Your Guide to Pennsylvania Workers Compensation

Prepared especially for you by

Edgar Snyder & ASSOCIATES

A Law Firm Representing Injured People.

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Please note: This brochure contains general information only. It is not intended to be a substitute for legal advice. Each case involves different facts and legal interpretations. This brochure highlights rights and responsibilities under Pennsylvania's Workers Compensation laws as of the time of this printing.

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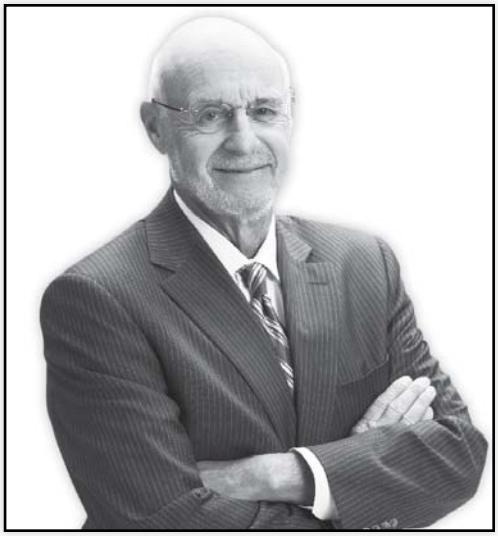
A Message From Attorney Edgar Snyder



This Guide to Pennsylvania's Workers Compensation Law has been written to answer some of the most commonly asked questions about the Workers Compensation system in Pennsylvania. As you will learn, the laws covering injured workers are very complex. Please spend some time reading this guide so that you have a better understanding of your legal rights.

Each year, tens of thousands of people are injured on the job in Pennsylvania. Although the Workers Compensation laws are supposed to help injured workers and their families maintain an adequate standard of living, the system doesn't always work that way. The Workers Compensation system, which was originally designed to protect the worker, is often stacked against the worker.

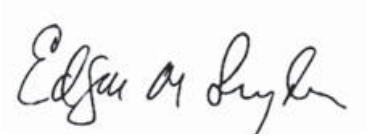
Many times the injured worker has difficulty in collecting compensation for work-related injuries since the burden of proof is put on the worker.

If you were injured on the job and are concerned about your rights to collect Workers Compensation in Pennsylvania, you can contact our law firm toll-free at 1-800-9-4EDGAR for a free consultation. Our phones answer 24 hours a day, 7 days a week. We will answer your questions without charge and there is no obligation to use our services. In addition, you can visit our Web site at edgarsnyder.com.

Remember, injured workers have rights.
Make sure you protect yours.

Trust our Workers Compensation team to help.

Sincerely,



Attorney Edgar Snyder

Eligibility for Workers Compensation Benefits

Eligibility

You may be eligible for Workers Compensation benefits in Pennsylvania if you:

- Are hurt on the job
- Aggravate a pre-existing injury
- Develop an illness that is work-related, such as asbestosis or carpal tunnel syndrome

Here is a general rule for eligibility: Injuries that occur in the workplace, or that occur while "furthering" the business of an employer, such as traveling to a work-related appointment, may qualify you for Workers Compensation benefits. You may claim benefits even if you were negligent and at fault for the injury. *Please note:* Accidents that occur while traveling to or from work and during breaks generally do not qualify for Workers Compensation.

Employer Responsibility

In Pennsylvania, most employers — even if they only have one employee — are required to carry Workers Compensation coverage for their employees. Therefore, almost all workers in Pennsylvania are protected by Workers Compensation and are generally eligible to receive these benefits if an injury occurs on the job.

Employee Responsibility

If you are injured at work, what you do after the accident could make the difference in whether Workers Compensation benefits are granted or denied. If you are injured on the job or become ill

due to work-related conditions, immediately report the injury to your employer or supervisor. You have 120 days to advise the employer of a work-related injury or illness. In cases where the injury or illness is not immediately known, you have 120 days from the time of awareness of the injury or illness to notify your employer. If you alert your employer about the injury within 120 days, you then have three years from the date of injury, or from the date of awareness of the injury, to actually file a Claim Petition for Workers Compensation benefits.

Types of Workers Compensation Claims

There are several types of claims that can be filed during the Workers Compensation process. An injured worker can file a claim petition or reinstatement petition against the employer or against the employer's insurance company. On the other hand, the employer, or the employer's insurance company, can file petitions to terminate, modify, or suspend benefits against the injured worker. At some point during the process, either the injured worker may ask, or the employer's insurance company may offer, to settle future compensation benefits for a lump sum of money.

The different types of Workers Compensation claims are described below:

Claim Petitions

If you alert your employer of a work-related injury or illness within the required 120 days, you have three years from the date of the injury to file any type of claim petition.

The following are the types of Claim Petitions that you can file.

Loss of Wages
This is the type of claim that most people associate with Workers Compensation. Under Pennsylvania law, you are eligible to receive benefits if a doctor places you on medical leave from work for more than seven days. However, under this type of compensation, you need to be off of work and under a doctor's care for at least 14 consecutive workdays to receive benefits for the first seven days.

Scarring
You can receive benefits for a scar to the head, face, or neck that was caused by an injury at work. This

is an additional payment above and beyond any Workers Compensation benefits, and can even be paid if you go back to work after the injury, or if you don't miss any days of work as a result of the injury. This also applies if the scar was due to surgery related to the at-work injury. *Please note:* Many times insurance companies do not tell people about this benefit.

Specific Loss

You can also get paid for any specific loss — or permanent loss of use — for injuries to the hand, forearm, arm, foot, leg, eye, thumb, fingers, or toes. Specific Loss also applies to any work-related hearing loss. This claim can even be paid if you go back to work after the injury, or if you don't miss any days of work because of the injury.

Reinstatement Petition

Following a termination or suspension of Workers Compensation payments, you can file a Reinstatement Petition if you experience a recurrence of your original work injury disability that results in a lack of earning power. You can reopen the claim if benefits need to be reinstated for any reason. One reason for the reinstatement of benefits may be that you had to be taken off of the job again as a result of the injury. Sometimes the insurance company will not voluntarily reinstate the benefits, so a petition will need to be filed. You generally need to file a reinstatement petition within 500 weeks of the date of the last Workers Compensation payment.

Petitions to Terminate, Modify, or Suspend Benefits

While you are receiving Workers Compensation benefits, your employer's insurance company can try to stop the benefits. They do this by sending you to a physician for an Independent Medical Exam (IME). If that doctor finds you fit to return

to your pre-injury job, or to a modified-duty job, the insurance company will probably file a Petition to Terminate, Suspend, or Modify Benefits.

Petition to Terminate Compensation Benefits

When your employer files a Petition to Terminate Compensation Benefits, your employer is asking the Bureau of Workers Compensation to stop compensation payments for a particular reason. The reason may be stated in the petition. Many times, employers file this petition on the basis of a physician's affidavit that states that you are no longer injured and can return to work. You have a right to defend the petition. If you do not attend a hearing, then payments may be stopped. If you do not report back to work, you could lose your job.

Petition to Modify Compensation Benefits

When your employer files a Petition to Modify Compensation Benefits, your employer is asking the Bureau of Workers Compensation to reduce the amount of money you receive from Workers Compensation. The reason may be stated in the petition. Usually, a physician has concluded that the injury is not as disabling as it previously was and has released you to a modified or "light duty" job. Your employer has a modified job available for you; however, you reject the job because the requirements to perform the job exceed the physical restrictions placed on you by the physician. You have a right to defend the petition. If you do not attend a hearing, then payments may be reduced.

Petition to Suspend Benefits

When your employer files a Petition to Suspend Benefits, your employer is asking the Bureau of Workers Compensation to suspend payments for a particular reason. The reason may be stated in the petition, and may include your failure to comply with certain requirements of the Workers Compensation Act. Usually, your employer has a different job available for you that you reject even

though it pays the same amount as the pre-injury job paid. You have a right to defend the petition. If you do not attend a hearing, then payments may be suspended.

If you receive any of the petitions listed above and feel too injured to return to work, we recommend consulting an attorney before the payments are stopped. A Workers Compensation Judge will have to decide if compensation benefits can continue. This is a lengthy process that could involve as many as three or four hearings.

Compromise and Release

In a Compromise and Release, more commonly known as a "lump sum settlement," the insurance company calls or sends a letter to you asking to settle future compensation benefits for a lump sum of money. The benefit to this settlement is that you can accept a lump sum of money and get on with your life. You can also initiate the call to the insurance company. Some injured workers would prefer to settle their case for a lump sum of money.

Important Information About Medical Benefits

There is an important issue with medical benefits when you consider a lump sum settlement. Under Pennsylvania's Workers Compensation Law, the insurance company pays an injured worker's medical bills while they collect benefits. If you collect a lump sum settlement, the insurance company may or may not offer to provide a lump sum for future medical care. Each case needs to be evaluated individually to determine if it is a good idea to settle future medical benefits. This decision is largely dependent on the amount of medical treatment you think you will need in the future. It is highly recommended that you consult with an attorney *before* you make this decision.

Workers Compensation Benefit Payments

There are several types of benefits that an injured worker may be eligible to receive under Pennsylvania's Workers Compensation Law once the claim has been approved:

Medical Benefits

Once an injury or illness is determined to be work-related, you are entitled to payment of related medical and surgical services performed by a doctor or other health care professional. Payment for hospital services, medications, medical supplies, and orthopedic devices including prostheses are also covered for the length of time prescribed. Even if you miss no time from work, health care costs, including medications, for a work-related injury or illness would still be paid.

Please keep the following in mind: If your employer posts a list of panel physicians at the workplace, you must treat with one of these Company Doctors to ensure payment of all medical expenses for the first 90 days of treatment.

At some point, the insurance company may offer to pay future medical benefits in one lump sum. Each case needs to be evaluated individually to determine if it is a good idea to settle future medical benefits. This decision is largely dependent on the amount of medical treatment you think you will need in the future. If the insurance company offers a lump sum settlement, it is highly recommended that you consult an attorney *before* making this decision.

Total Disability Payments

You can start collecting for lost wages after being off the job for seven days. The law entitles you to

collect ⅔ of your current weekly gross wages up to a maximum amount. This maximum is determined by the legal maximum amount available to you during the year the injury occurred.

Also, there are no "cost of living" increases in Workers Compensation benefits. This means that you will collect that same benefit without any increase for as long as Workers Compensation benefits continue.

Partial Disability Payments

You can collect Partial Disability if you return to a light duty assignment that pays less than the pre-injury position paid. Workers Compensation will pay ⅔ of the difference in salary up to a maximum of 500 weeks or 9 ½ years.

Example:
A worker originally held a position that paid $500/week gross. An injury occurred on the job and the worker was unable to return to that original position. Instead, the worker started a light duty position that earned $400/week gross. Workers Compensation would then pay ⅔ of the $100 difference, or approximately $66 per week. The new total weekly wage would then be $466.

Payment for Scars

You can receive benefits for a scar to the head, face, or neck that was caused by an injury at work. This is an additional payment above and beyond any Workers Compensation benefits, and can even be paid if you go back to work after the injury or if you don't miss any days of work as a result of the injury. This also applies if the scar was due to surgery related to the at-work injury. *Please note*: Many times insurance companies do not tell people about this benefit.

Payment for Specific Loss

Specific Loss benefits are paid in a lump sum. The amount of the compensation payment is based on the area of loss — or permanent loss of use — for injuries to the hand, forearm, arm, foot, leg, eye, thumb, fingers, or toes, and also for any work-related hearing loss. You can collect payment even if you go back to work after the injury, or if you do not miss any days of work because of the injury. *Please note:* If you accept a Specific Loss settlement, it may limit your overall Workers Compensation payments. We strongly urge consulting with an attorney *before* you accept a Specific Loss settlement, to ensure that it is in your best interest.

Lump Sum Settlements

A lump sum settlement may be a good idea for you if you have been off the job and receiving Workers Compensation benefits for four months or longer. This settlement enables you to collect your Workers Compensation benefit in a lump sum and move on with your life. Workers Compensation weekly benefits for loss of wages do not continue to spouses or heirs after death. A settlement for a lump sum allows you to have the option of investing the money. This settlement can be paid to you if both parties are in agreement. However, you should consult an attorney *before making* the decision to accept a lump sum settlement.

The maximum lump sum settlement you can receive, *excluding medical benefits*, is your weekly Workers Compensation benefit multiplied by 500 weeks.

Please remember: Each case needs to be evaluated individually to determine if it is a good idea to settle future medical benefits. A lump sum settlement for future medical benefits is a separate issue from a loss of wages lump sum

settlement. This decision is largely dependent on the amount of medical treatment you think you will need in the future. It is highly recommended that you consult an attorney *before* making any decision.

Death Benefits

If the work-related injury results in death, surviving dependents may be entitled to compensation. The amount of compensation varies depending upon the relationship of the surviving dependents to the deceased worker.

Regardless of whether or not there are dependents of the deceased worker, a reasonable expense for burial will be issued directly to the funeral director by the employer's insurance company to help pay for the cost of funeral expenses. The amount of the expense paid is determined by the Workers Compensation Act.

The Hearing Process

The Workers Compensation Act governs the procedures that must be followed at a Workers Compensation hearing. Although the hearing is generally less formal than a civil or criminal trial, there is nevertheless a certain procedure to be followed.

Once you or your employer files a request, a Workers Compensation Judge is assigned from the county where you live to hear the request.

Examples of requests submitted for a hearing include:

- An injured worker filing a claim petition seeking Workers Compensation benefits
- An employer filing a Petition to Terminate, Modify or Suspend Compensation Benefits against an injured worker

Once the Judge is assigned, a hearing date is set. All parties to the case are notified of the date, time, and place of the hearing. At the hearing, the Workers Compensation Judge hears evidence presented by both you or your attorney and your employer. More than one hearing is usually required.

After all the evidence is submitted and the case is closed, the Workers Compensation Judge will circulate a written decision. If either party is not satisfied with this decision, the appeals process may begin.

The Appeals Process

Any appeal must be made within the required time limits and follow this general pattern:

- The decision of the Workers Compensation Judge can be appealed to the Workers Compensation Appeal Board.
- The decision of the Appeal Board can be appealed to the Commonwealth Court.
- The decision of the Commonwealth Court can only be appealed to the Pennsylvania Supreme Court if the Pennsylvania Supreme Court grants the right to hear the appeal. Once the Pennsylvania Supreme Court decides the case, the appeals process is over and the decision is final.

Please keep in mind that each hearing can be different depending upon the nature of the request being heard.

Important Information About The Company Doctor and Independent Medical Exams (IMEs)

If your employer has a list of panel physicians posted at the work site, you must treat with one of these Company Doctors for the first 90 days of the disability in order to be compensated for any medical bills. If you choose to treat with a personal physician, your employer does not have to pay any medical bills until after the first 90 days of the disability. If a panel of physicians is not posted at the work site, you have the right to see a personal physician and to receive payment for medical bills from the start.

If the Company Doctor recommends extensive or invasive surgery, you have the right to seek a second opinion and to have your employer's insurance company pay for that visit. However, any medical services recommended by the second opinion physician must be carried out by a Company Doctor for the first 90 days of treatment.

After 90 days from the first treatment with a Company Doctor, you have the right to choose a personal doctor, chiropractor, or other "practitioner of the healing arts." Your employer's insurance company needs to be notified within five days of this change to ensure that your doctor is paid. You also have the right to refuse to have a representative of the insurance company present during examinations with a personal doctor. However, your employer can request that you see a Company Doctor once every six months.

Doctor visits requested by your employer are referred to as Independent Medical Exams, or IMEs. During these exams, you are seen by a physician

who is being paid by the employer's insurance company. After these evaluations, the doctor may find that you are no longer injured and therefore capable of returning to work. Because the physician who is doing the IME is paid by your employer's insurance company, it is not unusual to have this doctor conclude that you are no longer injured.

You may agree with this physician and return to work, or you may not agree with the physician because you feel too injured to return to work. If you disagree with the physician and do not return to work, chances are your employer will file a Petition to Terminate, Modify, or Suspend the Workers Compensation Benefits. A Workers Compensation Judge is going to have to decide if compensation benefits can continue. This is a lengthy process that could involve as many as three or four hearings. Once again, we recommend consulting an attorney *before* the payments are stopped.

Frequently Asked Questions

What should I do if I am injured on the job?

What you do after your accident at work could make the difference in whether you receive Workers Compensation benefits or you are denied these benefits. Make sure you take the following action:

- Immediately report any work-related injury or illness to your employer or supervisor. You have 120 days to advise your employer of a work injury. Or, you have 120 days from the time you become aware that the injury or illness is work-related to notify your employer.
- If you fail to report the injury to your employer within 120 days of being injured or of learning that you have a work-related disease, you are not entitled to Workers Compensation benefits and the case ends here. An exception exists for cases involving progressive diseases, such as occupational disease, carpal tunnel syndrome, and work-related hearing loss.
- You have three years from the day you were injured to file a Claim Petition for an injury. But beware: The longer you wait, the more difficult it may be to prove your claim.

Can my employer fire me for filing a Workers Compensation claim?

No. However, your employer may fire you for other reasons. For example, you could be fired due to an extended absence from work even if it is because of your injury. There are no guarantees that your employer will hold your job while you are off of work.

If you are a member of a union, the union may protect your job security. Be aware that your employer may stop other benefits as well, such as your health insurance.

What forms should I sign?

You *should* sign the following forms:

An *Authorization for Medical Records*: This form releases your medical records so that the insurance company can review them to process your claim.

An *Employee Verification Form*: You must complete this form whether or not you have earnings from alternative employment. You must return this form within 30 days of receipt or jeopardize your continuing right to receive benefits.

What forms should I not sign?

Be careful if you are asked to sign the following forms:

A *Final Receipt*: Do not sign this form unless you are fully recovered from your injury.

A *Supplemental Agreement*: Usually this form states that you can go back to work and your claim is still open. However, this form may state that your benefits are being terminated. Do not sign this form unless you are fully recovered from your injury.

How soon do my benefits begin?

Before the insurance company will pay any benefits, more than likely they will conduct an investigation. This means that they will need to get a statement from you, the injured worker, and your employer. They may also collect statements from your co-workers to verify the facts. So, there can be a long delay before you even receive the first benefit check, usually from 30-60 days.

How do I pay my bills while I wait for benefits to begin?

Check with your employer to see if they have a disability or sickness and accident policy. While you wait for a decision on your benefits, you may want to use any vacation or sick time you have available. This way, you will have money coming in.

However, if you do receive Workers Compensation benefits, the money you receive from sickness and accident benefits, unemployment compensation, Social Security retirement, pensions, or other severance benefits may be offset from your Workers Compensation benefits.

Can I sue my employer or co-worker for causing my injury or illness?

No, you can only file for Workers Compensation to pay for lost wages and medical expenses. You are not compensated for pain and suffering as a result of your work injury.

There are two exceptions when you may be able to file a lawsuit:

1. If your injury or illness was caused by a defective product, you may have a products liability case against the manufacturer of the product.
2. If a co-worker assaults you based on a personal, rather than work-related matter, you may be able to file a civil or criminal action against the individual.

Under either of these circumstances, we recommend that you contact an attorney.

What should I do if I feel I have been injured due to a defective product?

Under Pennsylvania's Workers Compensation Law, a worker is not allowed to sue the employer when injured on the job. However, when a worker is injured by a dangerous product, there may be a products liability action against the seller or manufacturer of the product.

A claim can be filed against a manufacturer if:

- The worker actually bought or used the product properly and was injured.
- The worker was an innocent bystander and was injured.

A products liability claim can be brought against the manufacturer of the product as well as the supplier, distributor, or retailer of the product. Manufacturers and sellers of dangerous goods can be sued for negligence under various circumstances, including:

- Failure to inspect or test the product before placing it on the market
- Creating a flaw in the product
- Failing to discover a flaw in a product
- Failure to discover that the product could be dangerous
- Failure to warn or adequately warn of a risk or hazard associated with the product
- Failure to manufacture and/or install the product correctly

The seller and manufacturer can also be sued for strict products liability. Here, proof of negligence isn't necessary. So long as it can be shown that the product was defective and unreasonably dangerous, you may be able to recover damages for your injuries.
Even if you can't see a defect in a product, don't assume you were at fault for the injury. You should consult an attorney to investigate the cause of the accident and to bring in any necessary engineers or other experts needed to examine the product and make a determination of negligence. Defective products claims generally cannot be handled directly with an insurance company.

How long can I collect Workers Compensation benefits?

Once you receive Workers Compensation benefits, you can continue to collect benefits until:

- A doctor says you are fully recovered and can return to work
- A Workers Compensation Judge has determined that you are fully recovered and the appeals have been exhausted
- A doctor releases you to light duty work
- The injury results in death

However, keep in mind that insurance companies rarely allow an injured worker to continue to collect benefits indefinitely. Instead, they will send you to a doctor that they have selected for an Independent Medical Exam or IME. If that doctor says you are capable of returning to work, then the insurance company will try to file a petition to stop or reduce your Workers Compensation benefits. At that point, if you feel that you are too injured to return to work, you are probably going to need legal help to continue to receive your benefits.

Also, after you have been receiving Workers Compensation benefits for two years, the insurance companies may have you examined by a doctor for an impairment rating evaluation, or an IRE. Depending on the percentage of impairment determined by the doctor, your eligibility to receive benefits may be reduced to 500 weeks or 9.5 years, but it will not affect the amount of your compensation payments.

Can I go to my doctor for a medical evaluation?

Medical evaluations are performed by your employer's doctor or by your individual doctor. In Pennsylvania, an injured worker *must treat with the employer's doctor for the first 90 days* of the worker's disability if the employer has a list of panel physicians posted at the work site. If a list is not posted at your work site, you can see a personal physician.

What happens if I go to my own doctor during the first 90 days of my injury?

If a list of panel physicians is posted, and you choose to treat with your personal physician, then your employer does not have to pay any medical bills until *after the first 90 days* of your disability.

What happens to my benefits if my doctor releases me to "light duty" work?

If your doctor releases you to return to "light duty" work, and your employer does not have a "light duty" job available for you, you have the right to continue to receive your benefits. If the employer *does* have a "light duty" job available for you, the job requirements would have to be within the restrictions imposed by your doctor. If you are laid off, fired without cause, or your doctor takes you off of work again while you are on "light duty," you have the right to have your full benefits reinstated. You also have the right to be paid for reasonable and necessary medical expenses as long as you have problems with your injury even after you return to work. You should consult an attorney if the insurance company does not automatically reinstate your benefits.

What happens if the doctor hired by my employer says that I am no longer injured?

After a medical evaluation, the doctor hired by your employer's insurance company may say that you are no longer injured and are therefore capable of returning to work. You may agree with the physician and return to work; or, you may not agree with the physician because you feel too injured to return to work. If you disagree with the doctor and don't return to work, chances are the employer will file a Petition to Terminate, Modify, or Suspend your Workers Compensation Benefits.

Who picks the doctor for my Independent Medical Exam or IME?

The doctors you see for IMEs may be preferential to the insurance company since they are being paid between $500 and $1,000 per IME by the Workers Compensation insurance company. Because this doctor is being paid by your employer's insurance company, it is not unusual that the doctor would conclude that you are no longer injured. An attorney can represent your interests to make sure that a doctor of your choice is also consulted.

Can my employer's insurance company hire someone to follow me?

Yes, insurance companies often use insurance adjusters as investigators. They may contact your neighbors or other individuals to find out about you. At times, they will even conduct surveillance to record your activities after your work-related accident. If you suspect this is happening to you, conduct your life in a normal fashion. We recommend consulting an attorney if you see or hear anything that leads you to believe that you are being investigated.

Do I need a lawyer?

In many situations, it may be helpful to discuss your legal rights and responsibilities with a lawyer who concentrates in handling Workers Compensation cases. Please see the section that follows entitled "When You May Need a Lawyer" to alert you to those times when it may be in your best interest to contact a lawyer.

Can I afford a lawyer?

At our law firm, you pay no money up-front. Our lawyers do not get paid unless—and until—your claim is resolved. When we say "There's never a fee unless we get money for you," we mean it!

For additional answers to Frequently Asked Questions, visit our Web site at **edgarsnyder.com**

When You May Need A Lawyer

We recommend that you seek legal advice if:

- Your employer refuses to file an accident report on your behalf
- The insurance company denies your claim for Workers Compensation benefits
- You receive a letter stating that the insurance company is trying to stop paying your claim, or you receive notice that a petition has been filed to "terminate, modify, or suspend" your benefits
- You return to work and you get hurt again, or you aggravate a pre-existing injury, and the insurance company refuses to reinstate your benefits
- Your work injury, or the surgery needed for your work injury, results in a scar on your head, face, or neck
- The Workers Compensation insurance company offers you a lump sum of money, known as a *Compromise and Release*, to settle your claim
- The Workers Compensation insurance company offers you a lump sum of money to settle your future medical claims
- You have received Workers Compensation for more than four months. If this is the case, you may want to explore a lump sum settlement, or *Compromise and Release*.

About Our Firm

With nearly 30 years of experience, Edgar Snyder & Associates has represented more than 30,000 injured people. We have a team of over 120 staff at five locations to serve you.

We offer free, no obligation legal consultations for all types of accidents and injuries, including:

- Car Accidents
- Motorcycle Accidents
- Truck Accidents
- Slip and Falls
- Dog Bites
- Work-Related Accidents
- Head and Spinal Cord Injuries
- Injuries Caused by Defective Products

We can also help you get the Social Security disability benefits you deserve if you've been disabled and cannot work.

And as we say in our ads:
"There's never a fee unless we get money for you!"

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