

## What to know if you get injured:

### *A workers' compensation 2011 Legislative Update*

This past legislative session saw the passage of several new laws—some of which could put your benefits at risk if you aren't aware of them. We hope you never need any of this information, but if you are injured on the job, remember these new changes before you discuss your injury with your employer.

### Compromise and Release

Beginning January 1, 2012, injured workers age 55 or older will have a new option (expanded to workers age 53 and older in 2015 and age 50 and older in 2016). After this date, these workers with an allowed claim will be able to work with either their self-insured or state fund employer to negotiate a lump-sum settlement for their claim. For some workers this may be a good option – but for many workers, the settlement will be for fewer benefits than they are entitled to. **We are very worried about how employers may abuse this process, leaving injured workers without the benefits they are owed or the medical care they need.**

This legislation was crafted quickly and without sufficient stakeholder input, then enacted without any public hearing—all over the objection of workers and their representatives. There are several issues we want you to be aware of before they put you at risk.

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### Know your rights.

You have an absolute right to retain future medical benefits--but that is a protection that your employer or their representative could explicitly negotiate away. Remember that healthcare coverage will not cover a workplace injury, so if you do not protect your right to future medical care, you could be left to deal with the ongoing cost of your injuries all on your own.

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### Talk to your rep.

Under the new law, injured workers without a lawyer have their settlement offer reviewed for their 'best interests' before it is finalized. But the reviewer cannot offer any legal advice and will not have the time and resources to make a truly informed decision. Meanwhile, the injured worker will probably be negotiating against the employer's professionally trained and experienced attorney.

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If a settlement is later found to have been coerced or negotiated under false and misleading information the you will not be allowed out of settlement and will be given no further remedy to make up for the abuse or worse position they are left in.

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When you are seriously injured on the job, you have many concerns—when, how and whether you will get back to work; getting the treatment and care you need for your injury; paying your bills; taking care of your family. Workers' comp exists so that you are at least sure to make it through this difficult time without the ruin of your health and financial safety.

Imposing a lop-sided settlement negotiation into this difficult time is a dangerous proposition – especially because it is sometimes impossible to know the extent of an injury for a long period of time. We are very worried that employers will abuse and coerce workers who are scared for their jobs and in a time of physical and financial duress. **We highly recommend that before entering into negotiations for a settlement and certainly before finalizing one that you talk to an attorney or at least your union rep. And that you do not enter into a settlement negotiation before you and your doctor are confident of the extent of your injuries.**

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Additionally, the following were also enacted earlier this year by the Legislature and you should be aware of:

#### **Medical Provider Network**

L&I is establishing a medical provider network for physicians and other health care providers who treat injured workers. Medical providers will be required to meet specific network requirements but it is hoped that most providers will participate in the network. **As an injured worker you are not required to go to a network provider for the initial medical visit following an industrial injury.** After the initial visit, you can choose any provider within the network.

#### **Stay-at-Work Program**

Employers are now eligible to be reimbursed by L&I for up to 50% of your wages if they provide you with appropriate transitional light duty work. This transitional light duty job must be approved by your attending physician.

#### **Permanent Partial Disability Benefits**

For workers injured on or after June 15<sup>th</sup> of this year, the 8% interest applied to the unpaid balance of Permanent Partial Disability (PPD) awards has been eliminated. For an injured worker who is found permanently and totally disabled and awarded a pension, any prior PPD awards paid under the claim or claims that give rise to the pension will be deducted from the worker's pension benefits.

#### **Cost-of-Living Adjustments**

The legislature froze COLAs for pension benefits and Temporary Total Disability (timeloss) benefits for one year. This means that pension and timeloss benefits did not increase on July 1, 2011. Additionally, the first COLA increase following an industrial injury is delayed to the second July 1 following the injury.

**If you have questions about any of these programs, contact Project Help at 1-800-255-9752. They will be able to provide you with more information about your workplace injury claim.**