



**SEIU**Healthcare®  
United for Quality Care

**Guide to**  
*Workers' Compensation*  
**For**  
**State of Connecticut**  
**Employees**

**NEW ENGLAND HEALTH CARE EMPLOYEES UNION**  
**DISTRICT 1199, SEIU**  
**77 Huyshope Avenue, Hartford, CT 06106**  
**860-549-1199**  
**October 2009**

Workers Compensation Organizers:  
John Del Vecchio Ken Jones Stephanie Messina

## **Introduction**

Almost half of our Union's members are employees of the State of Connecticut. Many of you work in occupations with high injury rates, especially in the fields of corrections, mental health and mental retardation.

Every year thousands of 1199 members have work-related injuries, many of them serious and disabling: severe strains and sprains, torn cartilage, herniated or ruptured discs, torn rotator cuffs, etc.

Because these are work-related injuries, you are entitled to benefits under the Connecticut Workers' Compensation Act and other related laws specifically affecting State employees.

Unfortunately, many injured workers do not know their rights or responsibilities under the law. Because of this lack of information, some workers do not receive all the appropriate benefits. Others engage legal counsel and pay up to 20% of their benefits for services they probably would not need if they had the proper information.

This pamphlet is designed to give you, the 1199 member in State service, the information you need to receive all the appropriate benefits if you are injured on the job ... without the need to hire a lawyer.

Keep this in mind: most properly reported on-the-job injuries are *not* contested by the State and most compensation cases are *not* very complicated.

With the information in this pamphlet and knowledge of the resources available to injured workers, you will have a much better understanding of your benefits, rights and responsibilities under the Workers' Compensation Act.

## **The Union is Here to Help**

1199 is ready to help you with your compensation case if you have a problem or a dispute. If you are unable to resolve an

issue after an initial effort, you can contact a Workers' Compensation Delegate or your Organizer for help.

If you have an unresolved problem, don't wait to get help from the Union. There are many cases that should have been resolved easily that got complicated because the member put off contacting the Union once it was clear there was a dispute.

The Workers' Compensation Organizer will work with a Delegate or Organizer to help resolve a problem. If necessary, the Workers' Compensation organizer will represent you before the Workers' Compensation Commission.

The Union has successfully helped its members recover millions of dollars in benefits since our new Workers' Compensation Program was launched in September 1994. 1199 members have saved hundreds of thousands of dollars in benefits that otherwise would have been paid in attorneys' fees.

## **GAB Robins**

The State of Connecticut is self-insured for Workers' Compensation coverage. Instead of buying insurance from a private carrier, the State has its own Workers' Compensation program operated by a Third Party Administrator (TPA).

The current TPA for the State is GAB Robins. The GAB Robins office that handles State compensation cases is located in East Hartford.

**The GAB Robins telephone number is: 860-291-9215, or 1-866-422-7622 (toll-free in Connecticut).**

**The GAB Robins fax number is: 860-291-9875.**

GAB Robins has a staff of claims adjusters, claims supervisors, hearing representatives, medical care managers and managers who process thousands of cases every year.

Gab Robins claims personnel are assigned to cases by agency and facility. You can usually find out who is handling your claim simply by calling GAB Robins and indicating the agency and facility where you were injured.

### **Managed Medical Care Program**

Under the law, if an employer has a managed medical care program approved by the Workers' Compensation Commission, the employees *must* get their medical treatment from providers participating in the program.

The State of Connecticut was the very first employer to have an approved managed medical care program. This program became effective for all injuries on or after September 1, 1993.

Currently Prime Health Services is the managed medical care program that provides all medical treatment for State employees injured on the job.

Prime Health Services has a provider network of over 1,700 physicians as well as numerous hospitals and clinics. All State agencies should have available a current directory of network providers.

If you need to check if a particular physician is a network provider, simply call Prime Health Services toll-free at 1-866-348-3887.

### **Reporting an Injury**

If you are injured on the job, you must report your injury immediately to your supervisor or appropriate personnel. This is important even if you do not necessarily need medical attention right away.

*Failure to report a work injury immediately is one of the most common reasons for disputed claims.*

If because of unusual circumstances you cannot notify a supervisor, inform your co-workers about your injury and call Prime

Health Services toll-free at 1-866-348-3887.

Calling Prime Health Services is the responsibility of your supervisor. However, in the rare case where there is no supervisor available, you should call and report the injury.

Your supervisor should report your injury immediately to the agency's Workers' Compensation Liaison or directly to Prime Health Services. You should describe your injury in detail to your supervisor, including any interaction with a client, inmate or patient that contributed to the injury.

You should ask for a copy of the First Report of Injury for your records.

### **Initial Medical Treatment**

Your supervisor should direct you to a network provider for the initial medical treatment. You must go to this designated network provider for the initial treatment.

### **Additional Medical Treatment**

After the initial medical treatment, you have the right to select your attending physician for further treatment. This doctor must be a participating network provider. You can find participating doctors in the Directory of Network Providers available at larger work sites.

If a Directory is not available, you can call Prime Health Services toll-free at 1-866-348-3887 to select a network provider for further medical treatment.

If you disregard the requirement to receive treatment from a network provider, you risk immediate suspension of benefits and full liability for the medical bills. Whether you like it or not, *this is the law today.*

If you continue to treat with the network provider initially designated by your supervisor, that provider becomes your attending physician.

If you select a network provider imme-

diately after the initial treatment, then that doctor is your attending physician.

### **Changing Physicians**

Once the attending physician is established, you cannot change doctors *unless*:

1. The attending doctor refers you to another physician within the network;
2. You request and receive authorization from your GAB Robins Claims Adjuster to change physicians;
3. You receive permission from a Workers' Compensation Commissioner to change doctors.

Only under unusual circumstances will treatment outside of the network be permitted. An exception might be where a certain type of specialist is needed and there is no qualified network provider available to you.

### **Your Right to Medical Reports**

You have a right to receive all medical reports related to your work injury from any treating or examining physician. The doctor is required to provide these reports directly to you (or to your attorney, if represented). This provision is found in Section 31-294(f) of the Connecticut General Statutes.

Although the law requires the doctor to provide these reports automatically, in practice you may not get the reports unless you specifically ask for them. It is advisable that you ask the doctor to provide you with all medical reports related to your work injury, as required by law.

Problems sometimes happen when GAB Robins has up-to-date medical reports but you don't. When both parties have the same reports, there is less chance for confusion or misunderstanding of your medical or disability status.

### **Medical Bills**

You should not receive any bills for treatment by network providers, and there

are no co-pays. Prescriptions should be filled without charge at CVS Pharmacies. Just provide them with your GAB Robins claim number.

### **Written Notice of Claim**

Most state employees think they have "filed a claim" when they report their injury and a First Report of Injury is filed by the supervisor.

Although in most cases the filing of the First Report of Injury gets the compensation process started, it is *not* an official written notice of claim.

The official written notice of claim is a *Form 30-C*, available from any office of the Workers' Compensation Commission.

On the Form 30-C, the injured employee indicates the employer, the date and place of injury, and the type of injury. The form must be sent to the State Department of Administrative Services and the Workers' Compensation Commission, either in person or by certified or registered mail, return receipt requested.

When a Form 30-C is filed, the State has 28 days in which to dispute liability. If they do not dispute liability within this period, they will be obligated to accept the claim unless they have initiated benefit payments.

In most cases of promptly reported injuries, the State will pay benefits and accept liability for a work injury without the employee filing this written notice of claim.

If you want more information about the advisability of filing a Form 30-C, call any office of the Workers' Compensation Commission or the Education Unit, toll-free at 1-800-223-WORK (1-800-233-9675).

### **Benefits: Temporary Total**

During the period in which the doctor indicates you are totally disabled from any type of work, you are eligible to receive benefits for temporary total disability.

For the actual day of the injury, you should receive your regular pay from your Agency.

There is then a waiting period of three days before you are eligible for temporary total disability benefits. However, if you are disabled for seven days or more, the waiting period is eliminated.

In determining days of disability, all calendar days in which you are disabled are counted – not just days you were scheduled to work.

Under the collective bargaining agreement, your State Agency will continue to pay you your regular pay for up to six weeks in undisputed cases. At that point, Gab Robins takes over the payment of benefits.

For State employees, temporary total disability benefits are paid biweekly. Your compensation rate (for injuries on or after July 1, 1993) is 75% of your average weekly net wage, after deductions for federal and state taxes and FICA contributions. Your benefit rate is affected by your last federal tax filing status and the number of exemptions on your tax return.

You should receive from GAB Robins, or your Agency, a *Form 1A, Filing Status and Exemption Form*, on which you provide this information. This form should be sent to the claims adjuster at GAB Robins as quickly as possible so that a proper benefit rate can be established.

To determine your average weekly wage, your Agency must provide GAB Robins with a wage statement showing your gross earnings (including overtime, shift premium, etc.) for the 52 weeks prior to the injury. Your average weekly wage is based on this year of earnings, averaged out per week.

If you have another job at the time of your injury with the State, you need to inform your claims adjuster at GAB Robins of

your concurrent employment. Your benefit rate will be based on your average earnings from *both* jobs.

Regardless of your actual earnings, the maximum benefit rate for temporary total disability is \$1,141 weekly for injuries on or after October 1, 2008.

### **Option to Obtain Full Pay**

As a State employee, you have the option to receive, in addition to your compensation benefit, accumulated sick leave or vacation time in order to receive your full pay.

This is an option; it is not mandatory. You must decide whether to use sick leave and vacation time to avoid any decrease in income resulting from your being on compensation benefits. You should do this as soon as possible after your injury.

### **“Full Salary” Cases**

As a State employee, you may qualify to receive your full *base* salary while totally disabled, depending on the circumstances of your injury, if it involved interaction with clients, inmates or patients.

Section 5-142(a) of the Connecticut General Statutes provides for full salary benefits if the employee is assaulted by a client or is injured while attending or restraining a client *and* the injury is directly due to the special hazards inherent in the job.

Although the State will usually provide full salary benefits when the injury is clearly the result of an assault, full salary claims for injuries resulting from attending or restraining a client are often denied.

1199’s position in these situations is that you should receive full salary benefits if your injury is a direct result of a client’s mental retardation or mental disorder.

For a more detailed review of full salary

benefits, consult the *1199 Guide to Full Salary Cases*, available from the Union.

## **Workers' Option for Higher Benefits**

If you qualify for "full salary" benefits as a result of a client-related injury, those benefits are paid at your base salary.

If you have worked extensive overtime in the year before the injury, it is possible that your compensation benefit rate might be higher than your base salary.

This could also be the situation where you have concurrent employment.

If you have worked extensive overtime or have concurrent employment prior to your injury, you should check with your claims adjuster at GAB Robins to find out what your compensation benefit rate is. If this rate is higher than your base salary, you have the right to request that benefits be paid to you at your compensation rate, per Section 31-307, instead of at your base salary, per Section 5-142(a).

## **"Full Salary" Benefit Reduction**

If you qualify for full salary benefits as a result of a client-related injury, those benefits will continue while you are *totally disabled*, with salary adjustments, for up to five years (260 weeks).

After the 260th week, the benefit will be reduced to half the benefit rate in effect on the 260th week.

This reduction in benefits may allow an increase in benefits to you under Social Security disability.

## **Duration of Temporary Total Benefits**

You are eligible to receive temporary total disability benefits for the period of total incapacity, no matter how long that period may be.

In practice, however, you will probably be eligible for temporary total benefits for a few weeks or a few months. This is because at some point a doctor will indicate that you have a limited work capacity.

When a doctor indicates that you have a limited work capacity, GAB Robins will issue a *Form 36*. This is a notice, sent by certified mail, that informs you that benefits for temporary total disability will stop. The sending of this notice is required by law. The Form 36 will either be signed by a doctor or have a doctor's report attached that indicates you have a work capacity.

You have ten days to contest the Form 36. This can be done simply by calling the local Workers' Compensation Commission office and requesting an Emergency Hearing to dispute a discontinuation of benefits. The office will not approve a Form 36 that is contested and benefits must continue until the hearing is conducted.

However, if you do not prove at this hearing that you are still totally disabled based on medical evidence, the Commissioner will usually approve the Form 36, often retroactively, and the benefits paid to you since the form was issued may be credited against future benefits.

For practical purposes, there is no point in contesting a Form 36 *unless* you have clear evidence from current medical reports that you are still totally disabled.

## **Benefits: Temporary Partial**

If you are released for restricted work by the doctor, notify your facility immediately and ask for suitable work.

Many facilities will provide an employee with light duty for up to 90 days, pursuant to Section 29 of the Collective Bargaining Agreement. You should notify the Union if you are not offered light duty as provided by the contract.

If the facility does not provide you with

a suitable work assignment immediately, you can qualify for temporary partial disability benefits while looking for suitable work.

You should register with the Connecticut Job Service and start looking for suitable work right away. You should apply with at least five different employers each week. You must record this job search effort and forward the information weekly to your claims adjuster at GAB Robins.

The forms for recording your job search effort are available from GAB Robins, any office of the Workers' Compensation Commission or the 1199 Workers' Compensation Organizer.

While conducting a job search, you should continue to receive Workers' Compensation benefits, but temporary partial, not temporary total. The benefits are paid at the same rate except the maximum for temporary partial is currently \$892 weekly.

If you had been receiving "full salary" benefits while totally disabled, your payments would be reduced to your basic compensation rate, not to exceed \$892 weekly.

If your facility gives you a job, or you find another job, but you earn less than your usual pay, you are entitled to receive "wage differential" benefits.

These payments, which are also for temporary partial disability, would equal 75% of your net loss in earnings, after deductions for federal and state income taxes and FICA contributions. You would submit copies of your pay stubs to GAB Robins on a regular basis. Your claims adjuster would then calculate your benefit and make payment. To confirm that the proper amount is being paid, you can call the Education Unit of the Workers' Compensation Commission toll-free at 1-800-223-9675.

The law allows temporary partial benefits to be paid for up to ten years, but in most cases the duration of such benefits is

just a few months.

This is because you will probably reach "maximum medical improvement" shortly after your release for restricted work.

### **Benefits: Permanent Partial**

If you sustain permanent physical impairment as a result of your work injury, you will be entitled to benefits for permanent partial disability.

Several types of injury usually result in permanent physical impairment, including disc injuries in the back or neck, torn cartilage, crushed bones, torn rotator cuff in the shoulder, amputations, nerve damage and carpal tunnel syndrome.

At some point after surgery or physical therapy, you will reach "maximum medical improvement." This is the point where the doctor feels the healing process has stopped, and you are at the maximum expected level of recovery.

By this point the doctor has probably released you for some type of work, usually with specific restrictions.

The doctor should issue a disability evaluation that indicates the injured body part or function, the date of maximum medical improvement, and the degree of permanent physical impairment, expressed as a percentage of loss (e.g., 10% loss of the back, 15% loss of the master hand, 20% loss of the leg, etc.). The doctor's evaluation should be based on the *American Medical Association Guide to the Evaluation of Permanent Impairment*.

The doctor should give a copy of the evaluation to you and send one to GAB Robins. The Workers' Compensation Commission has a specific document, *Form 42*, for disability evaluations, but the doctor can simply give the evaluation on his or her medical stationery.

A few days after the evaluation is issued, you should call your claims adjuster at

GAB Robins regarding a settlement for permanent partial disability benefits.

The claims adjuster will either accept the doctor's rating or schedule an appointment with another doctor for a second evaluation, a right they have under the law.

If the adjuster accepts the initial opinion, you will be issued a Voluntary Agreement and make biweekly payments over a period of time. The duration of these payments depends on the affected body part and the degree of impairment.

Payment should be made retroactive to the date of maximum medical improvement. The benefit rate for permanent partial benefits is the same as for temporary total, except the maximum benefit for injuries on or after October 1, 2008 is \$892 weekly.

If a second opinion is obtained and the difference in ratings is ten points or less, you should be able to reach a compromise with the claims adjuster by asking for a Voluntary Agreement that reflects the "average" of the two ratings. It is *not* necessary to schedule a hearing if the claims adjuster will agree to do this.

For more detailed information on permanent partial disability benefits, consult the *1199 Guide to a Workers' Compensation Settlement*.

*Note:* If the State does not provide you with a job while you are receiving permanent partial disability benefits, you may also be eligible for Unemployment Compensation.

A Voluntary Agreement for permanent partial benefits does *not* "close" your case. Your claim is still open and other benefits may be available if your condition worsens or you have a recurrence.

### **Benefits: 31-308a**

If you exhaust your permanent partial disability benefits under a Voluntary Agreement, you may be eligible for additional

benefits if you are not able to earn your usual wages as a direct result of your work-related injury.

Wage differential benefits are available under Section 31-308a but you must request an Informal Hearing to apply for such benefits. GAB Robins does not provide these benefits automatically; a recommendation from the Commissioner is needed to qualify.

At the hearing, you must show that you are earning less than usual as a direct result of your work injury. The Commissioner can award you up to 75% of your net loss in earnings, after deductions for federal and state taxes and FICA contributions. The maximum benefit for injuries on or after October 1, 2008 is \$892. For injuries on or after July 1, 1993 these benefits can be granted for a period no longer than your award for permanent partial disability.

It is advisable to have Union representation at any hearing where benefits under Section 31-308a are being requested.

### **Maintenance of Group Medical and Life Insurance**

Under Section 31-284(b) the State must maintain your group medical insurance coverage while you are receiving Workers' Compensation payments of any type.

If you contribute to the cost of your insurance, you would continue to contribute the usual amount.

Under Article 29 of the Collective Bargaining Agreement, the State will continue to maintain your life insurance while you are on Workers' Compensation..

### **Mileage Expenses**

You are eligible for a "travel allowance" for using your own vehicle going to and from medical treatment and physical therapy at the rate of 50.5¢ per mile.

Keep a record of all your doctor and

therapy visits and the mileage involved. Forward a copy of this record to your claims adjuster with a request for reimbursement at the rate of 44.5¢ per mile.

If the doctor indicates it is necessary for you to be transported by ambulance or taxi, GAB Robins should pay for the costs involved.

### **Time for Getting Medical Treatment**

If you have returned to work but still need treatment or therapy, such treatment should be provided during your working hours, if available at that time.

You should continue to receive your regular hourly pay unless you are also receiving Workers' Compensation benefits payments.

If you receive treatment outside of working hours, you should receive your regular hourly pay for the time involved unless you are also receiving Workers' Compensation benefit payments.

These are the provisions of Section 31-312, Connecticut General Statutes.

There are situations where staffing problems would result if an employee gets treatment during working hours. If the Agency asks you to get treatment outside of working hours because of staffing requirements, and you have no objection, you should be paid your hourly rate for the time involved.

### **Replacement of Artificial Aids and Glasses**

If you have an artificial arm, foot, hand or leg, and it is damaged in a work injury, the State must pay for the cost of replacement or repair.

The State must also pay for the replacement or repair of your eyeglasses, contact lenses, hearing aids or artificial teeth if they are damaged as a result of a work-related

injury to the face or head.

These are the provisions of Section 31-311.

### **“Stress” Claims Limited**

Effective July 1, 1993, the Workers' Compensation Act does not recognize claims for any mental or emotional impairment *unless* such impairment arises from a physical injury or occupational disease.

### **“Recreation” Claims Banned**

Effective July 1, 1993, the Workers' Compensation Act does not recognize claims for any injuries resulting from voluntary participation in primarily social or recreational activities, including athletic events, parties and picnics.

### **Social Security Disability**

If you are totally disabled by a work injury for six months or more, you may be eligible for Social Security disability benefits.

The Union advises you to apply for such benefits at your local Social Security office during the sixth month of disability.

### **State Disability Retirement**

If you can no longer work in your usual job because of a work-related injury, you may qualify for disability retirement if the State does not provide you with suitable work.

You can apply for disability retirement with the personnel or payroll office of your Agency.

### **Sick Leave/Vacation Accrual**

Under Article 29, Section 3 of the Collective Bargaining Agreement, you will continue to accrue sick leave and vacation for up to twelve months while on Workers' Compensation.

## **Benefits: Scarring and Disfigurement**

For injuries on or after July 1, 1993, there is very limited eligibility for benefits for permanent scarring and disfigurement. In order to be eligible for such benefits, the scar or disfigurement must be on your face, head or neck, and not due to spinal injury or impair your ability to earn.

If you have such a scar, you must request a Scarring Hearing during the second year following the incident that caused the scar. This can be done simply by contacting your local Workers' Compensation Commission office. If you do not request these benefits during the second year, you will lose them.

At the hearing, the Commissioner will examine your scar and award a number of weeks of benefits. Scar benefits are paid in a lump sum at your base compensation rate, with a maximum rate of \$892 weekly for injuries on or after October 1, 2008.

## **Workers' Compensation Non-Taxable**

All Workers' Compensation benefit payments, regardless of type, are non-taxable.

## **Dispute Resolution**

Sometimes disputes arise over some issue in a claim. Your initial effort to resolve a dispute should be a talk with your claims adjuster at GAB Robins.

Before calling the adjuster, the Union suggests you speak with a coordinator at the Education Unit of the Workers' Compensation Commission in Hartford.

You can reach them toll-free at 1-800-223-9675 or locally at 860-493-1534. The coordinator can advise you of the provisions of the law concerning the issues in your claim.

If this dispute is not then resolved, you can contact a Workers' Compensation Delegate or your Organizer for assistance.

If you have a complaint regarding the way you are treated by your claims adjuster, you can speak with a claims supervisor about your concerns.

If the matter is not successfully resolved by that action, you can speak with the operations manager at GAB Robins.

Even if there is a dispute or problem regarding your claim, the claims adjuster should be civil and courteous, as should you.

## **Hearings**

If a dispute is not resolved after the initial communications, an Informal Hearing may be needed. The Union will provide representation, if necessary, at this hearing.

At an Informal Hearing, GAB Robins will send a hearing representative. This person is not an attorney but is someone with an extensive background in Workers' Compensation.

The parties briefly discuss the issues and provide documentation for the Commissioner, who at this point is serving as a fact-finder and mediator.

In many cases the Commissioner will make a recommendation for resolution of the problem.

If the hearing representative feels the proposed resolution is acceptable, he or she will make a recommendation to the claims adjuster. In most cases this recommendation is accepted.

Neither the State nor you, as the claimant, are obligated to accept the Commissioner's recommendation.

If the dispute continues, it may be necessary to have a Pre-Formal hearing. It is strongly advisable that you have Union representation at this level.

The State will be represented by an attorney or paralegal specialist from the Workers' Compensation Unit of the Office of Attorney general.

If the parties do not resolve the issues at this hearing, either party can request a Formal Hearing, which is the equivalent of a trial before a Commissioner.

Depending on the issues involved, the 1199 Workers' Compensation Organizer may represent you or refer you to a lawyer well experienced in Workers' Compensation.

### **Vocational Rehabilitation Services**

If you sustain an injury that will permanently keep you from returning to your usual job, you can ask for assistance from the Rehabilitation Services Unit of the Workers' Compensation Commission.

You may receive help with job training and/or replacement. There is no charge for vocational rehabilitation services.

Applications for these services are available at any Workers' Compensation Commission office, or you may call Rehabilitation Services at 860-493-1500.

## **State of Connecticut Workers' Compensation Commission**

**Chair: Commissioner John Mastropietro**

### **Central Office**

21 Oak St.  
Hartford, CT 06106  
860-493-1500

### **Rehabilitation Services**

21 Oak St.  
Hartford, CT 06106  
860-493-1500

### **Education Services**

21 Oak St.  
Hartford, CT 06106  
860-493-1534

### **District Offices**

#### **First District**

999 Asylum Ave.  
Hartford, CT 06105  
860-566-4154

#### **Second District**

55 Main St..  
Norwich, CT 06360  
860-823-3900

#### **Third District**

700 State St.  
New Haven, CT 06511  
203-789-7512

#### **Fourth District**

350 Fairfield Ave.  
Bridgeport, CT 06604  
203-382-5600

#### **Fifth District**

55 West Main St.  
Waterbury, CT 06702  
203-596-4207

#### **Sixth District**

233 Main St.  
New Britain, CT 06051  
860-827-7180

#### **Seventh District**

111 High Ridge Rd.  
Stamford, CT 06905  
203-325-3881

#### **Eighth District**

90 Court St.  
Middletown, CT 06457  
860-344-7453

**State of Connecticut  
Workers' Compensation Commission**

**Third Party Administrator**

GAB Robins  
800 Connecticut Blvd.  
East Hartford, CT 06118  
860-291-9215  
1-866-422-7622 (toll-free in CT)

**Managed Medical Care Program**

Prime Health Services  
1-866-348-3887 (toll-free in CT)

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**1199 Workers' Compensation Team: State Sector**

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