voice will be in Harrisburg.

If all injured workers and injured worker advocates/supporters would register to vote and get one other person or more to do the same, injured workers would then be able to say; "the abuse of injured workers stops now." Votes could be cast for Legislators that would reform the workers compensation act so it would reflect the workers compensation mandate.

If you haven't done it yet get out and register to vote and make your voice heard on election day. Don't assume that others will vote to make the difference. Only you can make the difference, vote!

Register  
&  
Vote



Register  
&  
Vote