Employer-Employee Relationship in Maryland for Purposes of Workers’ Compensation Claims

To qualify for Workers’ Compensation in Maryland, the individual must be an “employee” of the company he or she is working for at the time of the accidental injury. Maryland Courts have created a test to determine whether an individual is an employee and therefore entitled to receive benefits. The determinative factor with regard to benefit is whether the employer had the “right to control” the actions by the worker. If the employer had the right to control the worker, then the injured person is often held to be an employee and therefore entitled to benefits.

Injuries Covered by the Maryland Workers’ Compensation Act

Generally, the law covers a disability or death resulting from an accidental personal injury that arises out of and in the course of employment. The key phrases in the previous statement are:

* **Accidental Personal Injury and accidental injury can include any injury that occurs while working. The Maryland Court of Appeals explained that “Employees who follow the procedural rules of the Act and can prove they were injured while working can almost certainly recover compensation to prevent undue hardships caused by loss of wages and medical expenses.” Harris v. Board of Educ. of Howard County 375 Md. 21, 58, 825 A.2d 365, 387 (Md.,2003).**
* **“Arising out of and in the course of employment “For an employee to be entitled to benefits, the injury must arise out” of the employment. This requires a connection between the conditions under which the work is to be performed, and the resulting injury. If the injury can be determined to have followed as a natural result from the work being performed, then usually this post of the requirement is satisfied in the course of employment.** **Maryland courts use this “In the course of employment” test to determine the time, place and circumstances of the injury. Generally, an injury happens in the course of employment if it occurs within the period of employment, at the place of employment or at a place where the employee may be in the performance of his duties.**

Benefits Under the Maryland Workers’ Compensation Act

Benefits for injured workers are based upon four basic classifications of disability: Temporary Total Disability, Permanent Total Disability, Temporary Partial Disability, and Permanent Partial Disability.

* **Temporary total disability is present when the worker cannot work for a period of time due to the severity of his injury. During this period of recovery, the worker is entitled to two-thirds of the worker’s average weekly wage for the period of temporary total disability. These benefits are payable until the date when the worker reaches maximum medical improvement, or the disability becomes permanent.**
* **Total Disability is present when the injury is so severe that the worker is incapable to do work of any kind. This does not require that the worker is completely incapable of working, but rather that the worker is so injured that he or she can perform no services other than those which are so limited that a demand for those services does not exist. In these cases, the benefit is also two-thirds of the worker’s average weekly wage, and the benefits are payable for life, unless the worker’s condition improves to a point where they are no longer totally disabled.**
* **Temporary Partial Disability occurs when a worker has not reached maximum medical improvement but can still return to work. In these cases, the worker is entitled to half the difference between his average weekly wage before and after the accident. This difference cannot exceed half the average weekly wage in the State of Maryland.**
* **A Permanent Partial Disability status refers to an injury which is partial in character, but permanent in quality, such as the loss of a finger, thumb or toe. Generally, an employee who is entitled to compensation shall receive a minimum weekly compensation of $50.00 for permanent partial disability unless that employee’s average weekly wage was less than $50.00. If the worker’s average weekly wage was less than $50.00, they will receive compensation that equals their average weekly wage at the time of the accidental injury. Benefit payments for permanent partial disability continue for a period of weeks established by the statute; a period that varies according to the body part injured and the severity of the injury.**

Death Benefits

If a worker dies as a result of an accidental injury, the death is a separate event and the worker’s dependents are entitled to recover death benefits. Under Maryland law, there are two categories of dependents – Total dependents and partial dependents.

* **Total dependents are individuals who subsist entirely on the earnings of the deceased worker.**
* **Partial dependents are individuals who survived in part on the earnings of the deceased worker.**

Partial dependents are typically found in two-income families, where the worker and his or her spouse both worked and combined their earnings. If the worker dies, the surviving spouse and children are typically found to be partial dependents. In terms of the benefits available, total dependents are entitled to two-thirds of the decedent’s average weekly wage, not to exceed 100 percent of the average weekly wage of the state of Maryland. Benefits continue for as long as the dependent remains a total dependent, until a maximum of $45,000 has been paid. If the dependent is a child, benefits cease at age 18, unless the child is a full-time student, when they continue until the age of 23.

In terms of the benefits available, total dependents are entitled to two-thirds of the decedent’s average weekly wage, not to exceed two-thirds of the average weekly wage of the state of Maryland. But the percentage that the decedent’s weekly earnings bears to the combined earnings of the decedent and the dependent is applied to this rate, reducing the benefit. Payments continue as long as the dependent remains a partial dependent but may not exceed a maximum of $60,000.00.

Notice Requirements for Maryland Workers’ Compensation Claim

In Maryland, there are two notice requirements that employees should be aware of. The first is the notice to the employer. An injured employee must notify his or her employer of the injury in writing or verbally within 10 days after the accidental injury. Your failure to notify your employer bars a claim for compensation unless the failure can be excused on the grounds that the employer was not prejudiced by the lack of notice.

Also, your claim for compensation must be filed at the Commission within 60 days after the date of the accident. Again, your failure to file the claim within 60 days can be excused on the grounds that the employer and/or insurer was not prejudiced by the lack of notice. However, if your claim is not filed within two years of the accident, this constitutes a complete bar to recovery.

Have you or someone you know been injured while on the job and need to file for workers’ compensation? If so, contact a tested trial attorney who cares! Call the Law Firm of Frank Benvenuto, P.A., during business hours at 410 641-2999 or 24/7 at 443-783-2451, or use our Contact Us form.

Workers’ compensation laws give injured workers access to medical care and compensation for their lost wages while they’re recovering. However, claims sometimes may be reduced, delayed or even denied. If your claim was rejected, or if you are not receiving the full benefits you need for your injury, as an experienced, Maryland Workers’ Compensation attorney, Frank Benvenuto, P.A. can stand up for your rights.

Frank Benvenuto, P.A. has the knowledge and resources it takes to win, and he is committed to fighting for you! If you’ve been injured on the job, don’t wait to ask for help, and don’t get taken advantage of by your employer. Frank Benvenuto, P.A. has helped hundreds of people in Maryland get the help they need for their on-the-job injuries.

Keep in mind, workers’ compensation cases are rarely one size fits all, and the amount of compensation you may receive depends on the severity of your injuries and your expected recovery time. Benefits available for injured employees under workers’ compensation laws can include:

* **Temporary Partial Disability –** **If your injury temporarily prevents you from performing the work required in your normal job, these benefits can help make up for any reduced wages you receive while you recover.**
* **Temporary Total Disability –** **These benefits are awarded to workers who can’t work for a short period of time while they are recovering from their injuries.**
* **Permanent Partial Disability –** **If your injury causes you to be permanently unable to satisfactorily perform your job duties, but you are still able to handle lighter work, you may receive permanent partial disability benefits.**
* **Permanent Total Disability –** **These benefits are given to workers whose injuries prevent them from performing any work and are designed to be a replacement for their salaries.**