PLAINTIFF'S EXHIBIT

UC-3279



# WORKMEN'S COMPENSATION AND YOU . . .

## YOUR RIGHTS AND RESPONSIBILITIES

UCC 016933

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## FOREWORD

In order for the Workmen's Compensation Laws to be fully and completely utilized, the workers in West Virginia must be familiar with the provisions of our law.

It is important that workers know what their rights are and what should be done to safeguard them when an occupational injury occurs.

Mindful of the workers' problem in this regard, I have had several requests to prepare this booklet, outlining the West Virginia Workmen's Compensation Law, to serve as a reference guide. This handbook is provided by the West Virginia Workmen's Compensation Fund, as a service to the workers in the state, especially those who are disabled or may be disabled in the course of employment. Its purpose is to guide and assist these workers in complying with the requirements of the Workmen's Compensation Laws in West Virginia so that they will obtain the various benefits to which they are entitled under the law.

George D. Blizzard, II
Commissioner





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## INTRODUCTION

Until the early part of this century, workers had very little financial protection for injuries suffered on the job. When a worker was injured, the only recourse was to institute suit in a civil court. Such an action required the employee to spend money for court costs and other expenses. Often there was a considerable lapse of time before the case could be heard and judgment rendered.

The legislature in our State enacted laws known as Workmen's Compensation Laws to protect workers and employers and to prevent hardship and injustice. Our legislature in West Virginia adopted its Workmen's Compensation Law in 1913 and thereafter amended this law from time to time in order to provide improved benefits.

In West Virginia, the system of compensation is administered through a State-managed insurance fund instead of direct liability on the part of the employer. Workmen's Compensation is compulsory for virtually all employers in West Virginia.

It is the purpose of the Workmen's Compensation Act to provide workers with a simple method of securing immediate relief from the physical and economic effects of injury and disability. However, there are certain requirements which must be satisfied in the administration of claims. The purpose of this booklet is to advise workers of their rights under the Workmen's Compensation Act of West Virginia in a general way and to inform them of facts they should know in order to safeguard those rights. It cannot cover specific cases but is intended to serve as a guide in the ordinary and usual situations which often arise. However, the present interpretation may be altered by future legislation or decisions of the courts.

The important thing to remember is that when you have a particular problem, consult the Workmen's Compensation Fund.





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## WHEN YOU ARE HURT

1. Report your injury at once. Do not put it off and make sure you report to someone who is reliable and in authority, such as your foreman or supervisor.

2. Get the names and addresses of all persons who witnessed the injury and, if possible, get a statement in writing from them. Keep in mind that you might later have to prove your case.

3. Be sure that an application form (WC-100) for Workmen's Compensation is filled out and that all the information contained in it is correct.

4. When your application form is completed, read it over carefully before you sign it. Make certain that all spaces on the application form are fully completed, and do not sign the application until you are satisfied that it is correct.

5. You should not leave your place of employment until this application is filled out. However, if the nature of the injury necessitates your immediate removal from the accident site, make sure your foreman or another responsible person takes care of this matter for you. Through our experience over the years, we find that most employers cooperate with their workers who are injured on the job and are anxious for them to receive any compensation benefits they are entitled to under the law.

6. Employers are responsible for reporting all injuries suffered by their employees on form WC-300. If you experience difficulty because of a failure on the part of the employer to report as required, notify the Workmen's Compensation Fund.

**REMEMBER - until the Workmen's Compensation Fund receives your application (form WC-100), your physician's report (form WC-200), and your employer's report (form WC-300), no benefits can be paid. It is the injured worker's responsibility to insure that the application (form WC-100) and the physician's report (form WC-200) are filed.**





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## COVERAGE

1. **Q. Are all employers required to provide Workmen's Compensation for their employees?**

   A. Effective June 7, 1974, Workmen's Compensation coverage became mandatory for virtually all employers in West Virginia.

2. **Q. What employers are excluded?**

   A. Employers of household/domestic employees, employers of five or fewer full-time agricultural employees, and employers whose number of employees does not exceed three and the period of employment is temporary, intermittent and sporadic in nature and does not exceed ten calendar days in any calendar quarter.

3. **Q. Is it possible for me to be covered by Workmen's Compensation if my employer is not required by law to provide such coverage?**

   A. You are covered if your employer voluntarily chooses to subscribe to the Workmen's Compensation Fund.

4. **Q. How can I tell whether my employer has elected to subscribe to the Fund?**

   A. All employers who subscribe to the Fund are required to post a printed notice in a conspicuous place in their establishments stating that they have made this election. If you have any doubts about your employer's coverage, you may obtain information by writing to the Workmen's Compensation Commissioner, 112 California Avenue, Charleston, West Virginia 25305.

5. **Q. Is there any way of forcing my employer to subscribe to the Fund?**

   A. No, but employers who choose not to subscribe to the Fund are deprived of certain rights if they are sued in the courts for damages because of an occupational injury.





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6. **Q. Can I sue my employer in a court of law for damages other than the amount received as compensation for an occupational injury?**

A. Unless the injury is caused by the willful intention of the employer, you cannot sue a member in good standing of the Fund.

7. **Q. If my job requires my temporary absence from West Virginia, can I receive benefits if I am hurt outside the state?**

A. Yes, provided the injury is received in the course of and as a result of your employment.

8. **Q. If I am a minor (a person under 18 years of age) can I file a claim in my own behalf for injuries I have sustained?**

A. Yes, a minor who suffers injury in the course of employment may file a claim.

9. **Q. Can I make a binding contract or agreement with my employer to waive my rights or benefits of the Workmen's Compensation Act?**

A. No, such an agreement or contract is void.

10. **Q. Are there penalties for wrongfully seeking compensation?**

A. Yes, the penalties include a fine of up to $500 or 12 months imprisonment or both. In addition, civil action will be instituted to recover any wrongfully obtained benefits.

11. **Q. For what injuries can I receive compensation?**

A. You may receive compensation for any accidental injury arising out of and in the course of your employment.*

12. **Q. What is an accidental injury?**

A. An accidental injury as defined by our courts is some unusual, fortuitous, and unexpected happening which causes an injury. If an employee slips or falls or is hit by a piece of





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machinery and is hurt, there has clearly been an accidental injury. Sometimes the distinction between what is and what is not an accidental injury isn't clear. NOTE: when in doubt, file a claim.

13. Q. **What acts of mine will prevent me from getting compensation?**

A. There are at least four situations in which you cannot recover compensation. They are as follows:

(1) If you purposely injure yourself.

(2) If you deliberately expose yourself to danger, knowing that you may get hurt.

(3) If you willfully disobey safety rules and regulations or refuse to use approved safety appliances furnished by the employer.

(4) If you depart from the course of employment.

14. Q. **Who pays for Workmen's Compensation coverage?**

A. The employer finances the entire cost of coverage through premium payments, or in the case of self-insured employers, by paying benefits directly. No part of these costs may be deducted from an employee's wages.

* **You may also receive compensation for certain occupational diseases, but the law as outlined in this pamphlet applies to occupational injuries only.**





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## FILING YOUR CLAIM

1. **Q. What is the first thing I must do when I am hurt at work?**

   A. When you are hurt, do the following: Report the injury and accident IMMEDIATELY to your foreman, the first aid man or other responsible representative of your employer. Be sure to give all the details concerning your injury and accident. (NOTE: Employees are required by law to report any work-related injury or disease to their employers immediately).

2. **Q. After notifying my employer of my injury, must I do anything else?**

   A. Yes, you must file a claim for compensation. This is done by filling out an application form (WC-100) which may be obtained from your doctor, hospital, employer, or the Workmen's Compensation Fund.

3. **Q. What does this WC-100 form include?**

   A. It includes your social security number, date of injury, name, address, time and place of the accident, the extent of your injury or injuries and other information that is essential for the Fund to know in determining your claim. Be sure to give complete information about the accident and the injury or injuries you received, explaining how the accident occurred and exactly how and where you were injured.

4. **Q. Do I have to sign this form?**

   A. Yes. Unsigned forms will be returned. If you are unable to write, a witness to your mark must sign this form.

5. **Q. How long after my injury do I have to file this form?**

   A. You have two years after the accident that causes the injury, but DON'T WAIT that long. File your claim IMMEDIATELY after the accident. To entitle an employee or





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dependent of a deceased employee to compensation, the application must be made on the form or forms prescribed by the Commissioner and filed in the office of the Commissioner within two years from the date of injury or death. Claims filed after the two-year limit will be barred by the statute of limitations and will not be considered.

6. **Q. After I report my accidental injury, does my employer have anything to do?**

   A. Yes, your employer must file an accident report form (WC-300) with the Workmen's Compensation Fund. The law requires employers to report such injuries to the Fund within five (5) days of notification of the injury. If the employer does not file a report in the required time period, the injured employee will be paid benefits at the maximum rate until proper wage information is received from the employer.

7. **Q. Must I file an application for compensation even if my employer reports my injury to the Fund?**

   A. Even if your employer reports your injury and action is taken on your claim, an application for compensation must be signed and filed by you or your legal representative to insure your rights are protected.

8. **Q. Should I report all my injuries?**

   A. Yes, if you do not report all your injuries, you may be denied compensation benefits for those injuries of which you did not give notice.

9. **Q. Should I report an accidental injury even if my injury is minor?**

   A. Yes, because a serious ailment may develop from even a minor injury.

10. **Q. Suppose I receive injuries but am not aware of them at the time?**





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A. In that case, report them as soon as you become aware of them.

11. Q. **Suppose I am not disabled immediately after the accident, when must I file my claim?**

A. You should file your claim immediately after the accident, whether there is any disability or not.

12. Q. **Suppose I am hurt so seriously that I cannot file a claim?**

A. If the injury prevents you from filing your claim because of mental or physical disability, it may be filed by a member of your family or your chosen representative.

13. Q. **If my employer keeps me at light work after the accident, should I file a claim?**

A. Yes. Under any circumstances where an injury is received which necessitates your seeing a doctor, you should file a claim. Medical bills will not be paid until the necessary forms are received by the Fund. This will also protect you in case anything unforeseen happens.

14. Q. **If I am killed as a result of my accidental injury, who must file and when?**

A. Your dependents must file the claim within two years after your death and all proofs of dependency in fatal cases must be filed with the Commissioner within two years after death.

15. Q. **Where do I file my application for compensation?**

A. You file it with the Workmen's Compensation Fund by sending it to P. O. Box 3151, Charleston, West Virginia 25332.





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## YOU AND YOUR PHYSICIAN

1. Q. **How do I know that a medical report has been submitted on my claim?**

   A. It is your responsibility to see that a Physician's Report (WC-200) has been filed with the Fund. A compensability ruling cannot be made without proper medical information. The Physician's Report should be filed by the doctor who initially treated your injury or your attending physician.

2. Q. **Who is my attending physician?**

   A. This is the doctor chosen to examine and treat you for your occupational injury.

3. Q. **Am I allowed to choose my own attending physician?**

   A. Yes, you have a legal right to select a medical vendor of your own choice.

4. Q. **Can I change doctors if I become dissatisfied with my treatment?**

   A. You must request authorization from the Fund before you change doctors. The Fund reserves the right to deny payment for medical examinations and treatments when a change of doctors is made without prior authorization.

   You do not have to obtain authorization, however, if you were initially treated in the emergency room of a hospital and wish to choose an attending physician other than your emergency room doctor.

5. Q. **Can I have more than one attending physician at the same time?**

   A. No. Except in cases where a consultant, specialist, anesthetist or surgical assistant is required, medical bills for treatment by more than one doctor for the same injury over the same period of time will not be approved.





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6. Q. **After the WC-200 is submitted, is further medical information needed?**

   A. If you are disabled from work, you should communicate with your doctor to insure that the Fund is kept aware of your physical condition. This is done through narrative medical reports and the Attending Physician's Report, form WC-219.

7. Q. **What is a WC-219?**

   A. This is a form your doctor will use to furnish the Fund with updated disability information. Disability benefits may be discontinued if these forms are not submitted in a timely manner. The WC-219 also serves to notify the Fund of the date you have reached maximum recovery and are physically able to return to work.

## PROTESTS

1. Q. **If I file a claim and it is rejected and benefits denied, what recourse do I have?**

   A. You have the right to protest the Commissioner's decision. A hearing will then be held after which the Commissioner will issue a final ruling regarding your claim.

2. Q. **How do I notify Workmen's Compensation of my desire to protest?**

   A. You must send a letter to the Fund no later than 30 days after receipt of the ruling, identifying your claim and stating the nature of the protest.

3. Q. **What happens if I fail to protest within 30 days?**

   A. If your protest is not received by Workmen's Compensation within the specified time limits, the decision being protested stands.





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4. **Q. What is a hearing?**

A. A hearing is a legal forum in which the parties (employee, employer, and Commissioner) conduct a factual inquiry of the issues in dispute. The hearing is presided over by a trial examiner, a lawyer appointed by the Commissioner who has the powers of an administrative law judge. A verbatim record is made of all things said at the hearing and is later reviewed by the Commissioner before he issues a final ruling.

5. **Q. What if I am dissatisfied with the final ruling?**

A. The Commissioner's final ruling may be appealed within 30 days of its receipt to the Workmen's Compensation Fund Appeal Board. The Board's order may also be appealed to the Supreme Court of Appeals, which is the final authority.

6. **Q. Where are hearings held?**

A. Hearings are held in the county seat of the county where the injury occurred or at a place agreed to by all concerned parties.

7. **Q. Am I required to attend the hearing?**

A. The Commissioner can direct any citizen to attend a hearing and give testimony. If you are directed by the Commissioner at his request or that of the employer, you are legally required to be present. Failure to attend a hearing without good cause may result in the dismissal of your claim.

8. **Q. If my employer protests my claim, will my temporary benefits be discontinued?**

A. No. Benefits are paid during the employer's protest of a claim for injuries occurring on or after June 7, 1974.

9. **Q. Must I attend a medical examination requested by my employer and directed by the Commissioner?**





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A. Yes. Failure to attend an examination without reasonable cause, as determined by the Commissioner, will result in dismissal of your claim.

10. Q. **If I decide to protest, do I need an attorney?**

A. The decision regarding the need for an attorney is entirely up to you. However, Workmen's Compensation hearings are legal proceedings and normally require expertise beyond that of a layman.

13.

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## FOR MORE INFORMATION

contact the

**Workmen's Compensation Fund**
**112 California Avenue**
**Charleston, West Virginia 25305**

In Charleston: 348-3423
Toll-Free: 1-800-642-9091

**OR**

**the Field Office in your area.**

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Phone: 255-0559

**FAIRMONT**
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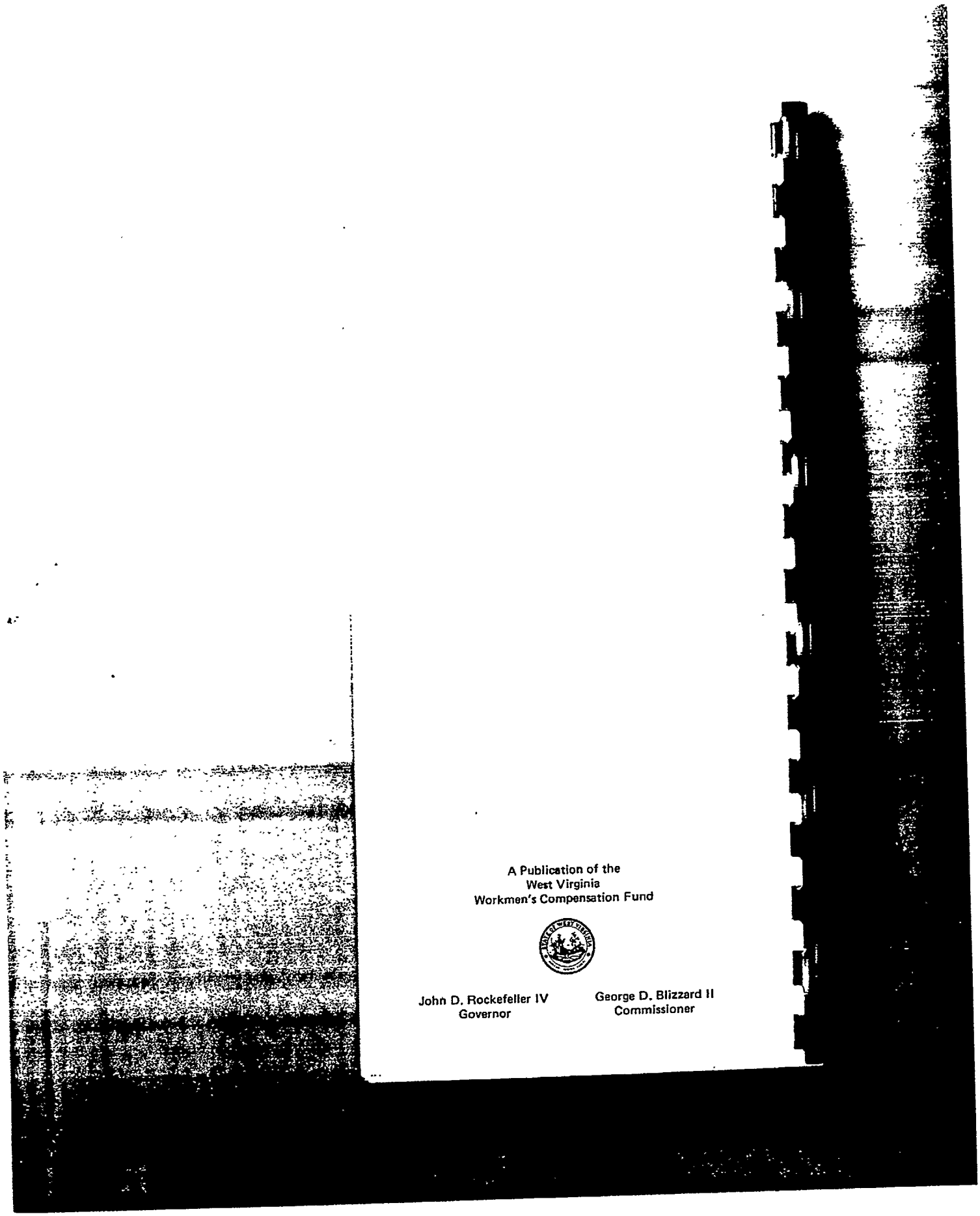
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