



Issues with Handling Claims by Injured Undocumented Workers

Perspectives from Plaintiff, Defendant, and Industrial
Commission



Compensability Issues

Definition of Employment

- N.C.G.S. 97-2(1)
 - Includes employment by the State and all political subdivisions thereof
 - All public and quasi-public corporations therein
 - All private employments in which three or more employees are regularly employed in the same business or establishment

Definition of Employee

- N.C.G.S. 97-2(2)
 - Aliens
 - Undocumented workers
 - Definition
 - Significance

Cultural Issues

- Names
- Social Security Numbers

Payment of Benefits

- Proper payee
- Mailing addresses
 - Security of checks and mailboxes
 - Lost checks
 - Out-of-Country Claimants

Medical Compensation

- Language barrier
 - Spanish-speaking providers
 - Spanish-speaking medical case managers

Medical Compensation

- Cultural Barriers
 - Types of Treatment
 - Providers

Medical Compensation

- Communication
 - Adjuster and Claimant
 - Medical Case Manager and Claimant

Medical Compensation

- Out-of-the-country claimants

Death Benefits

- Dependency Issues
 - Documentation
 - Birth certificates
 - Marriage certificates

Death Benefits

- Proper Notice for Dependency Hearings

Death Benefits

- Payment of Death Benefits
 - Out-of-the-country claimants
 - Payment issues

Compromise Settlement Agreements

- Execution
 - Notary/ID requirements
 - Out-of-the-country claimants
 - Witnesses for signatures

Compromise Settlement Agreements

- Interpreters
 - Role
 - Execution of Agreement
 - Payment
 - Resources

Compromise Settlement Agreements

- Payment of proceeds

Hearings Before the Industrial Commission

- I.C. Rule 04 NCAC 10A .0619
 - Excludes informal hearings
 - Covers party or witness
 - Qualification of interpreter
 - Notice requirement
 - Retention by employer or insurer
 - Payment and exceptions
 - Code of Conduct

Hearings before the Industrial Commission

- Practical problems
 - Dialect
 - Flow of testimony
 - Effect of interpreter

Mediation

- Rule 04 NCAC 10G .0104A
 - Interpreters for mediation
 - Notice
 - Who bears cost
 - Qualification
 - Code of Conduct
 - Informal interpreters

Vocational Rehabilitation

- Communication
 - With Vocational Rehabilitation Specialist
 - Among claimant, physician, and Vocational Rehabilitation Specialist
 - Use of interpreters



Vocational Rehabilitation

- Cooperation issues
 - Language issues
 - Cultural issues

Vocational Rehabilitation

- Suitable Employment
 - Undocumented workers and N.C.G.S. 97-2(22)
 - Burden of proof



Vocational Rehabilitation

- Offers of work

Vocational Rehabilitation

- Unjustified Refusal of employment offer



THE END