

LAW OFFICES OF  
**J.M. Durkin & Associates, P.C.**

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**CLIENT INFORMATION  
PACKET**

# Table of Contents

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1. Introduction .....	2
2. Working with Our Firm .....	3
3. Injured Worker Duties.....	4
4. Worried About Finances? .....	5
• Tarrant County Department of Human Services.....	5A
• Financial Resources in NE Tarrant County. ....	5B
• Housing Assistance.....	5C
5. Estate Planning for Injured Workers.....	6
• Estate Planning Worksheet	
6. Explanation of Attorney Fees.....	9
• Sample Attorney Fee Order .....	9A-B
7. Frequently Asked Questions .....	10
• What do I do if the insurance company denies my claim?	
• What is a BRC or a CCH?	
• Do I need to attend the BRC or CCH with my attorney?	
• The adjuster (or nurse case manager or voluntary rehab person) is calling me – can they do that?	
• The adjuster is so mean, is there anything I can do?	
• If my claim is accepted (“compensable”), what benefits am I entitled to?	
• Can the insurance company make me see their doctor?	
• My check is late—what do I do?	
• The pharmacy won’t fill my prescriptions—what can I do?	
• Does my employer have to give me light-duty work?	
• Can I get fired while I am out on workers’ comp?	
• Can I sue my employer for having an unsafe workplace?	
• Can I sue anybody else for my injury?	
• What if my doctor recommends surgery (or any other procedure or testing) but the insurance company won’t approve it?	
8. Income Benefits Chart.....	12
• SIBS Information .....	13A
9. Map & Directions to Texas Workers’ Compensation Commission .....	14
• Fort Worth	
• Dallas	

## ATTACHMENTS:

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### FORMS

Mileage Form  
 Doctors / Medical Providers Form  
 State Bar Information

### NEW CLIENT FORMS

Contract	Adjuster Notice
Paralegal Disclosure	TWCC 41
Medical Authorization	TWCC 53

## **INTRODUCTION**

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One of our goals is to protect your rights and help you obtain the maximum benefits that you are entitled to under the law! We understand that it is a frightening and overwhelming experience to lose your source of income and enter the uncharted territory of workers' compensation. The insurance companies have attorneys looking out for them and you deserve the same protection.

Our lawyers have over a decade of experience representing injured workers and helping them through the difficulties that one faces when they suffer an on-the-job injury. For detailed biographies of our staff, see our website at [www.jmdpc-law.com](http://www.jmdpc-law.com).

We value your trust in us and hope that you will entrust us with your future legal work, as well as refer friends and co-workers to us for all their legal needs. In our practice we have found that many people have had less than favorable experiences with the legal community and we hope to change that.

This packet is designed to familiarize you with our firm and how we can work best for you.

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## **WORKING WITH OUR FIRM**

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### **In representing you in your workers' compensation case, the firm...**

- Will give you our expertise and best efforts in handling your case but we cannot guarantee you a specific outcome in any case.
- Promises you that we will work hard for you to get you the maximum benefits for which you are eligible under the law.
- Will call you when there are important developments in your case.
- Will not run up the bill with meaningless busywork.

### **Working with the firm, you will need to...**

- Understand that in order to competently represent injured workers within the system we must operate an efficient, streamlined business operation.
- Trust that we are working in your best interest and not call every week for a “play by play.”
- Communicate respectfully with members of the firm and staff.
- Work with our staff by leaving detailed messages with the legal assistants so that a team member can get you an answer as soon as possible.
- Understand that it may not always be an attorney that returns your calls.
- Understand that your call may not be answered until the next business day (or longer if we are waiting on information from another source).
- Take responsibility for your recovery.
- Consider your treatment plan as your job.

# INJURED WORKER DUTIES

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**As the injured worker, you are the most informed person concerning the day-to-day developments in your case. In order to fully and efficiently represent you in your workers' compensation case, it is important that you do the following:**

- Please inform our office immediately of any of the following:
  1. The insurance company contacts you or sends you mail and this office has not given them permission to do so without your consent.
  2. *Any* medical treatment has been denied. This is so that we can help your doctor file a medical dispute case for you.
  3. Any doctor has mentioned that they think you are at MMI (Maximum Medical Improvement) or if you have been given an Impairment Rating.
  4. Received notice of a BRC or CCH and you think the notice was only sent to you.
  5. Received notice of a designated doctor appointment or a required medical examination (or RME) appointment.
  6. That your check is *over* 4 days late.
  7. You have (a) an Impairment Rating of 15% or more, (b) receiving Impairment Income Benefits (IIBS), and (c) the Impairment Income Benefits will run out in 4 to 5 months. (*This is so we can begin the application process for Supplemental Income Benefits (SIBS)*).
  8. ANY doctor releases you or authorizes you to do ANY TYPE of work.
  9. Received notice from your employer that they have some type of work you can do.
  10. When you are able to go back to work, are offered work or are actually working.
  11. If you miss or cancel two or more doctor appointments.
- Keep a log of all medical providers that have seen you or treated you on the form provided.
- Keep a travel log on the form provided if you travel for medical appointments *that are over 20 miles away (one way)* and submit this log to us once a month.
- Keep all your TWCC documents, insurance documents and medical records you receive organized and in this folder so that you can access this information easily.
- Report all body parts that hurt to employer and medical providers without delay.

# WORRIED ABOUT FINANCES?

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**About the financial changes that will take place...your level of income will change.**

**Make necessary financial changes sooner rather than later. Here are some tips on how to plan for the coming months:**

- Contact your creditors and try to work out an extended payment plan before you get behind.
- Prepare to scale back your lifestyle because you are going to be living on less than you were used to before the injury. Consider:
  - \* Canceling premium cable channels.
  - \* Canceling Caller-ID, Call Notes, and other phone extras, and cell phone service.
  - \* Requesting food stamps or rent assistance from Health & Human Services.
  - \* Going to John Peter Smith hospital for treatment if your claim is being totally denied and medical treatment cannot be obtained elsewhere.
  - \* Getting a roommate that will help with the rent.
  - \* Calling Catholic Charities or the United Way for help with rent, utility and gas money.
- Have a will, living will, and power of attorney before going into the hospital (see attached worksheet).
- Contact your employer and find out if you have AFLAC or some other disability policy that might pay benefits in addition to workers' comp.
- Check what credit cards and loans have disability insurance on them and file claims.
- Cooperate with your employer, including contacting them weekly or otherwise as they request.
- Apply for unemployment if you get fired if you have at least a light-duty release from your doctor.
- Apply for Social Security if you are off work for a year or more.
- Be patient. TWCC is a slow process and calling your lawyer every other day will not make the process go faster, it will just make your bill go higher!

## **ESTATE PLANNING FOR INJURED WORKERS**

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One thing that financial planners recommend is that you have a will, a power of attorney and documents stating what you would like to happen if you became incapacitated and could not make medical decisions for yourself (living will and medical power of attorney). Estate planners recommend that every adult should have a will and you should update your will every three to five years. *It is especially important that injured workers have their estate documents up to date!*

Some people feel like, "I don't have that much, I won't need a will". But if you have children; or own a home; or if your spouse (or common law spouse) doesn't have their name on your car title, bank accounts and similar assets; then you need a will and power of attorney!

Most people put off doing a will and the related documents because they are afraid to talk about it or they think it is much too difficult. However, it is really a quick and painless process. Usually one telephone call of about 15-20 minutes plus one 15-20 minute meeting to sign everything is all that it takes. We do all the hard work and make it as easy for you as possible.

**If you are going to have surgery or a hospitalization, or if you have not updated your will in the last five years, take this opportunity to get your estate in order!**

With an active workers' compensation file, *in many cases*, you can have this billed to the monthly client consultation portion of allowed attorney's fees which means that **you won't have to take any money out of your pocket to get these documents prepared!** Also, we are offering special discounts for spouses. If for some reason, your estate documents cannot be processed with your workers' compensation case, our staff will ask you for your *Visa/MC* information.

**Regular prices for a single estate planning package is \$775 and \$1000 for a married couple. With this offer the injured workers' package is \$600 and the spouse is \$225 (if completed at the same time). If you would like to take advantage of this special offer to get your estate in order, please take a moment to review the enclosed information before calling so that we can serve you better.**

## ESTATE PLANNING WORKSHEET

Printed name \_\_\_\_\_ Spouse's name \_\_\_\_\_

The following is information regarding each estate document and some questions which you should answer in the blanks provided. Then return this form to us by mail (as quickly as possible) or fax to 817 545-5071. and we will confirm costs with you before we draft these documents for you. When we have them ready, we will call you to schedule a time for you to come to our office to sign. Thank you.

### LAST WILL AND TESTAMENT

Your Will is designed to leave your property outright to the named person(s). Your Will creates trusts for any persons who are under age or who are incapacitated at the time of your death. A Guardian may be selected to physically care for any minor children until they reach the age of 18 years if you are deceased. The Executor oversees the entire process of settling your estate after your death.

1. **Who do you want to receive your estate?** Normally, this is your spouse, then equally to your children. Please provide the following information:

<u>NAME</u>	<u>ADDRESS</u>	<u>AGE</u>	<u>RELATION</u>	<u>NAT. OR ADOPTED</u>
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(Attach additional pages, if necessary.)

2. **If both you and your spouse pass away or become incapacitated, who do you want to act as Guardian to take physical care of your minor children?** Please list the following:

<u>NAME</u>	<u>ADDRESS</u>	<u>SS#</u>	<u>RELATION TO YOU</u>
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1<sup>st</sup> Choice \_\_\_\_\_

Backup \_\_\_\_\_

3. **If you have minor children, you will need a Trustee to care for the child's money from your estate until that child is old enough to do so. Your estate may be distributed in one of two ways:** You can either distribute a lump sum at the age of 21 or you can choose a three-point distribution so that the child would receive 1/3 of your estate at 18, 1/3 at 21 and 1/3 at 25. Your child would receive normal living expenses at any time during the trust based on need. Please check one of the following:

I prefer a lump-sum \_\_\_\_\_ OR a 3-point \_\_\_\_\_ distribution for my heirs. (Check one)

4. **Who do you wish to be the Trustee?** Please list the following:

<u>NAME</u>	<u>RELATION TO YOU</u>
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1<sup>st</sup> Choice \_\_\_\_\_

Backup \_\_\_\_\_



## **EXPLANATION OF ATTORNEY FEES**

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We are able to assist clients with workers' compensation claims because we work as efficiently as possible. We will not perform unnecessary work on your file. When we do work on your file, we keep track of the time we spend working and bill for the work that we do. Any attorney fees incurred are paid out of income benefits that you receive.

Here are some things you may want to know about workers' compensation attorney fees:

- We will only bill for the amount of time that we actually spend working on your file. For example, this may include attending hearings with you, gathering evidence for your case, or discussions about your case with you, the adjuster, or the Commission.
- We keep track of this work and submit it to the Texas Workers' Compensation Commission. The Commission reviews the submission and either approves or denies the time based on reasonableness. Then, the approved fees are sent to the insurance carrier. A copy is sent to you.
- You should receive from the Commission a copy of your attorney fee order. These orders list general descriptions of the reasons for the time billed in some general categories. It is not very detailed.

*See the attached sheet for an example of one of these orders.*

- You do not pay us for these fees directly. The insurance carrier is required to submit payment for the fees from the benefits paid to you, if any.
- No more than 25% of any one check will be removed for payment of attorney fees.
- Many people are involved in getting billing information from our office to the Commission and back to the insurance company. It is possible that mistakes can be made anywhere along the way. Let us know if a mistake appears in these orders and we will do everything we can to correct it. Also, if you have any general questions, please ask anytime.

# **FREQUENTLY ASKED QUESTIONS ABOUT WORKERS' COMPENSATION**

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The workers' compensation system is designed to protect the injured worker. However, having a workers' compensation case can be a complicated and confusing process. We are here to help with any legal problems you may encounter within the workers' compensation system. To help with some of the confusion, we have included below answers to some of the common questions that are asked about workers' compensation.

- **WHAT DO I DO IF THE INSURANCE COMPANY DENIES MY CLAIM?**

This is the number one reason injured workers retain an attorney. If the adjuster is refusing to accept the claim, the first step may be to request a hearing (Benefit Review Conference or BRC) with the Commission.

- **WHAT IS A BRC / CCH?**

A BRC (Benefit Review Conference) is an informal hearing held at the Commission's offices where the injured worker and the insurance company representative both have an opportunity to tell their side and attempt a resolution to the dispute between them. If no resolution is reached, the parties may request that the case be sent to the next level, to a Contested Case Hearing (CCH). Many rules apply to both hearings and your attorney can answer specific questions you may have.

- **DO I NEED TO ATTEND THE BRC / CCH WITH MY ATTORNEY?**

Yes. Although your attorney will be present, you are the best source of information about your injury and how it has affected your ability to work. Please let us know immediately if there are extenuating circumstances and you are unable to attend.

- **THE ADJUSTER (OR NURSE CASE MANAGER; VOLUNTARY REHAB PERSON) IS CALLING ME – CAN THEY DO THAT NOW THAT I HAVE AN ATTORNEY?**

After you have retained an attorney, the law does not allow the insurance company and their employees or agents, to contact you without prior permission from this office. One advantage to having an attorney eliminates much of this unwanted contact.

- **THE ADJUSTER IS SO MEAN, IS THERE ANYTHING I CAN DO?**

Yes. You can send a written complaint to the Texas Department of Insurance. For a complaint form, call the TDI at 512/463-6169.

- **IF MY CLAIM IS ACCEPTED (COMPENSABLE), WHAT BENEFITS AM I ENTITLED TO?**

Workers' compensation is a state-regulated insurance program that pays medical bills and replaces some of your lost wages if you are injured at work. Workers' compensation pays for a total of four types of benefits: medical benefits, income benefits, death benefits and burial benefits. Medical benefits pay for the medical care that is reasonably necessary to treat your work-related illness. Income benefits are designed to replace a portion of your wages that you lose while you are off work because of the work injury (70% of your average weekly wage). See chart on next page for an overview of these benefits.

- **CAN THE INSURANCE COMPANY MAKE ME SEE THEIR DOCTOR?**

Yes. But they have to follow specific procedures first. They MUST send us their request asking for you to see their doctor voluntarily first. If you get one of these requests, or if you get notice of an appointment set to see their doctor, let us know immediately. Also, your treating doctor is allowed to attend the appointment with you, if desired.

- **MY CHECK IS LATE – WHAT DO I DO?**

If you are entitled to receive income benefits and are receiving regular checks, sometimes the check comes a day or two after the usual arrival date. This can be due to adjuster mistake, a change in adjusters, a change in the day of the week that the adjuster sends out the checks, or it can be because of a holiday or a post office mistake. In most cases, the check does show up but is a day or two behind. However, if a check is late for four days or more, you can call our office and we will check on it for you. **DO NOT CALL ABOUT A LATE CHECK UNTIL IT IS AT LEAST FOUR DAYS OVERDUE.**

- **THE PHARMACY WON'T FILL MY PRESCRIPTIONS – WHAT CAN I DO?**

If your claim is accepted, you should be able to bring your prescription to the pharmacy of your choice. The pharmacy then takes the prescription and calls the insurance company to confirm that they will pay for the prescription. The insurance company has three days to respond. If the insurance company approves the prescription, the pharmacy will fill it at no cost to you. If they deny payment for the prescription, or if there has been no response by the third day, give us a call so that we can try to fix the problem. In the meantime, if you pay for the prescription out of your own pocket, send us the receipt so that we can request the insurance company to reimburse you for this payment.

- **DOES MY EMPLOYER HAVE TO GIVE ME LIGHT-DUTY WORK?**

No. But if you have a light-duty release from your doctor and the employer offers you a light-duty position, you must accept their offer or your benefits will stop. Let us know of any offers from your employer.

- **CAN I GET FIRED WHILE I AM OUT ON WORKERS' COMP?**

Yes. You cannot get fired *because* you filed a workers' compensation claim, but having a workers' comp claim does not make you untouchable. In most cases, the employer must give you 12 weeks of leave before they can fire you, but eventually an employer may fire you if you are unable to go back to work.

- **CAN I SUE THE EMPLOYER FOR HAVING AN UNSAFE WORKPLACE?**

No. When an employer has workers' compensation insurance, the employer is protected from a lawsuit from the injured worker. If you do have concerns about an unsafe workplace, you can file a complaint with OSHA (the Occupational Safety & Health Administration).

- **CAN I SUE ANYBODY ELSE FOR MY INJURY?**

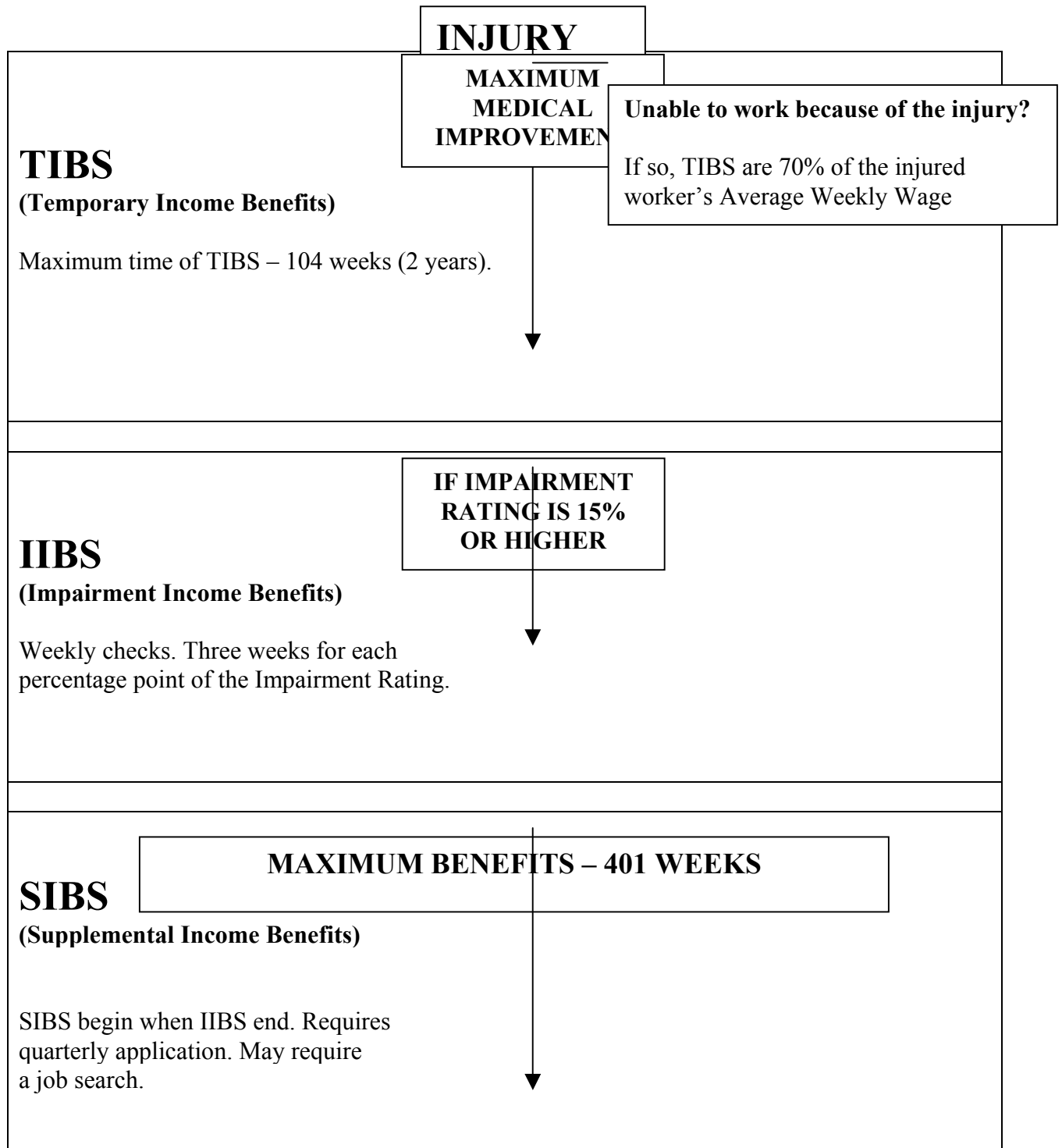
Maybe—let us know if you were hurt by a machine, in a motor vehicle accident, or during medical treatment, etc. We can discuss these types of situations with you.

- **WHAT IF MY DOCTOR RECOMMENDS SURGERY (OR ANY OTHER PROCEDURE OR TESTING) BUT THE INSURANCE COMPANY WON'T APPROVE IT?**

If your claim is considered "compensable" then you are entitled to receive medical benefits for life, if necessary, related to the injury. If your doctor wants to have testing done, or surgery, for example, first he or she must request it through the insurance company. They must respond within three (3) days. If they deny the request, your doctor must then write a letter of medical necessity describing why it is necessary to treat your injury. If the request is denied a second time, you can file an appeal with the Commission. This appeal is called Medical Dispute Resolution. This appeal is paperwork intensive and requires a form be filed with all the medical records to the Commission with a copy to the insurance company. Then the Medical Review Division of the Commission will review the documents and either issue a decision right away or have you see another doctor first, and then issue their decision. This process takes time, but is frequently successful. Ask your doctor if he knows about this process and if he or she will utilize it when and if a request for treatment has been denied two or more times.

# INCOME BENEFITS CHART

(TIBS, IIBS and SIBS)



See next page for details on MMI, IIBS and SIBS.

## Maximum Medical Improvement (MMI)

Client Information

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This term is used to indicate the point at which you are recovered from the injury. This does not mean that you are all better, but that you are as good as you are going to get, or that medically, all that can be done to improve your condition has been done. Even if you are not better yet but have been off work for two years, the law considers you to be at MMI.

### **Impairment Income Benefits (IIBS)**

You will receive an impairment rating when a doctor determines that you are at MMI. While the receipt of IIBS is not a “settlement” of your case, it is the way that the law compensates you for the damage to your body due to the injury. IIBS are based on your Impairment Rating. You will receive three weeks of benefits for every percentage point in your impairment rating. For example, if you receive a 2% rating, you will receive six (6) weeks of impairment benefits. ( $2 \times 3 = 6$ ).

Yes, you can work while receiving IIBS.

### **Supplemental Income Benefits (SIBS)**

If you receive an impairment rating of 15% or more, you may apply for SIBS which can begin after your IIBS run out. Keep in mind, SIBS are designed to help you get back to some type of work. Only in rare cases is anyone completely unable to do any type of work. Many restrictions apply here.

# MAP / DIRECTIONS

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## FORT WORTH OFFICE

TEXAS WORKERS' COMPENSATION COMMISSION  
WALTON BUILDING  
6900 ANDERSON BLVD., SUITE 200  
FORT WORTH, TEXAS 76120  
(817) 446-4488

### FROM THE NORTH:

Go south on Loop 820 from 183/121;  
Pass Randol Mill Road;  
Exit John T. White;  
Turn left (east);  
Cross over the highway bridge, take first right (south) on Anderson Blvd.;  
2<sup>nd</sup> building on the right, 2<sup>nd</sup> floor.

### FROM THE SOUTH (or from I-30):

Go north on Loop 820;  
Take Randol Mill Road exit;  
Turn left (west) and cross the highway bridge;  
Turn left on access road (south);  
Stay on access road until the light (John T. White Blvd.);  
Turn left (east) on John T. White;  
Cross over the highway bridge, take first right (south) on Anderson Blvd.;  
2<sup>nd</sup> building on the right, 2<sup>nd</sup> floor.

**DALLAS OFFICE**

TEXAS WORKERS' COMPENSATION COMMISSION  
U.S. LIFE TOWER MS-101  
6300 FOREST PARK, SUITE 900  
DALLAS, TEXAS 75235  
(214) 350-9299