



Georgia Workers' Comp Basics: Non-Profits are Employers, Too

**Michael E. Memberg, Esq.
September 19, 2012**

Mission of Pro Bono Partnership of Atlanta:

To provide free legal assistance to community-based nonprofits that serve low-income or disadvantaged individuals. We match eligible organizations with volunteer lawyers from the leading corporations and law firms in Atlanta who can assist nonprofits with their business law matters.

Pro Bono Partnership of Atlanta Eligibility & Other Information

- In order to be a client of Pro Bono Partnership of Atlanta, an organization must:
 - ✓ Be a 501(c)(3) nonprofit organization.
 - ✓ Be located in or serve the greater Atlanta area.
 - ✓ Serve low-income or disadvantaged individuals.
 - ✓ Be unable to afford legal services.
- *Visit us on the web at www.pbpatl.org*
- Host free monthly webinars on legal topics for nonprofits
 - ✓ To view upcoming webinars or workshops, visit the [Workshops Page](#) on our website

Introduction

- This webcast will provide a general overview of the workers' comp system in Georgia, address the requirements for having coverage, and discuss what to do both before and after an accident.

Workers' Comp Basics

- WC provides income benefits and medical treatment to employees hurt at work.
- No-Fault system – negligence is not an issue.
- Trade-Offs to No-Fault system:
 - ✓ Employers pay benefits for any accident.
 - ✓ But...employees must file a comp claim rather than suing their employer.

Do we need WC insurance?

- Employers with 3 OR MORE employees need coverage.
 - ✓ Few exceptions, e.g. agricultural workers
- Corporate officers are counted, even if unpaid.
 - ✓ Up to 5 officers can “opt out” from being counted.
- Volunteers are NOT employees.

What if coverage is not required?

- Employers that do not need coverage are handled outside the WC system
 - ✓ An injured employee could sue in court in that situation.
- Employers can voluntarily elect to be under the WC system by purchasing coverage

What does WC insurance cover?

- All income benefits, medical treatment, and permanent partial disability benefits.
 - ✓ No “pain and suffering.”
- The insurer will also provide a defense attorney if needed.
- If WC coverage is not current, the employer must pay out-of-pocket for any benefits.

What injuries are covered?

- All accidents that are “arising out of and in the course of employment.”
 - ✓ Very fact-specific.
- Rule of Thumb:
 - ✓ If the employee was on the clock, doing their job, it’s probably a compensable accident.
- Certain injuries have special rules.
 - ✓ Hernias, Heart Attacks/Strokes, Asbestiosis, etc.
- Aggravations of pre-existing conditions can be compensable.

Reporting Accidents

- If an accident happens, the employee must provide notice within 30 days.
- The State Board construes notice very liberally.
- The employer should complete a Form WC-1.

Investigating a Claim

- Employers can initially “controvert” (challenge) a claim within 21 days from notice.
- Employers have 60 more days after that point to controvert.

Accepted Claims

- If a claim is accepted, the claimant is entitled to medical treatment from an authorized physician.
- Employers must post a panel of 6 physicians including an orthopedic specialist and no more than 2 industrial clinics.
- If the panel is not valid, the employee can pick any doctor.
- Employees get one “free” change of panel doctors.

Medical Benefits

- Employers must provide medical care intended to:
 - ✓ Effect a cure;
 - ✓ Give relief;
 - ✓ Return employee to suitable employment.
- Employees must cooperate with authorized care or risk losing income benefits.
- Medical care related to a work injury is provided for life unless there is a settlement.

Income Benefits

- After an employee misses 7 or more days from work, they are entitled to income benefits.
- If an employee then misses 21 consecutive days, they are entitled to benefits for the first 7 days.

Types of Income Benefits

- Temporary Total Disability (TTD)
 - ✓ Paid if Employee cannot work at all
 - ✓ 2/3 of 13-week Average Weekly Wage, up to \$500/week
 - ✓ Max of 400 weeks
- Temporary Partial Disability (TPD)
 - ✓ Paid if Employee is working but earning less due to injury
 - ✓ 2/3 of difference in wages, up to \$334/week
 - ✓ Max of 350 weeks
- Benefits can be suspended if the claimant is released to full duty, returns to work, etc.

Permanent Partial Disability Benefits

- Employees are often assigned a permanent impairment rating for an injury.
 - ✓ E.g. 10% to the right arm.
- Benefits are paid at the TTD rate for a specific number of weeks based on the rating and the body part.

Catastrophic Injuries

- Certain types of injuries are considered catastrophic, which entitles the employee to lifetime income benefits.
- An employee can also show they cannot find work they are qualified for that can be performed within work restrictions.

Death Benefits

- Surviving spouses and dependents can claim death benefits if an employee dies at work.
- Benefits vary based on age of the spouse and children at the time of the employee's death.

Suspending Benefits

- Income Benefits can be suspended for several reasons, including:
 - ✓ Employee refusing a suitable light duty job
 - ✓ Full duty release
 - ✓ Return to work at a wage equal to or greater than pre-injury wages
 - ✓ Failure to comply with medical treatment

Litigation

- Avoid if possible, but sometimes it is inevitable.
- Disputes are heard by an Administrative Law Judge with the State Board of Workers' Compensation.
- Hearings can be held over several issues, including:
 - ✓ Compensability of the entire claim ("all issues")
 - ✓ Authorization of medical treatment
 - ✓ Change in condition (whether injury is still the reason for the disability)
 - ✓ Etc.

Settlements

- Most claims end up settling.
- The decision to settle is often up to the insurance company.

Conclusion

- Being a non-profit does not insulate you from WC issues.
- Keep a panel of physicians and make sure your employees know about it.
- Communicate with your employees – the best way to limit problems is for managers and employees to know how to handle work injuries.

For More Information:

If you would like more information about the services of Pro Bono Partnership of Atlanta, contact us at:

Phone: 404-407-5088

Fax: 404-853-8806

Info@pbpatl.org

www.pbpatl.org