

BILL OF RIGHTS FOR INJURED WORKERS OF NORTH DAKOTA

*Developed by the ND Injured Workers Support Group**

Whereas the North Dakota Century Code (65-01-01) states, in part, "The state of North Dakota, exercising its police and sovereign powers, declares that the prosperity of the state depends in a large measure upon the well-being of its wage workers, and, hence, for workers injured in hazardous employments, and for their families and dependents, sure and certain relief is hereby provided " and

Whereas the NDCC establishes a workers compensation system, known as Workforce Safety and Insurance (WSI), to provide such sure and certain relief and

Whereas changes in the law and reduction of benefits have resulted in poverty, depression, and second class status for many injured workers whose only crime is that they were injured on the job and

Whereas efforts to change the laws so that injured workers receive the relief that has been provided to them in the past have been unsuccessful and

Whereas WSI applies the law in its strictest sense resulting in denial of benefits for many deserving injured workers,

We hereby declare that injured workers are entitled to sure and certain relief in law and in fact and that changes in the law and in WSI's application of the law need to be made so that injured workers receive benefits in line with the following:

I. RIGHT TO WORKERS COMPENSATION

Injured workers shall have the right to a workers compensation system based on intent to provide sure and certain relief without unreasonable or unjust restrictions. Injured workers shall be treated with dignity and respect by those within the workers compensation system, to include doctors, nurses, adjusters, attorneys and judges to the extent that the first priority and loyalty shall be to recovery and fundamental fairness. If not, substantial penalties shall be imposed.

II. TREATING PHYSICIAN

An injured worker shall have the right to select a treating physician. The physician treating the injured worker shall have the presumptive right to order any diagnostic tests or evaluations and prescribe treatment which will be paid for by WSI. The presumption can only be overcome by clear and convincing evidence.

III. RIGHT TO INDEPENDENT MEDICAL EXAMS.

If there is a question concerning the treatment or opinions of the treating provider, an injured worker shall have the right to a non-party independent medical exam by a specialist in the type of injury received, paid by WSI. Whenever possible this IME shall be performed by a doctor whose primary practice is in North Dakota.

All partisan IME's are to be banned. In cases where more than one IME has been performed, all IME's shall be used in consideration of a case, not just one chosen by WSI.

The state shall monitor all doctors and maintain a record of complaints by injured workers concerning doctors. Numerous or major complaints can lead to removal of the doctor from the ability to conduct IME's and/or treat such workers.

An injured worker shall have the right to a second opinion, paid by WSI, with a doctor of his choice, if surgery is being recommended. Any surgery can be declined without adverse consequences

IV. RIGHT TO BENEFITS

A worker who is capable of and performing a job and who is rendered unable to perform that job due to an on-the-job injury shall be entitled to benefits without regard to age, personal habits, genetic factors or latent conditions.

V. RIGHT TO INDEPENDENT REVIEW

An injured worker shall have the right to an independent review of denied claims without cost to the injured worker by an agency outside of WSI such as the North Dakota Insurance Department. Decisions by that agency shall be final subject to administrative hearing and judicial appeal.

VI. RIGHT TO DISABILITY BENEFITS

An injured worker shall have the right to an impairment rating and disability determination which assesses chronic pain and depression along with any physical impairment. If work related injuries contribute to, result in, or aggravate pain, depression, limitation or impairment the claim shall be compensated.

An injured worker unable to return to substantial gainful work shall be entitled to permanent total disability benefits for as long as the disability continues.

Injured workers who perform a good-faith work search under the standards used by Job Service of North Dakota and fail to find suitable employment are entitled to continuation or reinstatement of wage loss benefits.

VII. PROTECTION FROM FRAUD

False statements or willful misrepresentation in attempts to deny or reduce benefits to injured workers shall be considered fraud and prosecuted as such. The severity of the infraction shall be based on the claims to which the injured worker might be entitled. This shall include all parties associated with the claim such as employers, case managers, private investigators, rehabilitation counselors and physicians.

Injured workers shall have the right to rules for evidence entered during a hearing and such evidence must be fraud free and must be obtained legally.

Injured workers shall have the right to take legal action against any party that knowingly enters fraud into a workers compensation claim that results in denial of benefits.

VIII. OFFSETS OF DISABILITY INCOME

An injured worker shall have the right to all legal entitlements for his disability without offsets. As an alternative, injured workers shall have contributions made to their Social Security and Medicare accounts while on workers compensation disability.

IX. VOCATIONAL REHABILITATION

An injured worker unable to return to his trade or occupation as a result of a work injury shall have the right to an independent vocational assessment and to vocational rehabilitation if reasonably appropriate, with the goal being a return to pre-injury earning capacity within a reasonable time frame.

If the evaluation determines that a disabled worker is at maximum medical improvement all future attempts to terminate benefits shall not be allowed.

Injured workers shall have the right to refuse an interview with a rehabilitation counselor if the counselor refuses to use the injured worker's treating physician's medical evaluation of the injury.

Injured workers shall have the right to choose the type of employment they want to be referred to when a vocational rehabilitation counselor wants to find employment for the injured worker. Such employment shall be compatible with injured worker's skills, training, experience and social abilities.

Temporary employment, funded employment or limited part time employment shall not be used as a reason to discontinue disability benefits.

X. LEGAL REPRESENTATION

Injured workers shall have the right to an attorney of their choice.

Injured workers shall have the right to recover legal fees when they prevail on a petition to terminate their benefits.

The level of reimbursement shall be commensurate with attorney fees paid by WSI for attorney services.

Workforce Safety & Insurance must be represented in disputes with injured workers by full-time assistant attorneys general employed by the State.

***STATEMENT OF PURPOSE**

The North Dakota Injured Workers Support Group is set up to help North Dakota workers in 2 ways. First, provide assistance for injured workers who are currently dealing with WSI. Second, to work for changes in North Dakota laws regarding workers' compensation so injured workers will receive the sure and certain relief that has been promised to them.

Contact information:

**ND Injured Workers Support Group
602 8th Ave E West Fargo, ND 58078
ndworkcomphelp@gmail.com
Group Founder =Todd Loegering 701-730-4488**

**Claims Assistance Coordinator
Cindy Shawcross 701-205-1791
cindy.shawcross@gmail.com**

**Volunteer Coordinator (Contact person for Bill of Rights)
Sylvan Loegering 701-282-8714
loegsylvmar@msn.com**

INITIAL SUPPORTERS AS OF OCTOBER 14, 2009

The following citizens of North Dakota, all over 18, ask the Governor of North Dakota, the Director and policy makers at WSI and state legislators to comply with the Bill of Rights for ND Injured Workers when establishing policies and procedures and when drafting and supporting legislation regarding workers compensation.

No	Name	Address	City
1	Sylvan Loegering	602 8 th Avenue East	West Fargo
2	Todd Loegering	508 Wally St	Harwood
3	Cindy Shawcross	1526 21 st Ave S Apt 301	Fargo
4	Margaret Loegering	602 8 th Avenue East	West Fargo
5	Sr Maris Stella Korb	1101 32 nd Avenue S	Fargo
6	Cindy L. Klein	862 Box Avenue	Dickinson
7	Glen Klein	862 Box Avenue	Dickinson
8	Sen Tim Mathern	429 16 th Avenue S	Fargo
9	Doug D. Riley	502 3 rd Street SW	Ashley
10	Angela M Olson	1402 15 th St S	Fargo
11	Agnes Mikesh	8855 157 th Avenue SE	Lidgerwood
12	Albert Mikesh	8855 157 th Avenue SE	Lidgerwood
13	Stacie Loegering	309 12 th Street	Fargo
14	Anne Hablas	1101 32 nd Avenue S	Fargo
15	Caroline Conrad	PO Box 10785	Fargo
16	Rodney Morrell	6041 Ridgedale Street	Bismarck
17	Gregory Morrell	6205 Hwy 6	Solen
18	Mike Morrell	5000 Flat Rock Loop	Bismarck
19	Catherine Williams	2639 Ithaca Drive	Bismarck
20	Charles Morrell	215 10th Ave SE	Mandan
21	Terry Seidler	1805 103rd ave SE	Rogers
22	Fr. Leonard Loegering	630 6th St	Wyndmere
23	Daniel Finneman	3120 44 th Street S	Fargo
24	Chad Nodland	109 N 4 th Street	Bismarck
25	George Bauer	110 Maplewood Drive	Gwinner

INITIAL SUPPORTERS AS OF OCTOBER 14, 2009 Page 2

The following citizens of North Dakota, all over 18, ask the Governor of North Dakota, the Director and policy makers at WSI and state legislators to comply with the Bill of Rights for ND Injured Workers when establishing policies and procedures and when drafting and supporting legislation regarding workers compensation.

No.	Name	Address	City	Zip code
26	Barbara Bauer	110 Maplewood Drive	Gwinner	58040
27	Darold F. Runge	1210 20th St SW	Dickinson,	58601
28	Mr. Caroll Deltener	3673 Fillmore Street S	Fargo	58104
29	Margaret Bitz	1017 10 th Avenue N	Fargo	58102
30	Joanne Deltener	3673 Fillmore Street S	Fargo	58104
31	Gerald Volk	209 6 th Avenue S	Mapleton	58059
32	Brian Payne	3342 35th Ave S #301	Fargo	58103
33	Tim Smith	228 Frances St. N	Streeter	58483
34	Lois Delmore	714 S 22 Street	Grand Forks	58201
35	Merle Boucher	PO Box 7	Rolette	58366
36	LeRoy Toso	209 Marten St	Starkweather	58377
37	Gayle Bjerke	5427 20th St S	Fargo	58104
38	Rebecca Hanson	1039 Westwynd Dr	West Fargo	58078
39	Merle Walker	123 1 st St W	Selfridge	
40	Paula Loegering	508 Wally St	Harwood	58042
41	Ed Christensen	226 East Denver Apt 7	Bismarck	58504