

If you have been injured on the job or suffered a work-related illness, you may be entitled to medical and disability benefits through workers' compensation. In addition to your right to compensation, there are many other rights that you have throughout the process. If you are unable to work due to a work-related injury or illness, a [North Carolina workers' compensation attorney](#) can advocate for your rights and help you get the benefits you deserve.

You Have the Right to Pursue a Workers' Compensation Claim

All employers with three or more employees are required to carry workers' compensation insurance. There are some exceptions, notably agricultural employers with fewer than ten employees, but almost all employers must provide workers' compensation coverage.

This means that you have the right to make a claim against your employer's workers' compensation insurance if you have been injured on the job and are unable to work or have become disabled due to an occupational illness.

It also means that your employer does not get to decide whether or not you should file a claim. They are free to dispute your claim, but they cannot prevent you from filing it. Your employer also cannot terminate you or take any [retaliatory action](#) against you if you choose to pursue a workers' comp claim over their objections. If you feel that your employer has taken retaliatory action against you related to your workers' comp claim, you should seek immediate legal counsel.

You have the right to pursue a workers' compensation claim regardless of your immigration status. Whether you are a citizen, a permanent resident, or an undocumented worker, a North Carolina workers' compensation attorney can help if you do not know how to exercise your right to pursue a workers' comp claim.

You Have the Right to Pursue a Workers' Compensation Claim if You Are Paid in Cash

There are a significant number of workers who are paid in cash for a variety of reasons. You have the right to workers' compensation benefits even if you are paid in cash. However, in determining your disability benefits, you will have to

prove your average weekly income. This can be challenging if you do not have pay stubs to rely upon, but a North Carolina workers' compensation attorney can help.

Waiters and other workers who receive a significant portion of their income via cash tips should also take note that their average weekly income includes any amount they make in tips. Those employees have a right to be paid workers' compensation benefits based on their total average weekly income.

Under-calculating an employee's average weekly income is a recurring problem in workers' compensation claims. If you have questions about proving your average weekly income, a North Carolina workers' compensation attorney can provide you with the guidance you need.

You Have the Right to Medical Benefits

One of the chief aims of the workers' compensation system is to cover injured workers' [medical expenses](#) when they are injured on the job or are suffering from an occupational illness. If your claim is approved, workers' compensation should cover all of your medical expenses including the following:

- Doctor and hospital bills
- Prescription and over-the-counter medications
- Lab tests and blood work
- Surgery and other medical procedures
- Physical therapy
- Assistive medical devices
- Attendant care

It is important to note, however, that your employer does have the right to direct your medical treatment since the claim is being made on their workers' compensation insurance. As a result, they can instruct you to use their doctors or other healthcare providers that have been pre-approved by their insurance carrier.

You Have the Right to Treatment-Related Travel Costs

Workers' compensation should cover your travel expenses to and from treatment if you are unable to drive yourself and the mileage is 20 miles or more roundtrip. In addition, you may be entitled to lodging and meal expenses, parking costs, and tolls. Mileage and other costs are reimbursable at rates set by the IRS and other North Carolina agencies.

You Have the Right to Choose Your Own Doctor

If you are unhappy with the medical treatment you have been receiving, you have the right to request a new doctor. However, it is important that you do not change medical providers without first seeking approval; otherwise, the insurance company may decline to cover any non-approved medical expenses.

You also have the right to seek a second opinion as it pertains to your disability rating. For example, you could seek a second opinion if your doctor assigns a rating that would suggest that you are less disabled than you are. Your disability rating is a critical component of your claim that will determine your benefits moving forward. If you are unsure about what it could mean for your case, contact a North Carolina workers' compensation attorney.

You Have the Right to Wage Replacement / Disability Benefits

The other of the workers' compensation process is to provide [income protection](#) for workers who are unable to work due to a work-related injury or illness. While workers' compensation will not pay all of your lost income, it will pay up to 66.6 percent or two-thirds of your average weekly income. When calculating your average weekly income, you are entitled to include all forms of income over the prior 52 weeks. As a result, your average weekly income includes not just your base salary or wage but also any overtime, bonuses, commissions, tips, or other income you received from your employer during that time period.

You Have the Right to Disability Benefits for a Temporary Partial Disability (TPD)

Not every worker is totally disabled as a result of their injury or illness. Instead, they may be able to return to work with restrictions. These restrictions could include working fewer hours or being assigned to a role that is much less physically demanding. If this results in a loss of income, you are entitled to compensation of up to 66.6 percent or two-thirds of your lost income based on your average weekly income.

You Have the Right to Disability Benefits for A Permanent Partial Disability (PPD)

It can be difficult to know at the outset of an injury or illness whether a temporary disability will become a permanent disability. If it appears that you will not be able to make a full recovery but will be able to return to work, you may be

entitled to disability benefits if your disability prevents you from earning as much as you would have had you not become disabled.

You Have the Right to Receive Permanent Total Disability Benefits

Workers who will never be able to return to work are entitled to disability benefits that cover both their ongoing medical care as well as their lost income.

You Have the Right to Settle Your Claim

Workers who have suffered either a permanent partial or total disability are often presented with a proposed settlement, often referred to as a “clincher agreement.” These clincher agreements are often proposed by the insurance company in order to stop making weekly benefit payments. The clincher agreement represents what the insurance company believes would be fair compensation for your workers’ compensation claim in the amount of a one-time, lump sum payment.

You have the right to choose whether or not you accept the settlement. The challenge is in determining whether or not the proposed settlement is fair. Workers who have received a proposed settlement need to understand that they will not receive any further benefits if they choose to accept the settlement. We recommend that you seek legal counsel quickly if you have been presented with a potential settlement – an experienced North Carolina workers’ compensation attorney can review the offer to ensure that it is fair and possibly negotiate better terms if it is not.

You Have the Right to Appeal Your Claim if It Is Denied

Many workers’ compensation claims are initially denied for a variety of reasons. As a result, you do not need to panic or give up hope if your workers’ compensation claim is denied. You always have a right to appeal your denial, and there are several levels to the appeal process.

You should take immediate action in order to exercise your appeal rights if your claim is denied. A North Carolina workers’ compensation attorney can guide you through the appeal process so that you can get whatever benefits you are entitled to as quickly as possible.

You Have the Right to Counsel

No matter what stage you are at in the process, you have the right to be represented by an attorney. Your employer or their workers' comp carrier may tell you that you do not need one, but the decision is yours. Even at the outset of your claim, a North Carolina workers' compensation attorney can help you gather the documentation you need and complete the necessary paperwork so that you can focus on your recovery. You should definitely consider hiring an attorney if your case is complex or your employer is trying to dissuade you from pursuing a claim.

Talk to a North Carolina Workers' Compensation Attorney at Martin & Jones

If you have questions about your workers' compensation rights, we can get you the answers you need. [Contact](#) us today by calling 800-662-1234 to schedule a free consultation.