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Chris Frost has helped thousands of injured workers through Oregon's Workers' Compensation Process. During her presentation, she will be going over thorny issues in the system and explain policy basics that can help you help your injured workers when then seek advice. Below are questions injured workers commonly ask. We'll explore these issues in more depth during the presentation.

1. *What if I get injured on the job but I'm not sure I want to file a workers' compensation claim?*

You should document an injury sustained on the job in writing and notify a supervisor immediately, even if you do not plan to file a workers' compensation claim. While initially a tweak or a strain sustained on the job may not seem like a big deal, you protect your right to file a workers' compensation claim in the future.

2. *Can my employer tell me where to get medical treatment?*

No, it is against the law for your employer to direct your medical care. Instead, you are free to seek medical care with a provider of your choosing. If you don't know where to go, your primary care doctor is often times a good place to start. If the employer has directed your care, alert the ombudsman for injured workers at 503-378-3351.

3. *Do I have to follow up with the doctor that I am directed to at an urgent care clinic or the emergency room?*

If you initially present for treatment at an urgent care clinic or the emergency room, you will often be directed to a follow up appointment. You are not obligated to follow up with that doctor but rather can choose to find another doctor of your choosing. Because your attending physician is so important to your claim, it is important to find a doctor you trust that is supportive of your claim.

4. *What is an "Attending Physician" (AP)?*

If you have an open workers' compensation claim, you are required to have one doctor who is in charge of your medical treatment, called an attending physician (AP). This medical provider is

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very powerful in your claim. This provider is responsible for all of your medical care and for giving you work restrictions that allow you to receive wage-replacement benefits (called Time-Loss benefits). Other critical decisions this doctor makes that determine your future are the following: what type of modified work you can return to while you are recovering; when you are "medically stationary" (as good as you are going to get) after your injury, which triggers the closure of your claim; how much permanent impairment you have; and whether you can return to your regular job without any modifications (these determinations translate into your disability award and potential for vocational training).

5. *Can I have a chiropractor, a naturopath, a nurse practitioner or a physician assistant as an attending physician?*

Yes, you can have a chiropractor, naturopath or physician assistant as your AP for a total of 60 consecutive days or 18 visits, whichever occurs first. However, they may not authorize time loss for more than 30 days. You can treat with a nurse practitioner for 180 days from the date of the initial visit and they can authorize time loss during that period. After these time frames, you must establish care with a medical doctor, doctor of osteopathy (or an oral or podiatric physician where applicable).

6. *Can I sue my employer if I get hurt on the job?*

You cannot sue your employer for your injury. Your only remedy from your employer is your workers' compensation claim. This is a "trade off" in the law that came about when state workers' compensation laws were adopted 100 years ago. You do not have to show that anyone was at fault in causing your injury, but the trade-off is that the only remedy you have is a workers' compensation claim. **HOWEVER**, if your work injury was caused by someone or something other than your employer (examples: a worker from a different employer or a defective product) you may have a right of action against that "third party" in addition to your workers' compensation claim.

7. *Should I do a recorded statement with the insurance company?*

The insurer is entitled to investigate your claim and it often requires the worker to give a recorded statement to the adjuster or an investigator for the insurance company. You are obligated to cooperate in their investigation. If you refuse, they can deny your claim. A recorded statement can impact whether your claim is accepted and how it is processed. It is in your best interest to have an attorney help prepare you for and participate in the recorded statement. The insurer is required to pay your attorney to help you with this statement.

8. *How do I find a good doctor?*

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You should see if your primary care doctor will help you. However, many primary care doctors no longer deal with Workers' Compensation. If that's the case, look for a reputable doctor. Check reviews, ask other injured workers who their doctors were or check with a workers' compensation attorney. Finding a good attending physician is the single most important thing you can do to get the care you need and benefits you are entitled to for your injury.

9. What happens if my workers' compensation claim is denied?

If your workers' compensation claim is denied, you should consult with a lawyer to see if it can be reversed. You have a strict **60-day deadline** for requesting a hearing on a denial, so act promptly. Your lawyer's fee will be paid by the insurer if you win. If you lose there is no lawyer's fee.

10. Do I have to pay a lawyer to represent me?

No, under the Oregon Workers' Compensation laws an attorney cannot charge you for working on your case. Depending on the type of dispute involved, your lawyer gets paid either a percentage of the increased compensation awarded, or the insurer is required to pay the lawyer a fee. We'll go over how to find a lawyer and what questions you want to ask a potential WC lawyer.

11. What if my doctor takes me off of work for my injury?

The insurer has to pay you time loss (wage-replacement benefits) when your doctor takes you off work for your work injury. The insurer must also pay you time loss when your doctor indicates you can do modified work, but your employer does not have modified work available and you remain off of work. You must obtain regular work restrictions from your doctor in order to be entitled to ongoing time loss benefits. In most situations, your doctor must update your work restrictions about every 30 days.

12. If I am offered a modified or light duty job by my employer, do I have to take it?

When your doctor releases you to modified or restricted work, your employer may offer you modified work and pay you a wage. If you do not begin available modified employment, the insurance company does not have to continue paying time-loss benefits. An offer of modified work must meet certain requirements. For example, your doctor must approve the modified job and your employer must provide you with notice of the job offer. There are some limited situations where you may not be obligated to accepted a modified job, such as if the job is further than 50 miles from your residence or where you were injured, unless you had multiple or mobile work locations at the time of injury, or if the modified job is not with your employer at injury or at a work site of your employer at injury.

13. What is my time loss rate based on?

Time loss is paid at a rate of 2/3 of your average weekly wage, or the average of what you earned working for your employer prior to your injury. In most situations, average weekly wage rate is based on what you earned in the 52 weeks prior to your work injury and should include any regular overtime worked and performance-based bonuses. There are other factors and considerations that go in to calculating your time loss rate. If you think you are being paid less than what you are entitled to, you may want to contact a lawyer.

14. What if my modified job pays less than what I earned at my regular job? Am I still entitled to time loss?

If you are performing modified work for your employer, but are earning less than you were before your injury either because you are working fewer hours or earning less per hour than before your injury, you are entitled to additional time loss benefits for the difference between your average weekly wage and your post-injury earnings.

15. I'm doing modified work for my employer but what do I do when they give me work beyond my restrictions?

Unfortunately, this is a common problem. The best way to handle this is to have a copy of your doctor's work restrictions with you at work. If you are asked to do work that is outside of your restrictions, politely point out that what you are being asked to do is outside your doctor's restrictions. Make clear that you want to do modified work, but your doctor has prohibited you from doing what is being asked of you. Talk with your attending physician about any problems you are having to see if the doctor can clarify or further restrict the work you are being released to. It is very important that your doctor and employer not think you just don't want to work. If the doctor thinks you are trying to shirk work, it creates real problems with your claim.

16. How come I can't get the treatment my doctor has ordered?

Some insurers stonewall workers for diagnostic testing and physical therapy because they refuse to give the provider preauthorization and the provider won't proceed without preauthorization. The law is slowly changing to give us a bigger stick to force insurers to authorize treatment so let your lawyer know as soon as possible if you are having difficulty accessing treatment. We can file a medical dispute to force the insurer to authorize treatment.

17. The insurer told me I'm enrolled in an MCO. What does that mean?

MCO stands for "Managed Care Organization." MCOs add an extra layer of bureaucracy and severely limit your choice of medical providers. In fact, if your doctor is not a member of the MCO, you are forced to drop this provider and find a new one who belongs to the MCO. The MCO

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is a different entity from the insurer and they have their own rules to keep medical providers in line. You can only go to a provider who has agreed to the MCO rules. If the MCO thinks you are taking too long to get better, they can call up your doctor and pressure them to alter their treatment course.

18. What if I can't do the same kind of activities I could do before my injury?

Sometimes an on-the-job injury can permanently impact your life. Under the workers' compensation laws, you may be entitled to a permanent disability award if you have permanent impairment as a result of your injury and may be entitled to a work disability award if your doctor finds you cannot return to your same job. You may also qualify for vocational benefits. However, the workers' compensation laws do not provide for any monetary award for pain or suffering, or for the loss of the ability to do other non-work related activities.

19. What if I can't do the job I was doing at the time I was injured?

If your attending physician determines that you are unable to some of the aspects of the job you were doing when you were injured, you may be entitled to a work disability award. The insurer may ask you to review a description of the work you were doing at the time of your injury. You should make sure it is accurate, especially regarding how much weight you had to lift before your injury. An inaccurate job description can negatively impact the amount of your award.

20. Can I get treatment under my closed claim?

By law, you are entitled to treatment after your claim closes, but insurers often make this very difficult. By law, you are entitled to the following services for your work injury after your claim closes: prescription medication and services necessary to administer prescription medications; prosthetic devices, braces and supports; services necessary to diagnose your condition as it relates to your work injury; palliative care (such as physical therapy) if you need it to continue working; curative care to stabilize an acute waxing and waning of symptoms of your work-related condition.