

Durham Workers Compensation Attorney Helping Injured Workers

Any injury can leave you unable to work, but if you are injured on the job, you may pursue a workers compensation claim. Workers compensation is an income-replacement benefit that will help you pay your bills and will pay your medical expenses while you are unable to work. Generally speaking, workers' compensation will pay two-thirds of your average weekly pay plus your medical expenses. For many people, workers' compensation can make the difference between being able to pay their bills and facing severe financial hardship. Unfortunately, the system isn't always easy for non-lawyers to navigate. A knowledgeable Durham workers compensation attorney can save you valuable time and make sure you get the benefits you need.

What Does a "No Fault System" Mean for Workplace Accidents?

Another important aspect of workers' compensation is that it is a no-fault system, which means you can begin receiving benefits even though they cannot determine who caused the accident. In fact, you may be eligible for workers' compensation even if you caused the accident that resulted in your injury.

Durham Workers Compensation Covers Both Injuries and Illnesses

For some reason, many people think that workers compensation only applies to injuries that are sustained in industrial accidents. Fortunately, this is not the case. Workers compensation provides benefits to people who were injured or became ill in the course of their employment in a broad spectrum of situations:

- Injuries due to falls

- Chemical burns
- Electrical burns
- Repetitive motion injuries (such as carpal tunnel syndrome)
- Illness and disease due to exposure to hazardous chemicals or substances

Depending on your needs and the circumstances of your case, workers compensation will cover the following with no deductible or copay:

- Surgery
- Hospitalization
- Rehabilitation and physical therapy
- Long-term care
- Prescription medications

If you were injured while performing your job duties or became ill due to the nature of your work, a Durham workers compensation attorney can help you understand your options.

A Durham Workers Compensation Attorney Can Help You Get Coverage for Your Disability

Most workers' compensation claims provide income for only a short period of time – the time you are absent from work or working reduced hours so that you can recover from your injuries. Some accidents, however, can result in permanent disability. Worker's compensation will pay benefits for both temporary and permanent disabilities, as well as partial and total disabilities. It's important to document your [claim correctly](#) so that you receive the full amount of workers' compensation benefits for which you qualify.

Do You Qualify for Workers' Compensation in North Carolina?

In order to qualify for workers' compensation, you must meet the following criteria:

1. You suffered an accident;
2. Arising out of and in the course of your employment.

As a result, self-inflicted injuries or injuries caused by illegal behavior will not qualify for workers' compensation. The critical issue in many cases is whether your injury arose from and occurred in the course of your employment. If you were injured at home on the weekend while painting your house, you obviously could not pursue a worker's compensation claim. On the other hand, you may be able to seek workers' compensation if you were injured in a car accident to pick up lunch for a meeting with clients. This issue can be more complicated than it appears, but a Durham workers compensation attorney can help you prepare your claim so that it gets approved.

How long can I receive medical treatment after a work injury in Durham?

An injured worker can receive [medical treatment](#) which is reasonable and necessary while under the doctor's care. After you get your final payment, you have two years to petition the Industrial Commission to receive additional medical treatment. Workers injured before July 5, 1994, are entitled to receive lifetime medical treatment.

You must be able to show that the treatment sought is related to the on-the-job injury. Only those consequences which would reasonably and naturally flow from the on-the-job injury will be paid by the insurance company. Your Durham workers compensation lawyer will produce evidence to show that the medical treatment is reasonably necessary to effect a cure, provide relief, or lessen the period of the disability.

What You Should Do if You Have Suffered an Injury or Illness Due to Your Job

The workers' compensation process is more complex than you might think. Before submitting your claim, there are some very important steps that you should take as soon as possible:

- **Report your illness or injury to your employer.** You should do this as soon as possible, but North Carolina requires that you do so within 30 days. The sooner you report your illness or injury, the sooner you can begin receiving benefits.
- **Get a thorough medical examination.** It is very important to get a formal medical opinion [concerning your injury](#) or illness. Your doctor's report should diagnose your injury, explain what your limitations are, and explain why you cannot return to work.
- **Follow your doctor's instructions.** Many people jeopardize their workers' compensation claims by not following their doctor's orders. This will help you make a full recovery, but it will also strengthen your claim.
- **Meet with a work injury lawyer.** An experienced Durham workers compensation attorney can help you collect the information you need to prove your claim.

Failing to take these steps could jeopardize your claim should you need to file one. The longer you wait to submit your claim, the more difficult it will be to prove.

Understanding the Process for Obtaining Benefits

You do not necessarily need to hire an attorney to pursue a workers comp claim. The process can sometimes be challenging to navigate, especially if your case is complicated. In addition, most people cannot pay their bills unless they work, so you could quickly be facing a financial crisis if your claim is delayed or denied. If you cannot work due to a work-related illness or injury, a Durham workers compensation attorney from Martin & Jones can help you get your benefits as quickly as possible.

The First 30 Days After Your Work Injury

If you are suffering from a work-related injury or illness, the first step is to report your injury or illness to your employer. This should be done immediately, both verbally and in writing. If you were injured in a [workplace accident](#), your employer's knowledge of the event may be sufficient. However, at a minimum, North Carolina law requires that you notify your employer of your illness or injury within 30 days.

Once you have reported your injury or illness to your employer, they should file the necessary paperwork with their workers compensation insurance carrier within five days. Then, within 14 days of receiving the claim, your employer or their insurance carrier should inform you that the claim has been accepted or denied. It is important to note that, in some cases, your employer's insurance carrier may begin paying benefits while retaining the right to deny your claim within 90 days.

Medical Treatment in the First 30 Days

If your claim is approved, your employer's insurance carrier will begin paying benefits for medical treatment immediately. This does not mean that you should wait for your claim to be approved in order to seek medical treatment. You should see a doctor as soon as possible. However, you should seek guidance from your employer as to whether they or their insurance carrier have an appointed health care provider for work-related injuries and illnesses. This minimizes the risk that you will be personally responsible for any medical bills and facilitates quick payment in the event that your claim is approved.

Whether or not your claim has been approved, it is critical that you follow the physician's instructions. Failure to follow your treatment plan could result in your claim being denied, even if it has previously been approved.

Your workers compensation claim must be filed with the North Carolina Industrial Commission within two years of the date you were injured or became ill and unable to work. This is a long time to wait for benefits. If your employer refuses to file the claim, you should contact a Durham workers compensation attorney immediately to discuss your rights.

Wage Benefits in the First 30 Days

Unlike medical benefits, wage benefits are not paid immediately if your claim is approved. Instead, wage benefits will not be paid until you have missed seven days of work. You will be entitled to compensation for the first seven days only if you are unable to work for at least 21 days.

If Your Workman's Comp Claim Is Denied

As mentioned above, your employers' insurance carrier must approve or deny your claim within two weeks of the date you became ill or were injured. Workers whose claims have been denied have the right to request a hearing before a deputy commissioner. However, upon receiving a request, your claim will be automatically referred to mediation by a third party.

If the parties cannot agree to a resolution of your claim, your case will be scheduled for a hearing within 30 to 60 days. While the hearing with the deputy commissioner isn't a trial, it is very similar. Both sides will have the opportunity to submit evidence and call and cross-examine witnesses. At the conclusion of your hearing, the deputy commissioner will issue a written decision regarding your claim.

Hearings Before the Full Commission

If the deputy commissioner denies your claim, you have 15 days to file your appeal for a hearing before the full commission. The commission will be composed of three judges who will receive written briefs on your claim and then schedule oral arguments. Similar to the hearing before the deputy commissioner, the full commission will allow the parties the opportunity to submit evidence and call and cross-examine witnesses at the hearing.

If the full commission denies your claim, your only remedy is to appeal the commission's decision to the North Carolina Court of Appeals.

Durham Workers' Compensation Attorney Explains Difference between Workers Comp. and Personal Injury

Filing a worker's compensation claim does not require a finding of fault. In a [personal injury lawsuit](#), the primary issue is who is responsible for your injuries. You will have to prove that the other person caused your accident and should therefore be held liable for your injuries. It could take months or even years for your lawsuit to come to a conclusion.

Worker's compensation, on the other hand, does not require that you prove fault - only that you were injured or became sick in the performance of your job duties. This means that your claim will be approved much more quickly. You will begin receiving your benefits when you most need them.

That said, there are some limitations. If you file a workers compensation claim, you may forfeit your right to sue your employer. A Durham workers compensation attorney can give you advice as to your options and the best way to proceed.

What questions should I ask a worker's compensation lawyer?

Can a Durham Workers Comp Lawyer Help Me if My Benefits are Denied?

You should contact an attorney to determine whether [there are grounds to pursue a claim for workers' compensation](#). Form 18 must be filed with the Industrial Commission within two years of the date of the accident in order for a claim to be properly registered. Then, the injured worker can file Form 33 Request for Hearing to contest the [denial of workers' compensation benefits](#).

Normally, it takes several months for a case to be placed on a hearing docket for a deputy commissioner to hear the matter and decide whether or not the injury meets the requirements for workers' compensation benefits. The entire hearing process can take an additional six months to a year after the initial hearing occurs.

The insurance company or your employer will have an attorney representing it at the hearing. While the injured worker can represent his own interests at the hearing, it usually makes sense to have an attorney at this stage.

How is a Workers' Compensation Law Firm Paid?

Workers' compensation cases are handled on a contingency fee basis. This means that unless there is a recovery or settlement, no fee is paid. The attorney is paid a percentage of the recovery. All fees are regulated by the [North Carolina Industrial Commission](#).

Speak with a Durham Workers Compensation Attorney Today

If you are injured and unable to work, your future is at stake. Let Martin & Jones help you get the benefits you need so that you focus on your recovery. Call us today at [800-662-1234](tel:800-662-1234) or [contact us online](#) to schedule a free consultation with an experienced and knowledgeable Durham worker's compensation attorney.

A Top Raleigh Workers' Comp Lawyer Can Help You Recover Your Benefits

Have you been injured at work in North Carolina? Get answers to your questions about workers' compensation and find out how a [Raleigh workers' comp lawyer](#) at Martin & Jones can help.

What Is Workers' Compensation?

Workers who have been injured on the job are entitled to medical and disability benefits to cover their expenses while they recover. They are covered through a form of insurance known as workers' compensation insurance. North Carolina law requires employers with three or more employees to provide coverage for them.

How Does a Worker Receive Benefits of Compensation?

Workers are compensated for injuries through their employer's workers' compensation insurer. Typically, an injured employee will be evaluated by a medical professional provided by the insurer.

The medical professional will determine whether the worker is temporarily or permanently disabled. A [medical treatment](#) plan will be developed to help the employee get back to work as quickly as possible. While the worker is recovering, he or she may receive [disability pay](#) to help cover expenses.

Workers and Injuries Covered By Workers' Compensation

Workers' compensation covers all employees in North Carolina, with the exception of [railroad workers](#) and federal workers. This includes temporary, seasonal, part-time, full-time and independent contractors. Even undocumented workers must be covered by workers' compensation.

While many workers' compensation claims are linked to an event, such as a fall on a [construction site](#), there does not need to be a specific accident for an individual to qualify for workers' compensation benefits. Many workers who perform repetitive tasks that lead to injuries over time may still qualify for workers' compensation benefits.

Must all employers in North Carolina carry workers' compensation insurance?

All employers who regularly employ three or more workers must carry workers' compensation insurance in North Carolina. Some companies self-insure their businesses for workers' compensation, so you may have to deal directly with the employer rather than an insurance company.

Can a Raleigh Workers' Comp Lawyer Help Me with an Occupational Disease Claim?

Deteriorating health conditions that arise slowly and over a period of time can be grounds for workers' compensation under certain conditions:

- the employee was placed at an increased risk of contracting the occupational disease compared to the general public not equally exposed, and
- the hazards of employment significantly contributed to occupational disease.

For example, textile workers exposed to cotton dust can contract a condition known as "brown lung" or byssinosis. Other workers have been exposed to a hazardous mineral known as asbestos, which can lead to asbestosis, mesothelioma, and other cancers. These diseases strike workers who were exposed to asbestos many years ago in factories, shipbuilding sites, construction, insulation, brake production, and transportation.

Some workers have been exposed over long periods of time to chemicals in the workplace. This can lead to cancer or a myriad of other ailments.

Workers who have jobs in [factories and in offices](#) where they continually use their hands in a repetitive manner can get a condition known as carpal tunnel syndrome.

Because so many illnesses can be considered [occupational](#) diseases, it's wise to consult with a Raleigh workers comp attorney if you think you have a claim or are [considering a settlement](#).

The Process for Reporting a Workplace Injury in Raleigh North Carolina

After an injury, workers are required to report the injury to their employer. The employer may have medical staff available on-site for an employee to see, but this is not always the case. For all employees, it is important to seek medical attention promptly. Notify the medical staff that the injury was work-related.

How Long Do You Have to Report Your Work Accident to Your Employer?

[North Carolina law](#) requires that an injured employee report their injury to their employer "immediately on the occurrence of an accident, or as soon thereafter as practicable....but no compensation shall be payable unless such written notice is given within 30 days after the occurrence of the accident..."

In other words, you should report your injury to your employer as soon as possible **but no later than 30 days** after the accident that caused your injury. If you fail to report your injury to your employer within 30 days, you could jeopardize your right to workers' comp benefits.

Of course, there are many situations where your employer may be already aware of the accident and the fact that you were injured. While it may be excusable to not provide written notice to your employer, it is always better to do so. Providing written notice creates a record of the date that you informed your employer. Be sure to keep a copy of your notice for your own records.

If you are unsure of what to do or how to do it, a knowledgeable workers comp lawyer can provide you with guidance on how to notify your employer of your injury.

In North Carolina, injured workers have the option of providing this written notice by providing the employer with a copy of Form 18. Form 18 is required by the North Carolina Industrial Commission to file a workers' comp claim. Injured workers who fail to give timely notice to their employer and file a claim with the North Carolina Industrial Commission

risk losing the right to recover. Both steps are critical to [preserving your claim](#).

Does my employer have to provide me with light duty if my doctor says that I cannot return to my normal job?

Your employer does not have to provide light-duty work merely because you have been hurt on the job. The federal Americans with Disabilities Act requires that your employer make reasonable accommodations for you to perform work, but this is the extent of its obligation.

Receiving Your Workers' Compensation

Compensation is paid at two-thirds (66-2/3 percent) of the injured worker's average weekly wage. The employee's gross wages, including overtime and payments in lieu of wages, are calculated for the 52-week period preceding the accident to determine an average of the weekly wages. If the period of employment prior to the accident is less than 52 weeks, then whatever time period the employee worked is used.

However, if the time period is so short that using the gross pay period for that time would be unfair to either the employee or the employer, the parties can use the wages of a similar or comparable employee. If no similar or comparable employee is available, then a calculation can be devised which would be fair to the employer and the employee.

How long will I have to wait before my weekly benefits start?

You must have missed at least seven days before the entitlement to weekly benefit checks begins. This does not have to be seven consecutive days. The entitlement to receive medical treatment, however, is not contingent upon missing any time from work. ***You may receive medical treatment immediately after being injured.***

How do my medical bills get paid?

Medical bills are paid by the workers' compensation insurance company. These bills must be forwarded to the insurance company by the doctor's office. The insurance company then sends the bills to the Industrial Commission to make sure they are reasonable charges. When the Industrial Commission clears the bills, the insurance company pays the doctor's office.

If the insurance company refuses to pay medical charges, the injured worker can file a request with the Industrial Commission for a hearing to order that the medical bills be paid.

What if My Workplace Accident is Partly or Completely My Fault?

Workers' compensation in North Carolina is a fault-free system. This means that the relative contributions of the employee or the employer in causing the accident are not examined in determining whether the worker is entitled to compensation.

However, if the injury is caused by the employee's willful disobedience of a safety rule, then the compensation the employee is entitled to receive can be reduced by ten percent. On the other hand, the failure of the employer to obey a safety rule can result in a ten percent increase in workers' compensation benefits to the employee.

In addition to the workers' compensation claim, you also may file a claim against the person who caused the injury. This is a civil action where you must be able to show that the "third party" was negligent and that you did not contribute to the accident.

It is very important to pursue a third-party claim because there may be additional recoveries beyond what the [Workers' Compensation Act](#) allows. A good example of a third-party claim is when a delivery driver is injured in an automobile accident, and the person causing the accident is not the employer or a co-employee. The injured worker can file both a workers' compensation claim and a third-party negligence claim against the driver who caused the accident.

Another third-party claim can occur when a defective machine or product causes a worker to be injured. The injured worker can then file both a workers' compensation claim and a product liability claim against the manufacturer of the machine or defective product.

FAQs About Workers' Comp in Raleigh

What do I do if my employer says I don't have a claim?

It is not up to your employer to decide whether or not you have a workers' compensation claim. That decision ultimately lies with the North Carolina Industrial Commission. If your employer refuses to file a claim on your behalf or is otherwise trying to dissuade you from pursuing a claim, contact a Raleigh workers comp lawyer for help.

What do I do if my workers' compensation claim is denied?

Do not lose hope if your workers' compensation claim is denied. Denials are common, especially for workers who filed their own claims and have no prior experience with the workers' compensation system. You have the right to appeal your denial, but you must act quickly. Workers should also be aware that there are multiple opportunities to appeal. As a result, you may still have the opportunity to appeal even if you have already appealed once. If you do not already have legal counsel, the best thing to do is contact a Raleigh workers' comp lawyer as soon as possible after receiving your denial, no matter what stage in the process you are at.

Why did my workers' comp claim get denied?

There are a variety of reasons why workers' compensation claims are denied, but they are often due to defects in the application that can be remedied. Some of the most common reasons why claims are denied include the following:

- Lack of medical evidence
- Lack of evidence establishing that your injury or illness is work-related
- You were not treated by an approved medical provider
- You have a pre-existing injury or illness
- Your employer disputes your claim
- You missed important deadlines

Most of these issues can be fixed on appeal, such as failing to provide sufficient documentation. Other issues, such as failing to file your claim within the deadline, may be fatal. Whatever the reason for your denial, we urge you to schedule a free consultation with a Raleigh workers comp lawyer to discuss your options and next steps.

Do I qualify for other types of disability benefits if I am receiving workers' comp?

Because workers' compensation only covers up to two-thirds of your weekly income, workers are often worried about how they are going to make up the third of their income that is lost. Unfortunately, there is no easy answer to this question. Generally speaking, you cannot receive both workers' compensation benefits and disability benefits at the same time, at least without one reducing the benefits paid by the other. That said, there are exceptions. A Raleigh workers comp lawyer can review your options and determine whether you qualify for any additional benefits.

When should I contact a Raleigh workers' comp lawyer?

It is never too early or too late to contact a Raleigh workers comp lawyer. You should reach out at any of the following points:

- You are suffering from a work-related illness or injury and don't know what to do
- Your employer is refusing to help you file a workers' compensation claim for a work-related illness or injury
- Your claim was filed but denied
- You appealed, but your claim was denied
- Your claim was filed and you have been asked to submit additional information
- Your claim was filed, but you have questions about your benefits or how the process works
- The insurance company wants to settle your workers' compensation claim
- Your employer wants you to return to work
- You disagree with your doctor's assessment of your health or ability to return to work

Choose a Raleigh Workers' Comp Lawyer from Martin and Jones

In a serious injury claim, hire an attorney with extensive workers' compensation experience. There is no charge for an initial consultation, and the law firm should give you an honest determination of whether representation will be helpful to you.

Learn how having a Raleigh workers' comp lawyer as your advocate can help you with your claim. Call our Raleigh law office toll-free at [800-662-1234](tel:800-662-1234). [You can also reach our law office online.](#)