

Traumatic Brain Injuries in New York Workers' Compensation

How Serious Head Injuries Change Lives and Shape Workers' Rights

A traumatic brain injury can happen in seconds, but the effects often last a lifetime. One moment, a worker is climbing a [scaffold](#), driving a delivery truck, or handling equipment on a noisy jobsite. The next, a fall, collision, or blow to the head leaves them struggling to remember conversations, focus on simple tasks, or even walk across a room without losing balance. For families, the change is just as dramatic. The person they knew (dependable, hardworking, providing for the household) is suddenly different, facing a future filled with uncertainty.

For many injured New Yorkers, [workers' compensation](#) is the only lifeline keeping food on the table and bills paid after such a devastating injury. But brain injuries are often misunderstood or minimized. Unlike a broken arm or a visible wound, the symptoms of a TBI can be invisible, delayed, or dismissed as "mild." At [Pasternack Tilker Ziegler Walsh Stanton & Romano LLP](#), our New York workers' compensation lawyers know that these cases demand more than routine claims. They require careful legal strategy to prove the true impact of the injury and fight for benefits that reflect the full loss of earning capacity.

What Is Considered a Traumatic Brain Injury at Work?

A traumatic brain injury occurs when a worker suffers a sudden jolt, blow, or penetrating wound to the head that disrupts normal brain function. In New York workplaces, these injuries often happen on [construction sites](#), in transportation roles, or in industrial settings where heavy equipment and elevated work surfaces are part of the job.

Some TBIs involve a brief loss of consciousness or visible bleeding in the brain, while others may leave no outward signs at all. Yet even so-called "mild" TBIs can cause debilitating headaches, memory problems, mood swings, and concentration difficulties that interfere with almost any type of work.

How Are Traumatic Brain Injuries Diagnosed After a Work Accident?

Diagnosis is rarely straightforward. Emergency medical care often focuses on visible trauma, while subtle brain damage may go unnoticed in the early hours or days. CT scans and MRIs sometimes reveal bleeding or swelling, but many injured workers are told their results are "normal" despite continuing symptoms.

That's why follow-up care is so important. Neurologists and neuropsychologists use specialized testing to evaluate attention span, memory, reasoning, and processing speed. These evaluations often become critical evidence in workers' compensation cases, showing that an injured worker's difficulties are real, measurable, and directly linked to the accident.

What Symptoms Should Injured Workers Watch For?

The signs of a brain injury can appear right away or take days to develop. Workers should seek medical care if they notice:

- Persistent headaches or migraines
- Dizziness, balance issues, or nausea
- Sensitivity to light or sound
- Trouble focusing or remembering details
- Mood swings, irritability, or depression
- Difficulty speaking or finding words
- Seizures or loss of consciousness in severe cases

Because these symptoms may worsen over time, early documentation is essential both for treatment and for any future workers' comp claim.

How Do Traumatic Brain Injuries Affect Earning Capacity?

Unlike many injuries that limit physical movement, TBIs disrupt the very skills that make employment possible. Construction workers may no longer be able to operate machinery safely. Office employees may lose the ability to concentrate or communicate effectively. Transit drivers may not have the reaction time needed to handle traffic.

In New York, this matters because workers' compensation judges look at more than medical disability ratings. They also consider wage earning capacity, meaning whether the worker can realistically reenter the labor market. For brain injury victims, even a moderate medical rating can translate into a total loss of employability when the cognitive and emotional effects make reliable work impossible.

Why Are Brain Injury Claims Frequently Disputed?

Insurance companies are quick to challenge these cases because they know how costly they can be. They may argue that symptoms are exaggerated, that pre-existing conditions are to blame, or that the worker can still perform light-duty assignments. This approach ignores the reality that memory lapses, mood instability, and difficulty processing information can make even simple jobs unsafe.

Without strong advocacy, workers risk being left with limited benefits that don't match the true impact of their injury.

What Evidence Strengthens a Workers' Compensation Claim for TBI?

The strongest cases combine medical evidence with real-world proof of how the injury affects the worker's life. Neurologist and neuropsychologist reports form the foundation, but attorneys often add testimony from vocational experts to show that no meaningful work is possible.

Family members, coworkers, and supervisors can also provide valuable accounts of the changes they've witnessed. Journals, symptom logs, and documented attempts to return to work help build a clear picture for the judge. Together, this evidence makes it harder for insurers to dismiss a TBI as minor or temporary.

Can a Traumatic Brain Injury Lead to Lifetime Benefits?

Yes. If it can be shown that a worker has lost 100% of their wage earning capacity, a TBI may qualify for permanent total disability benefits. That means lifetime weekly payments instead of capped benefits that run out after a set number of weeks.

For example, a worker who suffers severe memory loss and communication difficulties after a fall may only receive a 50% medical rating from doctors. But if those deficits make it impossible to hold any job, a judge can still award lifetime benefits.

Can a Traumatic Brain Injury Qualify for Social Security Disability in New York?

For many workers, a traumatic brain injury doesn't just end their current job — it ends their ability to work in any occupation. When that happens, New York workers may have another option in addition to workers' compensation: applying for [Social Security Disability \(SSD\) benefits](#).

The Social Security Administration recognizes brain injuries as potentially disabling conditions if they cause long-term cognitive, physical, or psychological limitations. This includes memory problems, reduced processing speed, speech and communication difficulties, and emotional instability. To qualify, the worker must show that these impairments prevent any substantial gainful employment for at least 12 months.

In some cases, workers' compensation benefits and SSD can be pursued at the same time. However, the process can be complicated. Insurance companies and the SSA may both try to limit payments, and the rules for how benefits interact are not always straightforward. That's why having attorneys who handle both workers' comp and SSD claims is so important. At Pasternack Tilker Ziegler Walsh Stanton & Romano LLP, our team understands how to coordinate these claims so injured workers can secure the maximum support available.

How Do Traumatic Brain Injuries Intersect With Mental Health?

Brain injuries frequently trigger depression, anxiety, or PTSD. These conditions can make recovery harder and add to the disability. In New York, workers' compensation can cover both

the physical brain injury and the psychological aftermath, provided the connection is well-documented. Establishing that link requires careful coordination between medical professionals and legal advocates.

What Long-Term Benefits Are Available for TBI Victims?

In addition to wage replacement, injured workers may be entitled to support such as:

- Ongoing medical treatment with neurologists and rehabilitation specialists
- Occupational or speech therapy to regain cognitive and communication skills
- Psychological counseling for depression, anxiety, or PTSD
- Home health care or personal assistance if independence is limited

These benefits help families adjust when a loved one cannot return to their prior work or maintain full independence.

What Should Workers Do After a Head Injury on the Job?

After any head injury at work, the most important step is to seek medical care, even if symptoms appear minor. Early intervention prevents further harm and strengthens the legal claim. Workers should also report the incident promptly, follow through with all recommended care, and consult an attorney before insurers have the chance to downplay the injury.

How Pasternack Tilker Ziegler Walsh Stanton & Romano LLP Helps

For more than 90 years, Pasternack Tilker Ziegler Walsh Stanton & Romano LLP has represented New York workers facing the toughest challenges of their lives. Traumatic brain injury cases are among the most complex, with symptoms that evolve over time and insurers eager to minimize payouts. Our attorneys know how to gather the right evidence, work with medical and vocational experts, and fight for benefits that reflect the true impact of a brain injury.

If you or a loved one has suffered a TBI on the job, you don't have to navigate the system alone. The right legal strategy can mean the difference between short-term support and lifetime financial security. To learn more about how we can help you, [contact us today](#) for a free consultation.