

Workers Comp

to Settle or Not to Settle



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Workers Comp—to Settle or Not to Settle

The most common outcome of a workers' compensation claim is a settlement. In a settlement, you're paid for both future lost earnings and medical costs. We encourage our clients to accept settlements when they are offered.

What is a Workers' Comp Settlement?

In short, it's a deal between the insurance company for your employer, and you: the injured worker. The insurance company for your employer accepts your claim for past due benefits, and offers a lump sum for future lost earnings and a lump sum or a payment plan for your future medical costs. You can then choose whether to accept the settlement.

Workers' compensation benefits compensate employees for injuries sustained on the job. Workers' compensation also protects employers from future legal action while ensuring that you receive the benefits you deserve—for example, you cannot file additional claims against your employer in addition to workers' comp, and you cannot simultaneously sue an individual coworker for injuries. Because your employer pays workers' compensation insurance premiums, the costs for a settlement are covered by insurance companies.

In a settlement, the insurance company often agrees to pay for *past-due* wages and benefits, and to reach a modified agreement regarding how to pay *future* benefits. Settlements are encouraged by all parties in most instances. The key is for the disabled worker to set appropriate expectations regarding what benefits they are due. Your workers' comp attorney will fight to maximize the available settlement on your behalf.

A settlement can be negotiated, and this is another reason to work with a legal team who understands Georgia workers' compensation law. Settlements in workers' comp are based on the anticipated payout by the insurance company. If all your past due benefits have been paid by a workers' comp insurer, then a settlement would be based on how likely you are to receive anticipated future benefits.

Understanding Workers' Comp Settlements

Settlements for injured workers are much more likely to be settled for higher amounts when the right workers' comp lawyer is on your side.

This is why it's imperative to file your workers' comp claim with an attorney. Once the agreements are made by both parties, the terms of the settlement must be approved by the State Board of Workers' Compensation. Your attorney will only be paid if you win your case, and by Georgia statute, they cannot collect more than 25% of the lump sum amount in a settlement. If your settlement includes both a lump sum amount and a payment plan for future medical costs, your attorney fees are limited to 25% of the lump sum, so your future medical payment amount excludes attorney fees.



Disability Classifications

Two primary classifications govern workers' comp settlements:

1. totally disabled and unable to work in the future, or
 2. partially disabled with the potential to return to work
- If you're **totally disabled** from all work with an unlikely possibility of returning to work, the insurance company calculates the cost of paying you either to the end of the 400-week cap on income benefits or for a lifetime, if your claim is accepted as a lifetime/catastrophic claim.
 - If you're **partially disabled** and released to return to work with limitations, the insurance company calculates the cost of paying you to the end of the 350-week cap on benefits. Then you are expected to be able to return to work earning your pre-injury pay. But once you aren't able to earn the same pay as you were able to before the injury, your income benefits end due to the 250-week limitation. In this case you'll receive a settlement for past wages, but have not been injured severely enough to never work again. After your settlement, you're free to return to work even full duty, but it's monumental that you seek a new line of work that doesn't exacerbate your injury.
 - If you have an on-the-job injury but **no lasting permanent damage**, you receive past benefits, but the company doesn't owe you any future benefits. In this case, a settlement is an unlikely option. For example, if the authorized doctor released you to regular-duty work, assigned a zero percent (0%) impairment rating, and stated that you don't need further medical care, the insurance company doesn't owe you any future income benefits, medical or permanent partial disability/permanent impairment benefits. With no lasting damage, you've been compensated for your time off work and are now free to find new employment or continue your prior job. When there is nothing left for the insurance company to pay, there is no value left to settle.

In the cases where it's determined that you require future benefits, the insurance company's decision for settlement will include income benefits, a payout for medical expenses, and a permanent impairment rating. A permanent impairment rating means that damages from your injury or condition are severe enough that you'll never be 100%. However, it doesn't necessarily mean that you can't return to full duty work. A 100% loss of a pinky finger entitles you to 100% permanent impairment rating for the loss of the pinky, but you are able to return to full duty work.

Lump-Sum Settlement versus a Structured Settlement

When you choose to settle, you may have frustrations about the value of your benefit, and you may have questions about how the benefits are paid out. Are you receiving a fair and just payment for your injury?

Your workers' comp attorney will advise you accordingly. Settlements are paid one of two possible ways: as a lump-sum payment or as a structured settlement. Which option is better for you?

- A **lump-sum settlement** may sound like the best option, but it's a trade off in the long run. In a lump-sum settlement, the claimant agrees to give up certain rights in exchange for a one-time payment from your employer or their insurance company.
- A **structured settlement** allows for a long term payout of benefits through an annuity. In most cases, this is the best option. It provides long-term financial security for you, because you'll receive regular payments to cover your ongoing costs and expenses.

Most covered claims are settled for 55% to 70% of the cost to the insurance company.



Pain and Suffering

There is no consideration or reimbursement for pain and suffering in a Georgia workers' comp claim. The closest benefit to pain and suffering is the permanent impairment rating, meaning you are compensated for the loss of having to live with not being 100%.

Permanent Impairment or Permanent Partial Disability (PPD) benefits are paid for a certain number of weeks depending on the body part that was injured and the severity of the injury.

A Herniated disc is 5-8% of and a total of 15 to 30 weeks of income benefits.



Workers' Compensation Attorneys

Retaining a workers' comp lawyer helps claimants win their cases, and win them for higher amounts.

At Affleck & Gordon, we've represented injured workers in Georgia workers' compensation claims for over 40 years. Our team is experienced, compassionate, and knowledgeable about workers' comp and how to help our clients receive the highest benefits allowed under Georgia law.

Navigating Workers' Compensation settlements and seeking an Atlanta workers' comp lawyer to assist with your claim following a denial of benefits doesn't have to be overwhelming. We understand what you're going through, as we've assisted many others in winning benefits for their on-the-job injuries. We can help. As we evaluate your claim, we'll help organize the most important facts of your medical history, and help you present a strong, compelling case that can lead to a successful settlement.



If your Workers Comp claim has been denied, or you're thinking about filing and don't know where to start, Affleck and Gordon can help. We've been helping people in Georgia just like you for over 40 years.

Sign up for a free case evaluation [here](#), or call us (404) 373-1649.