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NEW JERSEY BUREAU OF WORKERS' COMPENSATION CLAIMS BASIC BENEFITS AND KEY ISSUES AT A GLANCE

BASIC BENEFITS

Temporary Wage Loss: To receive temporary disability benefits, the injured worker must be out of work for at least seven days. This includes weekends and holidays. Benefits are paid at 70 percent of the average weekly wage and continue until the injured worker is discharged from care or returns to work, whichever is first. Each year there are new maximum and minimum rates.

Medical Benefits: The employer has the right to control and the obligation to furnish medical care that is necessary to cure and relieve the worker of the effects of the injury and to restore the function of the injured member or organ where such restoration is possible. The obligation and the right to control treatment exists throughout the life of the claim.

Permanent Partial Disability Benefits: The injured worker is entitled to permanent partial disability benefits if the injured worker can prove a permanent loss of function to the injured area of the body that is supported by objective medical evidence. The award is fixed based upon the year of injury correlating to the New Jersey schedule of disability promulgated for that year.

Permanent Total Disability: The injured worker is entitled to permanent and total disability if the evidence reveals that the disability is total in character and permanent in quality. Benefits would be paid at 70 percent of the weekly wages received at the time of the injury. Benefits are paid for a period of 450 weeks at which time compensation benefits shall cease unless the employee submits to physical or educational rehabilitation as may be ordered by the rehabilitation commission, and the facts reveal that the disability continues.

Dependency Benefits: Dependents are entitled to receive dependency benefits as a result of the work-related death of an injured worker. As of January 14, 2004, the dependency rate is 70 percent regardless of the number of dependents. Dependency shall be conclusively presumed relative to the decedent spouse, natural children under 18 or, if a full-time student, under 23, who are a part of the household at the time of death. Other dependents must prove their dependency status.

KEY ISSUES

Section 20 Settlements: Section 34: 15-20 of the Act allows for a settlement via dismissal with prejudice in exchange for a lump sum of money if there is an issue of jurisdiction, liability, causal relationship, or dependency. In order to obtain a Section 20 settlement, the injured worker must be represented by counsel and the Section 20 resolution must be approved by a Judge.

The Second Injury Fund: In order to be eligible for contribution from the New Jersey Second Injury Fund to a settlement for total and permanent disability, the injured worker must be disabled as the result of a combination of pre-existing disability and the disability that results from the last compensation benefits and continues after the 450th week (12b benefits) if the injured worker remains totally and permanently disabled.

Subrogation: Pursuant to N.J.S.A. 34: 15-40, the employer or insurance carrier is entitled to recover wage loss, medical benefits, and permanent partial or total disability benefits paid minus the employer/carrier's share of the counsel fee not to exceed 33-1/3 percent and following a deduction of expenses, but not in excess of \$750.00.