

THE LONGSHORE REPORT

**CHARLES E. LAVIS JR.,
ATTORNEY FOR INJURED WORKERS
700 CAMP STREET, SUITE 435
NEW ORLEANS, LOUISIANA 70130**



**TOLL FREE: 1 (866) 558-9151
HOUMA: (985) 223-7591
NEW ORLEANS : (504) 558-9151**

*We Handle Longshore Claims In
Louisiana, And In Some Cases, In
Other States*

Purpose of the Longshore and Harbor Workers' Compensation Act (33 USC 901 et. seq.)

This Act, administered by the Office of Workers' Compensation Programs (OWCP), Employment Standards Administration, U. S. Department of Labor, offers compensation and medical care to employees disabled from injuries that occur on the navigable waters of the United States, or in adjoining areas customarily used in loading, unloading, repairing, or building a vessel. The Act also offers benefits to dependents if the injury causes the employee's death. These benefits are paid by an insurance company or by an employer who is authorized by the OWCP to be self-insured. The term "injury" includes occupational disease arising out of employment.

The Act Covers

EMPLOYERS who employ workers for maritime work or in a maritime occupation, either full or part-time, on the navigable waters of the United States or in adjoining waterfront areas.

EMPLOYEES engaged in maritime work or in maritime occupation - Including a longshoreman or other person in longshoring operations, and any harbor worker, including a ship-repairman, ship-builder and ship-breaker.

OTHER EMPLOYEES - are covered similarly through the following Acts:

DEFENSE BASE ACT, applying to employment by Federal government contractors outside the

continental U.S., Alaska or Hawaii.

OUTER CONTINENTAL SHELF LANDS ACT, applying to employees of private industry, conducting certain operations on the Outer Continental Shelf of the United States.

NONAPPROPRIATED FUND INSTRUMENTALITIES ACT, applying to civilian employees of nonappropriated fund instrumentalities (post exchanges, etc.) of the Armed Forces.

EXCLUDED by the Longshore Act are the following individuals if covered by a state workers' compensation law:

Individuals employed exclusively to perform office clerical, secretarial, security, or data processing work;

Individuals employed by a club, camp, recreational operation, restaurant, museum, or retail outlet;

Individuals employed by a marina and who are not engaged in construction, replacement, or expansion of such marina (except for routine maintenance);

Individuals who (A) are employed by suppliers, transporters, or vendors, (B) are temporarily doing business on the premises of a maritime employer, and (C) are not engaged in work normally performed by employees of that employer covered under this Act;

Aquaculture workers;

Individuals employed to build, repair, or dismantle any recreational vessel under sixty-five feet in length;

Small vessel workers if exempt by certification of the Secretary of Labor under certain conditions.

EXCLUDED also are:

A master or member of a crew of any vessel;

Any person engaged by a master to load or unload or repair any small vessel under eighteen tons net; and

Employees of the United States government or of any state or foreign government.

Injury Benefits

MEDICAL CARE - Includes all medical, surgical, and hospital treatment and other medical supplies and services required by the employment related injury, as well as the cost of travel and mileage incidental to such treatment.

The employee may obtain medical treatment from a physician of his or her choice. The term "physician" includes doctors of medicine (MD), surgeons, podiatrists, dentists, clinical psych-ologists, optometrists, and osteopathic practitioners within the scope of their practice as defined by State law. Chiropractors are also included only to the extent that their treatment consists of manual manipulation of the spine to correct subluxation (dislocation).

An employee may not choose a physician who is currently not authorized by the Department of Labor to render medical care under the Act. The list of physicians not authorized is available from the local OWCP district office.

DISABILITY COMPENSATION - Compensation is paid every two weeks during an employee's total disability because of a work-related injury.

Compensation is paid at a lesser rate if the employee is only partially disabled for his regular work.

Disability means inability to earn the same wages earned at the time of injury. Compensation is payable for disabilities that are permanent total, temporary total, permanent partial, or temporary partial.

PERMANENT TOTAL AND TEMPORARY TOTAL DISABILITY - Compensation is two-thirds of the employee's average weekly wage, subject to a maximum amount. The maximum rate payable for temporary total disability changes each October 1, based on the current National Average Weekly Wage for the affected period. Compensation for permanent total disability is adjusted each October 1, based on the percentage change in the national average weekly wage from the previous year, subject to a maximum adjustment of 5%.

PERMANENT PARTIAL DISABILITY - Compensation is payable for the permanent loss or loss of use of certain parts or functions of the body, such as the loss of the arm, hand, fingers, leg, foot, toes, hearing or vision. Compensation is payable for a certain number of weeks for each type of disability as specified in the Act. For example, total loss of use of a foot entitles the employee to 205 weeks of compensation.

TEMPORARY PARTIAL AND NON-SCHEDULED PERMANENT PARTIAL DISABILITY - Compensation is two-thirds of the employee's weekly wage loss or loss of wage-earning capacity.

PERMANENT PARTIAL DISABILITY FOR RETIREES - If a worker suffers the onset of a latent occupational disease after retirement, compensation is two-thirds of the National Average Weekly Wage (NAWW) multiplied by the percentage of impairment resulting from the disease.

REHABILITATION - Vocational rehabilitation may include evaluation, testing, counseling, selective placement, and retraining, if the employee is injured and cannot return to the former job. Rehabilitation services may include the cost of tuition, books and supplies. A maintenance allowance not to exceed \$25.00 per week is also provided during retraining. The cost of vocational rehabilitation services is paid by the U. S. Department of Labor. Contact your nearest district office if you are interested in these services.

Death Benefits

DEATH BENEFITS are paid to a widow or widower or other eligible survivors if the injury causes the employee's death. Reasonable funeral expenses are paid, up to a maximum of \$3,000.

The widow or widower receives 50% of the average weekly wage of the deceased employee for life or until remarriage. Additional compensation is payable - $16\frac{2}{3}\%$ of the employee's average weekly wage - for one or more children.

If children are the sole survivors, 50% of the employee's average weekly wage is paid on behalf of the first child. Where more than one child is entitled to benefits, a maximum of $66\frac{2}{3}\%$ applies, shared equally.

OTHER ELIGIBLE SURVIVORS - parents, brothers, sisters, grandparents and grand-children who were dependent on the employee.

Upon remarriage, a widow or widower receives a lump sum payment of compensation covering two years. Benefit payments to children, brothers, sisters, and grandchildren terminate when they reach 18, but may be extended to age 23 if the child or beneficiary is a student. Payments may continue indefinitely if a child remains incapable of self-support due to mental or physical disabilities.

In computing death benefits, the average weekly wage of the deceased shall be considered to have been not less than the national average weekly wage effective at the time of the employee's death. The total amount of survivor benefits payable in death cases may not exceed the average weekly wage of the deceased or 200% of the national average weekly wage, whichever is less.

Maximum and Minimum Payments

Compensation payable under the Act may not exceed 200% of the national average weekly wage, applicable at the time of injury, or the employee's full average weekly wage, whichever is less.

Waiting Period and Beginning of Compensation

NO COMPENSATION - is allowed for the first three days of disability unless disability lasts longer than fourteen days. In such cases compensation is paid from the first day of wage loss. The first installment of compensation is due 14 days after the employee begins to lose time from work due to the injury, or as directed by the OWCP.

KEY STEPS- What To Do If You Are Injured and Covered Under Longshore and Harbor Workers' Compensation Act ?

1. **NOTIFY** your employer immediately. If you need medical treatment, ask your employer for a Form LS-1, which authorizes treatment by a doctor of your choice.
2. **OBTAIN** medical treatment as soon as possible.
3. **GIVE** written notice of your injury within 30 days to your employer on Form LS-201. Notice of death must also be given within 30 days. Additional time is provided for certain hearing loss and occupational disease claims. Contact your nearest OWCP district office for additional information regarding these types of claims.
4. **FILE** a written claim for compensation within one year after the date of injury or last payment of compensation, whichever is later. A claim for survivor benefits must be filed within one year after the date of death. The time for filing claims in certain occupational disease cases has been extended to two years.
5. **CALL ATTORNEY CHARLES E. LAVIS JR.** at Toll Free 1-866-558-9151, or call 985-223-7591 (Houma), 504-558-91551 (New Orleans). Mr. Lavis can assist you with any of these Key Steps. Keep in mind that you may be facing important deadlines. Therefore, you should not delay in hiring counsel to protect your interests. All attorney fees are paid by the employer's insurer and must be approved the United States Department of Labor.