

PARALEGALS TODAY

A Look at the Workers' Compensation Paralegal



by Melissa J. Hobbs

What type of law is of interest to me? Do I want to work for the defense or for the plaintiff? Most paralegals, like attorneys, enter the legal field with a notion as to what type of law they wish to practice. Although workers' compensation law is probably not one of the top ten choices, it is an area of law that is somewhat specialized. As a result, the workers' compensation paralegal must be well-trained and knowledgeable about workers' compensation law, procedures and administrative rules. This training and knowledge is usually obtained on the job because it is state-specific and most paralegal education programs focus on more general topics such as bankruptcy, probate, and real estate.

In most workers' compensation practices, the paralegal is often the first person to whom the client speaks when they call looking for an attorney. During this telephone conversation, objectives should be threefold: 1) to procure the confidence of the potential client via professionalism; 2) to collect information from the caller to ensure that it is, in fact, an Ohio claim, and 3) to arrange for them to meet with an attorney. Living in the Tri-State area sometimes makes it challenging to ascertain which state has jurisdiction. When speaking with the clients, it is imperative to be a good communicator and to know which

questions to ask in order to get the information required. For example, it may be necessary to inquire as to who the employer is, the location where the accident occurred and maybe even where they were hired.

Since a workers' compensation practice is heavily administrative, it enables the paralegal to discuss workers' compensation law and procedures with clients more so than other types of practices. As a result, paralegals are able to take the majority of client calls since most questions focus on "What happens next?" and "Did you receive this or that?" During these conversations, the paralegal must listen to their concerns and frustrations, and keep them abreast of the progress in their respective cases. In many instances, clients simply need reassurance. Because many times clients were injured on the job and often are not working, they experience significant financial strain, and as a result, significant emotional strain. Unless you have personally experienced what that client is going through you should never say, "I know how you feel." That response can be very frustrating to the client. In the alternative, acknowledging their frustration, and the source of it, seems to diffuse the situation. Regular communication with the self-insured employers and the Ohio Bureau of Workers' Compensation to monitor the progress of each claim is also included in the workers' compensation paralegal's daily activity. Moreover, continual communication with the healthcare providers is essential to the progression of the claim and coverage for the claimant's treatment.

The bottom line is that a workers' compensation paralegal must be confident in explaining the processes and procedures of the workers' compensation maze to clients without crossing the line of practicing law.

Any workers' compensation practice generates an abundance of statutes of limitations and other deadlines to be monitored and met. For example, it is not uncommon for one attorney to cover one to ten hearings per day and each of these hearings generates an order which has a 14-day appeal period. Additionally, there are often seven day statutes to appeal managed care organization's (MCO) denials, along with 14-day statutes to appeal bureau tentative orders, just to name a few.

BWC Facts

- ▶ Ohio BWC began in 1912.
- ▶ Ohio BWC provides insurance to approximately two-thirds of Ohio's work force.
- ▶ Approximately one-third of Ohio's work force is covered by self-insured employers.
- ▶ There are 21 customer service offices in Ohio employing approximately 3,000 employees.
- ▶ Ohio has the largest exclusive state fund in the nation valued at \$25.2 billion.
- ▶ Last year, the Ohio BWC processed more than 300,000 claims and paid more than \$1.7 billion in benefits.
- ▶ Discount programs are available to employers including Premium Discount Program Plus and the Drug-Free Workplace Program.
- ▶ The BWC's Division of Safety and Hygiene offers several programs and/or services to assist employers in preventing accidents to reduce their workers' compensation costs.
- ▶ During the 2001-2002 fiscal year, BWC fraud investigators uncovered \$98.8 million in savings.
- ▶ Ohio BWC offers free training once a year to employers, medical providers and others through the WC University program.

SOURCE: "The Dolphin Project," www.ohiobwc.com

Administrative appeals to BWC or Industrial Commission orders can now be filed online at www.ohioic.com. In addition to the administrative statutes, it is also necessary to monitor the two-year statutes on filing claims, etc. It is necessary to discuss statute controls with an attorney on a regular, often daily basis. Therefore, sharp organizational skills are essential.

A workers' compensation paralegal's responsibilities also include ordering, reviewing, and summarizing medical reports and records, employer records, infirmary records, employee files, and wage information to provide the attorney support in filing the case. The implementation of "The Dolphin Project" (www.ohiobwc.com) by the Ohio BWC in the spring of 2001 has assisted in simplifying the search for some of this information. "The Dolphin Project" makes a wealth of information on the Internet available to employers, injured workers, representatives and medical providers, including downloading copies of the BWC's file contents and filing a new claim. Utilizing paralegals to complete these functions allows the attorney to focus his or her efforts on fee-generating issues. Most workers' compensation attorneys work on a contingent basis; therefore, tracking billable hours is not an issue.

Many administrative decisions made in workers' compensation claims are appealed to Common Pleas Court,

and a large portion of the paralegal's job is to assist the attorney in this effort. Duties may include drafting pleadings, assisting in discovery, conducting interviews, coordinating depositions, reviewing and summarizing transcripts, researching cases, preparing subpoenas, and monitoring court-imposed deadlines and statutes.

As my colleague Carolyn Saenz indicated in her article published in the July 2002 *CBA Report*, some paralegals thrive on the "peaks and valleys" that are a natural part of the cases on which they work. Although a busy workers' compensation practice provides for the adrenaline "rush" of meeting deadlines and demands, it is most rewarding when clients express their sincere appreciation for your efforts in assisting and protecting them. ■

Sources:

- www.ohiobwc.com
- Wasil, Waite & Mastrangelo, *Ohio Workers' Compensation Law Practice Guide*, West Gp. (2000)

Registered paralegal Melissa J. Hobbs has been a practicing paralegal for 12 years. She is currently the supervising paralegal and office manager for Jeffrey Waite & Associates Co. LPA. She is a member of the Cincinnati Paralegal Association, currently serving as secretary of the CPA. She is also an associate member of the Cincinnati Bar Association.



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