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Iowa Workers Compensation

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Iowa Workers' Compensation 101-102

1. **Overview of Workers' Compensation 6 Questions to Ask in Every Case (with quite a few follow-ups)**
 - a. Was the worker an "employee" of the employer when the injury occurred?
 - b. Was there an "injury" that occurred?
 - c. Did the injury occur within the course and scope of their employment?
 - d. Did the injury arise out of employment?
 - e. Are there any Affirmative Defenses that would preclude the award of benefits?
 - f. What benefits are owed the injured employee under Chapter 85, Iowa Code?
2. Was There an Employer and Employee Relationship?
 - a. Persons Not considered employees under Chapter 85.
 - b. Casual Employees
 - c. Domestic Employees
 - d. Agricultural Employees
 - e. Independent Contractors
 - f. Owner / Operator
 - g. Partners / Sole Proprietors
 - h. Students & Employees in Training
3. Was There a Compensable Injury?
 - a. Generally
 - b. Aggravation of Preexisting Injury
 - c. Sequelae of Injuries
 - d. Heart Attacks / Strokes
 - e. Psychological Claims / Mental Injuries
 - f. Increased Symptoms vs. Actual Injury (temporary exacerbation vs. permanent aggravation)
4. Did the Injury Occur Within the Course of Employment?
 - a. Generally
 - b. On or about premises of employer
 - c. Going and coming rule - exceptions
 - d. Personal comfort activity on premises
 - e. Traveling employees
 - f. Dual purpose doctrine
 - g. Material deviation from work
5. Did the Injury Arise out of Employment?
 - a. Generally
 - b. Formally a 2 – prong analysis
 - c. Arising out of work usually a medical determination
 - d. Idiopathic Injuries

6. Affirmative Defenses to the Award of Benefits...
 - a. Intoxication
 - b. Horse play
 - c. Willful Intent to injure self or others
 - d. Willful act of third party unrelated to work
 - e. 90 – day notice
 - f. 2 – year statute of limitations
 - g. 3 – year statute of limitations
7. Exclusive Remedy
 - a. Quid pro quo – “this for that”
 - b. Employer immunity
 - c. Co-employee qualified immunity
 - d. Gross negligence
 - e. Third party claims against tortfeasor
 - f. Employment law claims
 - g. Bad faith claims
8. Jurisdiction
 - a. Generally
 - b. Full faith & forum shopping
 - c. Injuries outside state of Iowa
9. Rate
 - a. Exemptions and marital status
 - b. Overtime, premium and vacation pay
 - c. Need for correct rate calculation
10. Disability Benefits
 - a. Temporary benefits
 - i. Healing period (HP)
 - ii. Temporary total disability (TTD)
 - iii. Suspension of benefits
 - iv. Termination of benefits
 - b. Permanent benefits
 - i. Scheduled injuries
 - ii. BAW injuries
 - iii. Industrial disability
 - iv. Odd lot / permanent total disability
11. Death Benefits
 - a. Generally
 - b. Death unrelated to injury
 - c. Decedent without dependents
12. Medical Benefits

- a. Employer directed medical providers
- b. Authorization for care
- c. Reasonable and necessary and causally related to injury
- d. Petition for alternate care

13. Rehabilitation Benefits

- a. Eligibility for additional weekly benefits
- b. Most often used as a tool for litigation

14. Second Injury Fund

- a. Generally
- b. Requirements
 - i. Lost use of hand, arm, foot, leg or eye
 - ii. Lost use of another member or organ
 - iii. Permanent disability
- c. Purpose
 - i. Encourage employment of handicapped person
- d. Cumulative effect of the injuries resulting in industrial disability, rather than the injuries considered in isolation
- e. Employer pays medical benefits related to second injury

15. Occupational Disease

- a. When a worker is exposed to work-related hazards over many years
- b. Definition:
 - i. Arise out of + in course of
 - ii. Threshold requirement: disease
 - iii. Direct causal connection w/ employment
 - iv. Incidental to the character of the business
 - v. Origin in a risk connected with employment and resulted from that risk
 - vi. No requirement that disease be "expected" or "foreseen"
- c. Causation:
 - i. Two requirements
 - 1. Causally related to the exposure to harmful conditions of the field of employment
 - 2. Harmful conditions must be more prevalent in the employment concerned than in everyday life or in other occupations
 - ii. Implied requirement: arising out of + in the course of
 - iii. Payment: When occupational disease is aggravated by a non-compensable condition, employer need only pay the difference
- d. Disablement:
 - i. Event or condition where an employee becomes actually incapacitated from
 - 1. Performing the employee's work

2. Earning equal wages in other suitable employment because of an occupational disease

16. Hearing Loss

- a. Generally
 - i. Occupational hearing loss due to prolonged exposure to noise
- b. Defined
 - i. Permanent sensorineural loss over 25 decibels
- c. Elements
 - i. Arising out of + in the course of
 1. Excludes hearing loss due to age or other non-work related conditions (eg. Tinnitus)
 - ii. Prolonged exposure to noise
- d. Employer Responsibility
 - i. If noise level is excessive – duty to inform employees
 - ii. Written notice of periodic hearing examinations
 - iii. Employer may select physician to interpret results
 - iv. Written notice to employees of average loss over 25 decibels
 - v. Employer is not responsible for **prior** hearing loss
- e. Claimant Responsibility
 - i. Claimant has duty to submit to physical/ear exams
 - ii. Claimant has duty to wear protective gear

17. Review-Reopening

- a. Change of condition
- b. Condition unknown
- c. Condition failed to improve
- d. Change in earning capacity
- e. Multiple injuries

18. Prehearing Matters

- a. Agency Filings
- b. Original notice and petition
- c. Discovery
- d. Exams
- e. Mediation
- f. Expert testimony
- g. Hearing report

19. Hearing Before Deputy Commissioner

- a. Presiding officer
- b. Recording of proceedings
- c. Evidence and Exhibits
- d. Decision

- e. Interest
- f. Costs

20. Appeal to Workers' Compensation Commissioner

- a. Filing
- b. Hearing
- c. Record
- d. Additional evidence
- e. Commissioner's review

21. Judicial Review in District Court

- a. Right to appeal
- b. Time, venue, manner
- c. Remedies
- d. Scope of appeal
- e. Fees

22. Judicial Review by Supreme Court

- a. Right from District Court
- b. Manner, time, and service
- c. Scope of review
- d. Record and costs

23. Settlements

- a. Agreement
- b. Compromise
- c. Combination
- d. Contingent
- e. Commutation

i. Full:

1. Employer admits work injury occurred and payment of disability is in lump sum reduced to present value

ii. Consideration

iii. Requirements

1. "Best Interest" of the employee
2. File a form 9
3. Statement of awareness

iv. Partial

1. Allows for a partial lump sum payout

24. Attorney Fees

- a. Generally pay your own attorney fees
- b. Factors
 - i. Reasonableness
 - ii. Fees not entitled to

iii. Fees entitled to

25. Indemnity and Subrogation

- a. Indemnification
- b. Subrogation
- c. Lien