

What Does It Mean To Have A Workers' Compensation Claim?

It means a lot to protect your rights under the Florida Workers' Compensation system. I have found that you, the law enforcement and corrections community, can find any number of ways to injure yourselves including nearly getting thrown over balconies in fights with bad guys to car accidents and anything in between. Regardless of what type of injury you may have suffered, whether it be a broken bone or a claim for benefits under Florida's Heart Bill for hypertension or heart disease, you must protect your rights under Florida's Workers' Compensation system.

As you read this article please be aware that many of your employers, especially the larger county agencies and the State of Florida are self insured entities. That means they are essentially their own insurance company and pay the bills out of their own budgets. In these tough economic times it is a challenge for many of these agencies to provide the Workers' Compensation benefits that were more freely or readily provided in the past. Now the agencies feel that they must aggressively fight and defend an officer's claim for benefits. To minimize the amount of money they pay on Workers' Compensation claims, often times the agencies attempt to shift the burden to the health insurance companies.

Health Insurance versus Florida Workers' Compensation Insurance:

Not only does the poor economy affect the self insured employers, it affects the health insurance companies. In the past if an officer suffered an injury or a work related illness, and did not want to hassle with the Florida Workers' Compensation system, officers would often take the path of least resistance and treat under their health insurance coverage.

This was a fairly common practice. However now the health insurance companies are becoming more budget conscious and asking the question – did you injure yourself on the job? If the answer is “yes” the insurance companies are often now denying coverage and requiring that you treat under your respective agencies Workers' Compensation plan.

Types of Workers' Compensation Benefits:

Florida Workers' Compensation benefits are essentially two types of benefits – (1) medical benefits and (2) lost wage benefits. Once you have secured entitlement to these benefits, these benefits follow you regardless of your employment status with your agency. For example, if you retire, you do not automatically lose entitlement to medical treatment.

If you are terminated because you were injured and can no longer perform your job, in addition to having a potential claim for “in-line” of duty disability pension benefits, you may still have entitlement to your Florida Workers' Compensation lost wage benefits and your Workers' Compensation medical benefits. Unlike your health insurance, if you leave employment, your Workers' Compensation benefits can “follow” you.

Understanding the Significance of Health Insurance Caps and Coverage Generally

Most health insurance policies have a life time cap on the amount of medical benefits that they provide, usually one to two million dollars over a person's lifetime. Each policy is different and you would need to check with your department to see what caps apply on your respective policy.

Now assume that you are a young officer that suffers a critical injury or diagnosis of a potentially work related disease such as heart disease or hepatitis and you are catastrophically injured. Will your health insurance cover you for life? This becomes a sticky issue especially if this occurs early in ones career. Additionally, if you cannot continue with service and must forfeit your employer's coverage, there are questions of whether you will have any coverage at all.

Under the Florida Workers' Compensation system benefits are provided regardless of the amounts that have been paid. There is no cap on the medical benefits. Although in the course of your treatment you may reach something called “maximum medical improvement” and you may then be required to pay a “co-pay” for treatment, you may still have access to the care and treatment.

The Florida Workers' Compensation system potentially provides other benefits including a benefit called “aid and

attendant care.” If you are unable to take care of yourself and a family member must assist you, that family member may be entitled to compensation. This is something that a doctor must order.

If you suffer an injury or ailment that hypothetically results in a disability requiring use of a wheelchair, Workers' Compensation may be required to provide you with a wheelchair, accessible vehicle or other needed items. Additionally, if your home requires modifications to accommodate your disability, these home modifications are potentially benefits that can be sought through the Florida Workers' Compensation system.

Aggressive Defenses and Reporting of Work Injuries

Obviously, if the Workers' Compensation works the way that it was intended to, there are many benefits that may be available. But, as discussed, these benefits can be costly especially in cases under the “Heart Bill” or other occupational disease cases. In these cases the employer's are hyper-aggressive in their defenses; sometimes to the point where alternate legal action is required.

One of the favored defenses is asserting that the injured or ailing employee “failed to notify” the employer of the injury or condition. This has been bolstered by recent court cases supporting this defense tactic.

The Florida Workers' Compensation laws require an injured worker, including the law enforcement community, to notify their employer of a work-related injury within thirty days of suffering the injury. The failure to do so could result in the employer exercising this defense and asserting that the claim is “denied” because it was not “timely reported.”

You must protect yourself and your rights because in these tight economic times the employers will assert these defenses despite your time on the job. The employers are increasingly willing to deny benefits to good officers on this technicality. Although very few officers want to report every cut, scrape, bump, or bruise; if you fail to do so and the injury requires treatment at a later date, you run the risk of being denied your Workers' Compensation benefits. Conversely, you indeed protect your rights if you report your injuries.

Disability Under the Heart Bill

For the officers that suffer from hypertension and/ or heart disease, a question being asked with increasing regularity is “why are they denying my benefits if I suffer from the covered condition?” The answer often turns on whether you were “disabled” due to your condition. Essentially, the courts have held that you must have missed work due to the condition. You must be able to show that you were temporarily or permanently “disabled” from performing your job as a law enforcement or correctional officer due to the hypertension or heart disease. If you cannot make this showing, then you will likely be denied benefits on the basis that you did not meet the “disability” requirement of the Heart Bill.

The New Year

2008 is in the cabinet and I hope the New Year finds everyone refreshed and revitalized. If you find yourself confronted with a Workers' Compensation issue in 2009, please keep the above in mind. The information may protect you and your family for years to come.

Robert S. Winess, Esq., operates his law firm Robert S. Winess, P.A. from West Palm Beach, Florida and is Of Counsel to Bichler and Kelley, P.A. The firms cover cases Statewide and work closely with the Law Enforcement and Correctional Officer community and handle all Florida Workers' Compensation matters with an emphasis on claims under Florida's Heart Bill. Additionally, the firms handle all issues that arise from Florida Workers' Compensation claims such as pension claims, death claims, wrongful termination claims, and claims for Social Security Disability benefits.

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Suspect says the duct tape was just to make her listen to him

Everyone knows what it's like when you want someone to listen to you, but they just won't stop talking. It's frustrating, sure, but it isn't grounds for assault.

Authorities say a Port St. Lucie, Florida man bound a woman's hands and taped her mouth shut, claiming he just wanted to make her listen.

The victim told St. Lucie County deputies that she woke up one morning with the suspect on top of her. He had bound her hands with plastic ties, and put duct tape over her mouth. When the man got up to go to the kitchen, she used her cell phone to call 911 after freeing herself.

The suspect was arrested on multiple charges, including battery and false imprisonment. He told deputies that he was not suicidal, but didn't want to live without the victim and was only trying to get her attention.

Reprinted courtesy of American Police Beat, December 2008.

“Light travels faster than sound - this is why some people appear bright until you hear them speak.”

~ Unknown