

## **Workers' Compensation Forum**

**Question:** While I was working, I suffered an injury to my neck, when a piece of equipment fell on my head. The workers' compensation insurance carrier paid for my treatment, including a fusion surgery on my neck. They also paid workers' compensation benefits while I was off work. The doctor returned me to work, but placed me on permanent restrictions. The doctor also gave me an 8% permanent impairment rating. The workers' compensation carrier paid me 40 weeks of benefits, but the employer terminated me, saying that they could not keep me working with my restrictions. Will this be all that I get from my injury? I can no longer do many of the things I used to do every day at work.

**Answer:** The amount of workers' compensation benefits you receive depends on a number of factors. To begin with, the part of your body that is injured is an important consideration. If you have an injury to parts of the body that are considered "scheduled members" (usually your arms, legs, hands, and feet, fingers and toes), the benefits may be limited to a schedule of benefits. In your case, however, you have a body as a whole injury, which is an injury to the core of your body (hips, back, neck, head) as well as mental injuries.

If you have an injury to the body as a whole, the treatment of your injury changes substantially. In such a case, the injured workers' loss of earning capacity is taken into account, in addition to the functional loss that you have had from the impairment. In making the determination of your loss of earning capacity, a number of factors are taken into account including the level of functional impairment, your age, intelligence, educations, qualifications, experience and ability to engage in employment for which you are suited.

The determination of loss of earning capacity is often greater than simply the functional loss. In your case, since you lost your job because of the injury, it is likely that benefits for your injury will exceed the 8% rating provided by the doctor. Each case is different, but all of the factors must be taken into account to determine your loss of earning capacity.

Because this is a complicated area of law, dependent on the facts of each case, it may be a good idea to consult with an attorney regarding your question. The attorneys at Neifert, Byrne & Ozga, P.C., have over 55 years of legal experience, and can assist you with your workers' compensation claims. Contact us at:

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