

Questions?

If you have further questions, please see the legal resources available on the American Samoa Bar Association's website, www.asbar.org, or you may contact Disaster Legal Services' hotline at (684) 258-9830.

Notes:

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Disaster Legal Services (684) 258-9830 Workers' Compensation Issues

What is workers' compensation insurance?

On the job injury or illness is often traumatic and never expected. Fortunately, American Samoa law offers important protections for employees who cannot work because they were hurt or made ill at work. Nearly every worker in American Samoa is covered by workers compensation insurance.

American Samoa Workers Compensation laws require that employers or their insurers pay for medical expenses and provide compensation when you lose time from work or suffer a permanent disability from an accident or disease arising out of your employment. It may also provide vocational assistance.

What should I do if I am injured on the job?

If you are injured on the job or you get sick because of your job, then you must immediately get first aid or emergency medical treatment.

You must then give your employer written notice of your claims stating when, where and how your injury occurred. Your employer will send the notice to its worker's compensation insurance company and the American Samoa Workmen's Compensation Commission.

On the job injuries (continued)

Usually, your employer will have a special form you can use. You should file your claims as soon as possible because if you delay too long you may be denied benefits. There are certain deadlines for filing your claim.

Your employer can not refuse you the right to file a claim, and the law prohibits your employer from firing or discriminating against you for filing a claim.

You can also go directly to the American Samoa Workmen's Compensation Commission and file a report of an employee injury.

What injuries/illnesses are covered by workmen's compensation?

You do not need to prove that your illness or injury was caused solely by your job, but you do need to show that your injury or illness arose out of and in the course of employment; which includes travel between your residence and place of employment.

If you were intoxicated or if you acted deliberately to cause an injury to yourself and others, then your workplace injury or illness will not be covered by Workmen's Compensation.

When does compensation start?

No compensation may be allowed for the first three days of disability, except medical benefits. In case the injury results in disability of 14 calendar days or more, the compensation shall be allowed from the date of disability. If, at the time the disability begins, the employee is employed under a contract for hire, when full wages are continued, the time specified in this section does not begin to run until full wages are discontinued.

How much compensation does an injured employee receive?

The amount of money you receive will depend on your average weekly wage. It will probably be close to two thirds of your gross salary tax free, up to a maximum amount set by the legislature. Your wage reimbursement checks will continue to be paid to you every pay period, until your doctor releases you to return to work. If you return to regular work without a doctor's release, or if your claim is denied, or if you receive an order from the Workmen's Compensation Commission or your insurer closing your claim, then your checks for missed work will stop. Even if you can return to work, you may also be entitled to compensation payments for partial disabilities depending on the type of disability.

What happens if your claim is denied?

If your employer denies your claim, you may ask the Workmen's Compensation Commission for a hearing. The Commission hearing is simply an informal hearing to try to mutually settle issues. If your matter can not be settled informally then the Commission will refer the matter to the Administrative Law Judge for a formal hearing. If the Commission does not settle or refer the matter within 45 days then the matter is automatically referred to the Administrative Law Judge. If the Workmen's Compensation Commission and/or the Administrative Law Judge deny your claim, then you may appeal the denial to the High Court of American Samoa.

Do you need a lawyer?

While most injured workers recover quickly, and need only make their initial report to receive medical payments and benefits, those more seriously injured may have difficulty with their employer or with the compensation system. Those workers may benefit from consulting with a lawyer.

Lawyers (continued)

Workmen's compensation litigation is generally considered to be simpler than traditional injury litigation, as it takes place in an administrative setting and may involve relaxed evidentiary rules. Attorneys fees are usually limited by statutes and in American Samoa, the Workmen's Compensation Commission must approve all fee arrangements and payment of attorneys fees.

Workers typically need to hire a workers compensation lawyer when they are:

- refused benefits to which they are entitled;
- told that they can return to work before they are actually medically able; or
- denied extended or permanent disability despite significant disabling injury.

If your employer sends you to a doctor who declares that you are able to return to work, even though you don't believe you can, or tries to get you to return to work to a special job created to accommodate your injury, you should consider speaking with a lawyer right away.

When Can You Sue?

Ordinarily an employee who qualifies for Workmen's Compensation benefits may not file a personal injury suit against the employer. While your rights under the Workmen's Compensation Act are generally your only remedy against your employer for a work-related injury, you may have additional remedies against other persons who are responsible for your injury.