

The 2008 Employers' Guide to Pennsylvania's Workers' Compensation Law



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About This Guide

Businesses operating in Pennsylvania continuously strive to contain their workers' compensation costs. Since 1976, the attorneys of Fried, Kane, Walters, Zuschlag and Grochmal have been providing cost effective results to their insurance carrier, self-insured employer and third-party administrator clients in all matters arising under the Pennsylvania Workers' Compensation Act. This guide is based on our more than 190 years of combined experience solely focusing on workers' compensation and occupational disease litigation, case handling and consultation. It is designed to equip you, a Pennsylvania employer, with the tools necessary to control your increasing workers' compensation costs. It provides a brief introduction to the Pennsylvania Workers' Compensation Act and how it affects you as an employer.

One of the most significant expenses incurred by your business is the cost of workers' compensation insurance driven by claims made against your company. Understanding the highly technical and complex Pennsylvania Workers' Compensation Act and taking proactive steps in handling a workers' compensation claim will reduce your workers' compensation exposure. As a business owner or executive, you need to concentrate on running your business, on increasing your revenue and growing your company. We are here to help you positively impact your bottom line.

This guide is directed toward helping you navigate through the oftentimes confusing Pennsylvania Workers' Compensation system and to assist you in addressing your workers' compensation claims with confidence. We are here to help you reduce your workers' compensation costs and to navigate the workers' compensation system with you. This guide is not intended to provide legal advice and it should not be construed as providing legal advice. We urge you to contact Fried, Kane with any of your workers' compensation needs and together we will confidently address your problems and concerns.

The Pennsylvania Workers' Compensation Act: An Overview for the Employer

When an employee sustains a job related injury or contracts an occupational disease, the employer is subject to liability for the injury or disease under the provisions of the Pennsylvania Workers' Compensation Act. The Act was enacted in 1915 and has been amended numerous times since then. This technical and complex law establishes the liability of the employer and defines the benefits due the employee. As a general rule, any employer in the Commonwealth of Pennsylvania who hires at least one employee, regardless of whether the employee is full time or part time, is required to provide workers' compensation coverage either through the purchase of an insurance policy or, if eligible, through a self-insurance program.



Every workers' compensation case must be analyzed on its own merits to determine what type, if any, benefits are due to the injured employee. In general, an employer will be obligated to provide for wage loss and medical expenses associated with a work injury. Under the provisions of the Pennsylvania Workers' Compensation Act, the injured employee is oftentimes (but not always) entitled to benefits to replace lost wages in addition to medical benefits associated with the work injury. Wage loss benefits payable are determined by the status of the injury and are classified as Total Disability, Partial Disability, Disfigurement, Death, Loss of Use, and Medical Reimbursements.

Your Duties as a Pennsylvania Employer

In the Commonwealth of Pennsylvania, employers must exercise a reasonable degree of care for the safety of their employees. In addition to securing workers' compensation insurance or being self insured, the employer should provide as safe a working environment as possible, provide the employee with an adequate number of competent fellow employees, supply safe equipment and tools to safely perform job tasks, warn employees of any inherent dangers in the completion of their job, have policies and rules in place to ensure the safety of all employees, and enforce the policies and rules which are in place.



Fried, Kane and You as Partners to Control Your Workers' Compensation Costs

Your business gains a competitive advantage through Fried, Kane's sole focus and experience in workers' compensation law. Our successes have saved businesses and insurance carriers millions of dollars in wage loss and medical payouts. Our legal services will free you from the complexities and concerns you have when a workers' compensation claim is made against your business or your insurance client. Strategic expertise and frank legal advice offered by our aggressive lawyers will enable you to take control of your workers' compensation costs and provide you with exceptional service that you can rely upon with confidence. We are Pittsburgh's largest law firm focusing only on workers' compensation matters for employers, insurance carriers and third-party administrators and we are a leader in using innovative, creative and cost effective strategies to positively impact your bottom line and help your business succeed. Our goals are always to address your needs, minimize your workers' compensation exposure, and provide prompt, responsive and sound legal advice and services.

The attorneys of Fried, Kane, Walters, Zuschlag and Grochmal understand your needs as a business owner, a workers' compensation administrator, claims supervisor or manager.

We address your concerns based on our more than 190 years of combined successful experience in handling workers' compensation matters for self-insured employers, insurance carriers and third-party administrators. We provide you with our valuable expertise gained by representing all types of industries and businesses throughout Pennsylvania. Our clients rely upon our candid and sound legal advice empowering them to strategically and successfully handle all workers' compensation issues.

We provide you with workers' compensation solutions. Our advice regarding all aspects of your workers' compensation program is proven to bring you the results you need to control your workers' compensation costs. We work closely with you to provide legal and risk management solutions enabling you to aggressively reduce your workers' compensation costs.



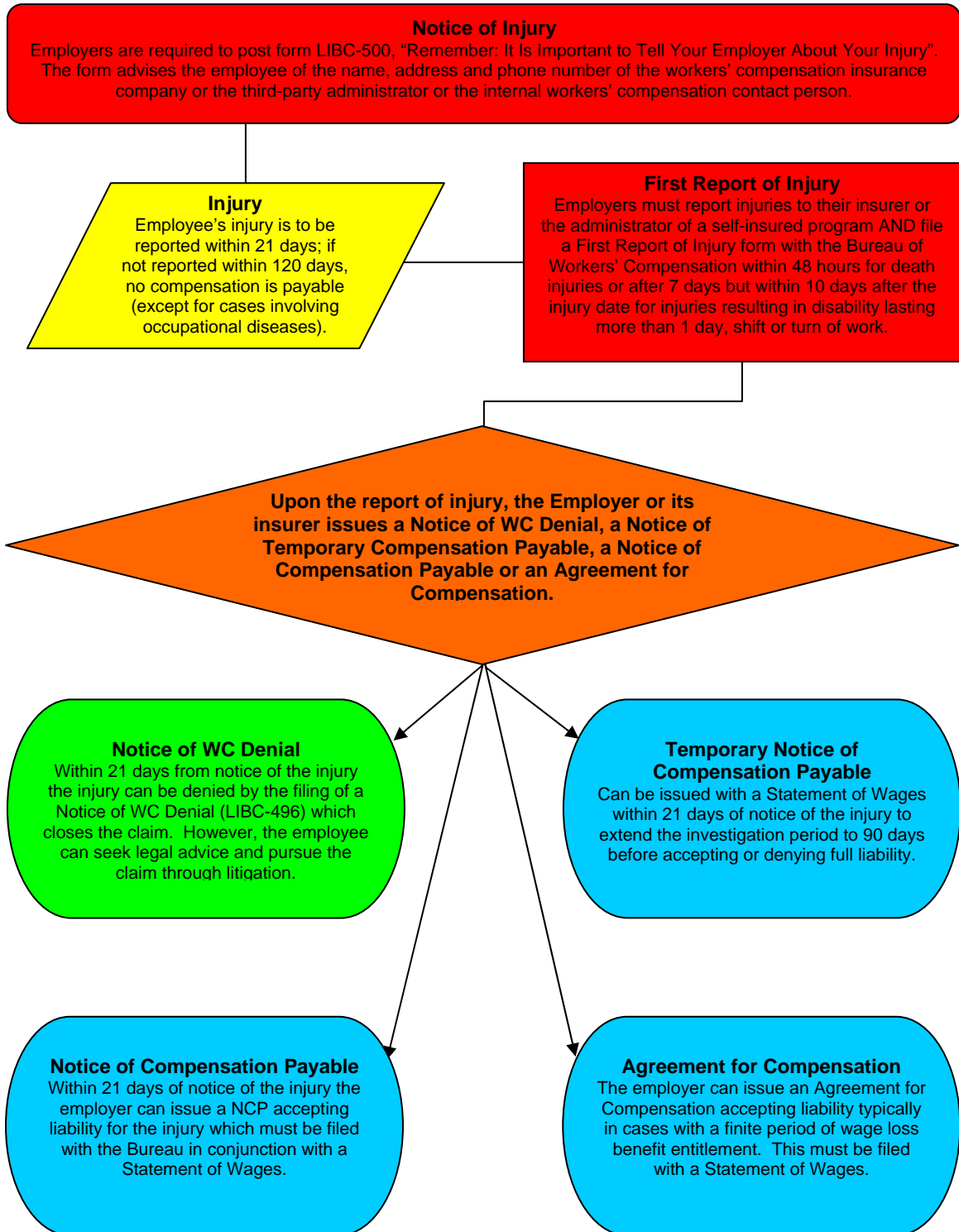
Fried, Kane Strategies to Control Your Workers' Compensation Costs

The attorneys at Fried, Kane, Walters, Zuschlag and Grochmal are available to help you design a specific program or strategy to mitigate and control your workers' compensation costs. We offer our expertise, consultation and candid legal advice to:

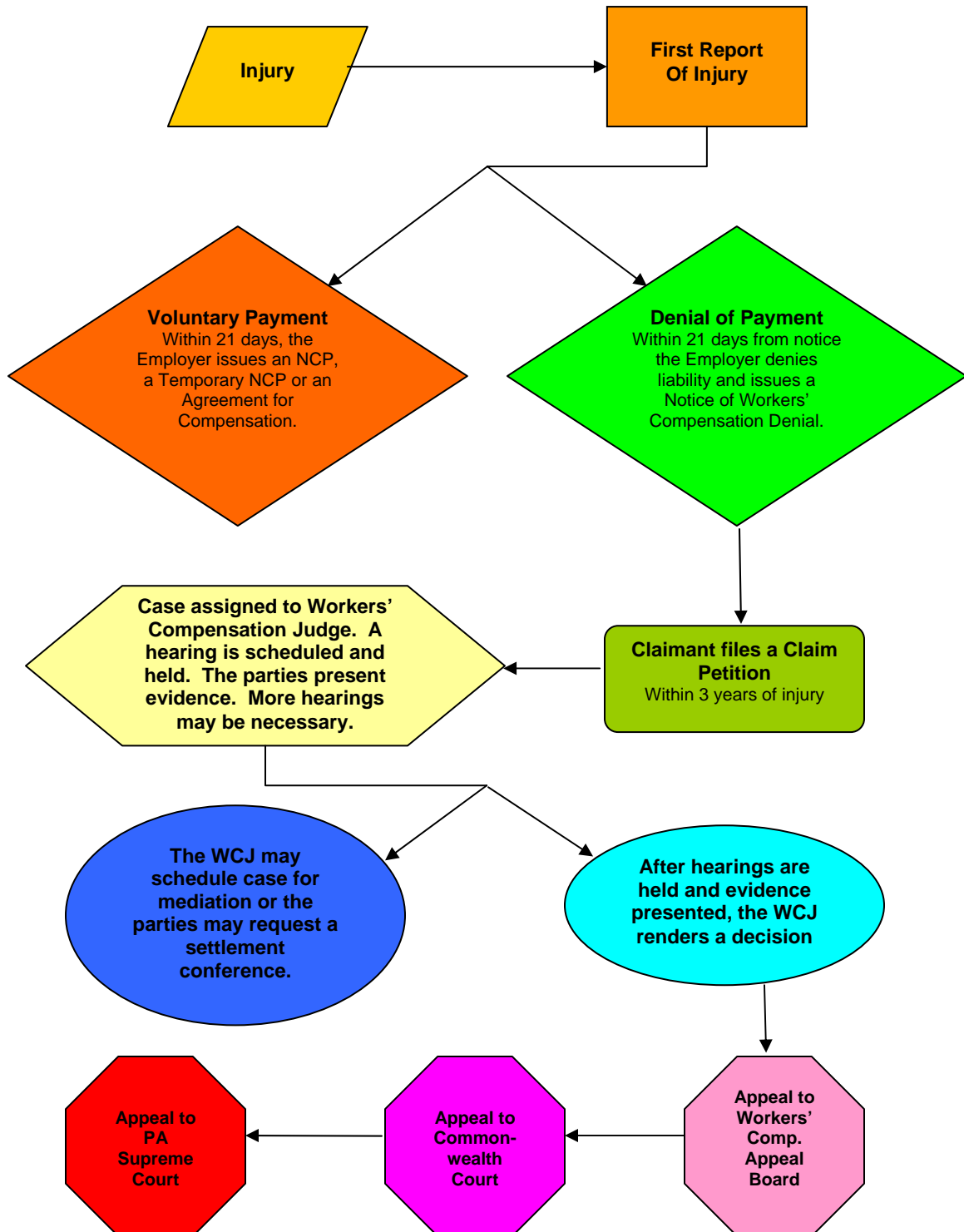
- Assist you with all **Risk Management** needs in relation to your workers' compensation program
- Assist with your **Pennsylvania Certified Workplace Safety Committee**
- **Develop a list of Designated Health Care Providers** consistent with the Pennsylvania Workers' Compensation Act
- **Establish a Return to Work Program** consistent with the requirements of the Pennsylvania Workers' Compensation Act
- **Evaluate** your existing workers' compensation cases for **cost effective strategies and management**
- Help you **strategically use Bureau of Workers' Compensation forms**
- Provide **seminars and speaking engagements** by our highly competent, engaging and respected lawyers
- Litigate any workers' compensation case on your behalf including **filing a Modification, Suspension, Termination or Review Petition**
- File a **Petition to Compel Physical or Vocational Examination**
- Seek **Supersedeas Fund Reimbursement**
- Protect your **Subrogation Interests**
- **Negotiate and Settle** your workers' compensation cases in a **Settlement Conference, Mediation or Compromise and Release**
- **Address all of your workers' compensation needs quickly, competently and aggressively**



How a Pennsylvania Workers' Compensation Claim Works



The Litigated Workers' Compensation Case



Altering an Employee's Benefit Status and Other Remedies Available to the Employer

As a Pennsylvania Employer, it is important that you understand the proper acknowledgement of a compensable work injury as well as the subsequent remedies available to you to alter the benefit status of an injured worker.

Upon completion of the investigation of a reported work injury, the employer and/or insurer representative must decide whether workers' compensation benefits will be denied or voluntarily paid. The technicalities of the Pennsylvania Workers' Compensation Act require that several proper procedures and statutory requirements be followed

You must become familiar with the appropriate Bureau forms and the mandatory time frames associated with each remedy as well as using the forms in the most strategic and effective way possible to protect your rights.



The Pennsylvania Workers' Compensation System has developed into a specialized form based practice with forms promulgated by the Bureau of Workers' Compensation to accomplish denial or acceptance of an injury and pursuit of review, modification, suspension or termination of benefits. Legal counsel is often necessary in the preparation and use of Bureau forms to ensure that you protect your rights and positively affect your bottom line by reducing your workers' compensation exposure. The following summarizes just a few of the strategies which may be available so you can protect your rights. We encourage you to consult with us regarding the specifics of your cases so that you can handle any of your workers' compensation matters with confidence.

From the time of the report of injury, you can make tactical and strategic decisions that will reduce your workers' compensation liability and costs.

The Employer Report of Industrial Injury form must be filed with the Bureau within 48 hours of a death injury or within 7 days after the date of injury for all others. This form requires use of Bureau codes to describe the injury as well as other information about the injured employee and the injury. The Notice of Compensation Payable can be issued acknowledging the claim as medical only or as compensable for wage loss and medical benefits. The injury description is critical as the employer can not unilaterally amend the Notice of Compensation Payable.

The Agreement for Compensation Payable is another form that can be used as an alternative to the NCP, typically in cases with a finite period of benefits. The time of injury average weekly wage is also calculated on a special form. Not only the employee's wages from the employer are used in the calculation, but also other income may or may not be considered depending upon its type. The Notice of Workers' Compensation Denial form is used to deny benefits. A full explanation is required regarding the denial of benefits for an alleged injury as an unreasonable contest may result in attorney fees assessed against the employer. Finally, a Notice of Temporary Compensation Payable commences payment of benefits without resulting in an admission by the employer/insurer that there is a final determination regarding responsibility for the alleged work injury and allows the employer more time for an investigation. The employer/insurer can file a Notice Stopping Temporary Compensation Payable within specified time requirements. The strategic use of Bureau forms requires analysis of the facts and circumstances of each case. We urge you to consult with our attorneys to help you defend your rights as an employer.

At any time after the injury, the employer or insurer can request that the employee submit to a physical examination at a "reasonable" time and place by a physician selected and paid by the employer/insurer.

If the employee refuses to attend this medical examination, then a Petition to Compel Physical Examination can be filed. The employer can also request the employee to submit to a vocational expert examination for an earning power assessment. The Bureau has promulgated specific requirements for a vocational expert. You are invited to learn more about these by contacting any of our attorneys.



The employer can request an impairment rating evaluation (based upon the AMA Guidelines for Impairment) by a physician designated by the Bureau of Workers' Compensation.

This must be requested within 60 days of the payment of one hundred four weeks of total disability benefits. A special form is available to use this strategy.

To change the amount of or to stop benefits, a Petition for Modification, Suspension, Review or Termination may be filed.

Legal analysis is necessary to accurately evaluate the specific facts of a case and our team of lawyers is ready to provide aggressive legal advice to help you effectively and confidently handle any workers' compensation matter.



About Fried, Kane, Walters, Zuschlag & Grochmal

Fried, Kane, Walters, Zuschlag and Grochmal is a law firm providing our self-insured employer, insurance carrier and third-party administrator clients cost effective results in all matters arising under the Pennsylvania Workers' Compensation Act and the Pennsylvania Heart and Lung Act. We represent clients across Pennsylvania from our offices in Pittsburgh. Our clients rely upon our detailed knowledge and more than 190 years of combined experience and expertise in this highly specialized and technical area of the law. Our clients value our personalized service and focus on their needs and interests. Employers, insurance carriers and third-party administrators trust our aggressive defense of their workers' compensation matters and depend on us to keep them up-to-date not only on their cases but also regarding recent developments in the Pennsylvania Workers' Compensation law, helping them address all of their workers' compensation needs in the most cost effective and efficient manner possible.

Established in 1976, Fried, Kane, Walters, Zuschlag and Grochmal has built a reputation of understanding and responding to the needs of our clients with exceptional service. With prompt analysis and recommendations designed to provide the best defense possible to any workers' compensation case, our lawyers offer candid and sound legal advice to every client and employer.

Fried, Kane attorneys are experienced and offer candid legal advice in all aspects of risk management within your business or facility. We are available for litigation of workers' compensation cases, from the Workers' Compensation Judge level to the Supreme Court. Fried, Kane has been instrumental in the successful conclusion of workers' compensation matters using the mediation and case settlement process on behalf of our clients. In addition, we provide case review services and review of existing case handling practices all in an effort to help you control your workers' compensation liability and costs. We invite you to learn more about how our innovation, experience and knowledge can benefit you.

Call any of our attorneys at 412-261-4774 to discuss your individual needs or visit us at www.friedkanelaw.com to see how our legal services exceed our competitors in benefiting you.



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The 2008 Employer's Guide to Pennsylvania's Workers' Compensation Law was prepared by Fried, Kane, Walters, Zuschlag and Grochmal for information purposes only. The materials are not intended to be legal advice and should not be considered legal advice. For additional information or for legal advice, contact any of our attorneys at (412)261-4774.