

WHAT CAUSES AN INJURED WORKER TO SEEK OUT A LAWYER FOR HELP?

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Practicing primarily in personal injury or accident and wrongful death claims and workers' compensation.

I have been practicing law since 1979. All of my clients have either suffered a serious accident or work-related injury or sometimes a death in the family. Over the years, I have noticed that there are common causes as to why an injured person feels he or she needs to get a lawyer involved in his or her problem. Some of the more common causes of why an injured worker will seek out a lawyer is as follows:

- I. **Causes within the control of the employer:**
 - A. Delays in reporting the accident to the insurance carrier.
 - B. The employee's boss tells the employee that if he or she files a workers' compensation claim, he or she will be terminated.
 - C. The employer tells the injured worker to turn his or her claim into the sickness and accident or disability insurance carrier.
 - D. The employer tells the injured worker to turn his or her medical bills into the health insurance carrier.
 - E. The employer terminates the employee under circumstances that might lead one to believe that it was because of the injury, i.e. the employer terminates the injured worker claiming that the injured worker has missed too many days of work without calling in, even though the worker has been in contact with the employer.
 - F. The employer refuses to allow the injured worker access to his or her employment file.
 - G. The employer treats the injured worker as an outcast and creates a hostile work environment when the injured worker returns to work.
 - H. After the worker is injured, the employer informs the worker that he or she will not be able to keep his or her job open forever. The

employee sees a doctor, and after several treatments the doctor advises the employee to try some light-duty work. The injured employee is informed by the employer that there is no light-duty work at his or her old place of employment, so the injured worker files for unemployment benefits. The employer then denies unemployment benefits arguing that the employee quit.

- I. The injured worker is returned to work, and when he or she returns, the employer states that there are no jobs within the injured worker's restrictions.
- J. The employer provides inaccurate or false medical information to the treating physician which causes the treating physician to question whether or not the injured worker's problems are related to the work injury or some other non work-related event, i.e. injured worker served in Viet Nam and has, in the past, suffered from post-traumatic stress disorder, or worker was involved in automobile accident three months prior to work-related injury and is now having the same problems as he or she did following the car accident.
- K. The doctor returns the injured worker back to work at light duty, and when the injured worker returns back to work, the employer has the injured worker do nothing, perform humiliating-type jobs, or ridiculous jobs.
- L. The employer advises the injured worker shortly after the injury that he is going to be laid off because of lack of work.

II. **Causes within the control of the insurer:**

- A. Delays in investigating the claim.
- B. Delays in sending workers' compensation checks.
- C. Surveillance.
- D. Claims adjuster mistreatment of injured worker.
- E. The injured worker feels that the claims adjuster does not know what he or she is doing regarding the claim and the injured worker is not getting what he or she is entitled to receive.
- F. The claims adjuster lies to the injured worker.
- G. The workers' compensation insurance carrier chooses a doctor the injured worker does not like.
- H. The claims adjuster miscalculates the injured worker's workers' compensation rate.

- I. The workers' compensation carrier denies the injured worker's claim.
 - J. The workers' compensation carrier takes too long to decide whether or not to accept claimant's injury as being work related. The longer the injured worker is off work without any income, the more likely he or she is to contact a lawyer.
 - K. The workers' compensation insurance carrier does not pay medical bills hoping to negotiate the amount of bill with the medical provider, and in the meantime, the injured worker is being hounded by the medical provider for payment of the bills.
 - L. The workers' compensation carrier indicates to the injured worker that he or she should turn his or her bills for medical care into the health insurance carrier, and the health insurance carrier tells the injured worker that it isn't going to pay the medical bills, and the injured worker should turn the claim over to the workers' compensation carrier.
 - M. The authorized treating physician has recommended certain treatment, i.e. pain center, TENS unit, physical therapy, and the insurance carrier indicates to the injured worker that it would like to have another doctor's opinion on what treatment to provide.
- III. **Causes within the control of the medical provider and/or others (case managers, vocational rehabilitation persons, company nurse):**
- A. Doctor doesn't seem to listen to what is wrong with injured worker.
 - B. Doctor is only interested in whether or not the injured worker has hired a lawyer.
 - C. Doctor's attitude.
 - D. The doctor suggests that the claimant contact a lawyer.
 - E. The doctor accuses the claimant of lying or exaggerating his or her symptoms.
 - F. The doctor's office refuses to give the claimant a copy of his or her own medical records or reports.
 - G. The authorized treating physician returns the claimant back to work, and the claimant feels that he or she is not yet able to return to work.
 - H. The doctor's office contacts the injured worker with regard to payment of medical bills.

- I. The authorized treating physician has recommended surgery, and the injured worker is not sure whether or not he or she should have surgery, or he or she doesn't trust the doctor.
- J. The doctor's office notes contain an inaccurate history of the injury.
- K. The doctor doesn't even examine the injured worker before he or she tells the injured worker what is wrong with him or her.
- L. The nurse manager informs the injured worker that he or she is going to be in the examining room when the injured worker is examined by the doctor.
- M. The nurse case manager visits with the treating physician about the claimant's injuries, whether or not the claimant can return to work, and so on without the claimant being present.
- N. The injured worker's restrictions are changed by the authorized treating physician even though the physician has not recently examined the injured worker.
- O. The authorized treating physician tells the injured worker one thing and tells the workers' compensation insurer or the nurse manager something different.

IV. **Causes within the control of the injured employee:**

- A. The injured worker calls an attorney wanting to know what his or her legal rights are under the Iowa Workers' Compensation Laws.
- B. The injured worker believes that he or she was injured because of the employer's negligence and wants to sue the employer.
- C. Friends, co-workers, relatives, or spouse suggests that the injured worker call an attorney.
- D. The injured worker calls about an injury which gives rise to both a third-party case and a workers' compensation claim.
- E. The injured worker has received a settlement offer from the insurance company and wants to know whether or not the offer is fair.
- F. The injured worker returns to work and hears rumors from co-employees that he or she is going to get fired and, therefore, contacts a lawyer to see if he or she could lose his or her job.
- G. The injured worker feels overwhelmed by the workers' compensation system and feels that he or she needs help trying to understand all of the issues involved.

- H. The injured worker has misconceptions about workers' compensation laws, i.e. not getting anything for his or her pain and suffering or the effect the injury has on his or her family.

There are other causes of why an injured worker might contact a lawyer. Over the years, we have been contacted by workers who, after hearing of a possible layoff at work or plant closure, contact a lawyer to find out what their rights are. Currently, the number one reason for injured workers contacting a lawyer is disruptions in their flow of income. A large percentage of workers live from month to month. If they experience a disruption in their flow of income and they are not getting any answers or information as to when they might receive some income, my experience has been that after two to three weeks without any income, they are probably going to be thinking about calling a lawyer.

If you want to cut down on lawyer involvement in workers' compensation cases, the following is a list of some of the things you might want to do right after a worker is injured at your place of employment:

1. Contact the worker and let him or her know that you are aware of the fact that he or she was injured, and if he or she needs to see a doctor, he or she should go see a doctor right away.
2. Let the injured worker know that if after seeing a doctor he or she is advised that he or she needs to take some time off work, he or she should contact you and let you know that; and also at that time, you will be addressing the issue of what can be done to make sure he or she has income while he or she is off work.
3. Although under Iowa Workers' Compensation Laws you have the right to choose the doctor, if for some reason the injured worker believes that the doctor is not providing him or her with the service that he or she should, the injured worker should bring that to your attention right away.
4. If the injured worker has a problem with delays caused by your workers' compensation carrier, he or she should let you know so you can see to it that you are getting the service you are entitled to from your workers' compensation carrier.

After practicing workers' compensation law for almost 25 years, it has been my experience that the majority of injured Iowans want to work and usually want to return back to the same employer after their time off from work. As an employer, you should do all you can to let your injured workers know that you want them back to work even if they are injured. Financial security ranks high on the list of most people's needs.