

What Happens When Workers' Comp Delays Or Denies Surgery In New York?

An experienced workers' compensation lawyer can push your case forward

There are few things more frustrating than hearing your doctor say you need surgery due to a work-related injury, only to learn that your [New York workers' compensation claim](#) has been delayed or your doctor's request for surgery has been denied. When this happens, the injury doesn't stay frozen while paperwork moves through the system. Pain gets worse. Mobility slips. Time away from work stretches longer. Bills and fear start piling up at the same time.

For many injured workers in New York City and throughout the state, this is the moment when the workers' compensation system starts to feel like a locked door instead of a safety net. The law says an employer must promptly provide necessary medical treatment, including surgical care, for a work-related injury, but the path to getting surgery approved can become tangled in Medical Treatment Guidelines, prior authorization requests, carrier objections, and appeals.

At [Pasternack Tilker Ziegler Walsh Stanton & Romano LLP](#), we've seen how these disputes unfold in real life. A worker with a torn shoulder in Brooklyn may be told to wait for unclear reasons. A construction worker in Manhattan with a serious knee injury may be sent through another round of review. A home health aide with a spinal injury in Queens may be stuck between what her surgeon says is necessary and what the insurance carrier is willing to approve.

In many cases, the problem isn't that surgery is obviously unrelated to the work injury. The problem is that the system often forces injured workers to prove, re-prove, and defend medical necessity while their medical condition gets worse and continues to interfere with their lives. That's why it's critical that injured workers in New York understand how the state's workers' compensation system works.

How surgery approval works in a New York workers' compensation case

New York State law is very clear about how medical care should be handled after a work-related injury. [New York Workers' Compensation Law § 13](#) requires the employer to promptly provide medical, dental, surgical, and hospital treatment for as long as the nature of the injury or recovery requires. The same state statute also gives injured workers the right to select an authorized medical provider.

The starting point is understanding that not every surgery request moves through the same channel. New York uses Medical Treatment Guidelines issued by the New York State Workers' Compensation Board to guide treatment for many body parts and conditions. Some care can move forward within those guidelines. Other treatment, especially surgery or treatment outside the guidelines, may require a prior authorization request, commonly called a PAR, submitted through [OnBoard in the Board's Medical Portal](#). The Board explains that a PAR is a

request by an authorized health care provider to obtain prior approval from the claim administrator for specific treatment under workers' compensation, and OnBoard is now the system used for submitting those requests.

That distinction matters because many workers assume their doctor can simply schedule surgery once the medical decision has been made. In cases involving workers' compensation in New York, it often doesn't work that way.

How workers' compensation surgical requests are processed in New York

A surgical request handled through New York's workers' compensation system can be slowed down in several places in several different ways. For example:

- The provider may need to show that the surgery falls within the applicable [Medical Treatment Guidelines](#).
- If the surgery falls outside the guidelines, the provider may need to submit a variance or other prior authorization request through OnBoard.
- The insurance carrier may argue that the surgery is not medically necessary, is premature, or is unrelated to the accepted work injury.
- The carrier may rely on an Independent Medical Examination, often called an IME, to dispute the need for surgery. The Board authorizes IMEs as part of the workers' compensation system.
- The dispute may then move into an appeal or review process while the worker remains in pain and unable to move forward with treatment. [New York Workers' Compensation Law § 13-aa](#) creates a medical appeals unit for this kind of dispute.

That is where many injured workers start feeling as though their recovery has been put on pause by someone who has never examined them.

Why surgery requests get delayed or denied

A delay is not always labeled a denial at first, but the effect can be almost the same. A sick or injured worker keeps waiting while their symptoms often continue to get worse. That delay can happen for several reasons.

Sometimes the dispute is procedural. A provider may not submit the request in the exact form required through OnBoard. Sometimes the requested body part or condition is contested. In other cases, the carrier argues conservative treatment has not been exhausted, the surgery is outside the Medical Treatment Guidelines, or the medical documentation does not sufficiently explain why the operation is necessary now rather than later. The Board's OnBoard and Medical Treatment Guidelines materials make clear that treatment outside the guidelines and certain other categories requires prior authorization review rather than automatic approval.

There is also a deeper reason these fights happen so often. Surgery is expensive, and surgery cases often involve larger wage-loss exposure because the injured worker may be out longer or have a more serious permanent impairment. In other words, when the carrier delays surgery, it is not just questioning a treatment choice. It is often contesting the seriousness and financial value of the claim at the same time.

That is why these disputes can feel like trying to run through wet concrete. Every step gets harder.

What the medical treatment guidelines actually mean for surgery

Many workers hear the phrase Medical Treatment Guidelines and assume the rules are simple. They're usually not. The guidelines are meant to standardize treatment decisions and reduce unnecessary disputes, but they also create a framework that can be hard for injured workers to see from the outside. The New York State Workers' Compensation Board publishes current [Medical Treatment Guidelines](#) and related resources for providers, including a quick reference and FAQs.

In practical terms, the guidelines affect surgery in two major ways. First, they may identify situations where a procedure is supported if certain findings are present. Second, they create a boundary line. If the proposed treatment falls outside the guideline pathway, the provider may need a variance or another prior authorization route through OnBoard. That means the strength of the treating surgeon's explanation can make a major difference.

For example, imagine a New York City laborer who suffers a shoulder injury lifting heavy materials at work. Months of therapy, injections, and restricted duty have not fixed the problem. An MRI shows a significant tear, and the surgeon recommends operative repair. If the insurer claims the worker should continue conservative care, the fight may turn on whether the treating provider's records clearly document failed treatment, current loss of function, imaging results, and why surgery is now medically necessary. When those details are missing or incomplete, the carrier gets room to push back.

Paperwork gaps become treatment delays. Treatment delays often result in worse medical outcomes. And it's the sick or injured worker who ultimately suffers.

What should an injured worker do if surgery is being delayed?

Sick or injured workers in New York often feel powerless at this stage, but there are steps that can strengthen both the treatment request and the underlying claim.

The most important moves you can make:

- Keep treating consistently with Board-authorized providers so the medical record remains current and credible. New York law gives the injured worker the right to choose an authorized physician.

- Make sure the provider clearly identifies the work-related diagnosis, the affected body part, prior treatment attempts, current restrictions, and the medical reason surgery is necessary.
- Confirm that the request has been submitted through OnBoard in the correct PAR category if prior authorization is required.
- Do not assume silence means approval. Follow up quickly if there is no movement or if the insurer claims it needs more information.
- Preserve every notice, denial, scheduling letter, and medical report tied to the surgery dispute.
- Talk to a New York workers' compensation lawyer before the delay starts shaping the entire case.

That last point matters because a surgery dispute often spills into every other issue. If the carrier questions surgery, it may also start questioning disability status, lost wages, permanency, or whether the injury is truly as serious as your doctor says it is.

How delayed surgery can affect your health and your case

A surgery delay is not just an administrative problem. It can change the medical trajectory of your injury and your health for months or years to come. In some cases, sick or injured workers develop a permanent disability due to such delays.

Some conditions get worse with time. Nerve compression can continue damaging function. Joint injuries can lead to instability and further degeneration. A torn structure that might have been repaired earlier can become more difficult to treat after months of altered movement and compensation. That does not mean every delay destroys a case, but it does mean the stakes are real.

The legal impact can also spread. A worker whose surgery is delayed may remain out of work longer, may face repeated disputes over temporary disability payments, and may struggle to prove the full seriousness of the injury if the carrier continues framing the case as conservative rather than surgical. When treatment stalls, the defense often tries to use that pause as a narrative. They suggest the condition is not that severe, even when the delay itself is what is preventing meaningful improvement.

That is one reason causation and medical necessity have to be documented with care. The event leads to injury. Injury leads to failed conservative treatment. Failed conservative treatment leads to the need for surgery. Surgery delay leads to prolonged disability and possibly worse outcomes. When that chain is clearly shown, the claim becomes harder to minimize and stronger overall.

What happens if surgery is formally denied?

Sometimes the issue is no longer just a delay. It becomes a denial. When that happens, the next step depends on where the denial occurred and what medical review route applies. New York Workers' Compensation Law § 13-aa establishes a medical appeals unit, and the Board's appeals materials explain that injured workers can appeal certain medical billing and treatment-related determinations. The Board also maintains specific OnBoard processes for payers and providers dealing with treatment and testing PAR responses.

This is where some injured workers make a costly mistake. They treat a denial as the end of the road, when it's often the point where stronger legal and medical advocacy becomes necessary. A workers' compensation insurance company's first answer is not always the final answer.

A denied surgery request may require:

- Additional narrative reports from the treating surgeon or specialist
- Clarification of how the requested surgery fits within or outside the Medical Treatment Guidelines.
- A challenge to an insurer-sponsored IME opinion
- Review through the Board's medical dispute process or related appeal channels.
- A broader litigation strategy if the carrier is using the surgery dispute to undermine the entire workers' compensation claim

This is the point where many cases stop being routine. And that's why it's so critical to have an experienced New York workers' compensation lawyer on your side, helping you every step of the way.

Why Independent Medical Examinations often matter so much

When surgery is disputed, the Independent Medical Examination (IME) can become the carrier's main weapon. An IME doctor may say the worker has reached maximum improvement without surgery, that more conservative care should be tried, or that the proposed procedure is not causally related to the work injury. The Workers' Compensation Board authorizes IMEs within the system, and their opinions can influence disability findings and treatment disputes.

That does not mean the IME is automatically right. It means the treating doctor's records often have to be strong enough to withstand that challenge. If the surgeon's file is thin, vague, or missing a detailed explanation of why the requested operation is necessary, the IME can gain outsized influence.

For example, if a warehouse worker in Brooklyn has a lumbar injury and the carrier's IME says the MRI findings are degenerative rather than traumatic, the case may turn on how well the treating surgeon explains the connection between the work incident, the symptoms, the failed

treatment history, and the current need for operative care. In a case like that, words on a report can carry the weight of months of pain and lost income.

How a New York workers' compensation lawyer can make a difference

A surgery dispute is often the moment when a claim stops being about forms and starts being about strategy. A New York workers' compensation lawyer can help identify where the request got stuck, whether the provider's submission was strong enough, whether the carrier is leaning too heavily on an IME, and what review or litigation path makes the most sense next.

At [Pasternack Tilker Ziegler Walsh Stanton & Romano LLP](#), our attorneys understand how these disputes affect real workers and families across New York City. A delayed surgery can keep a union laborer off the job, leave a nurse unable to lift patients, or force a transit worker to live with pain that should have been treated months earlier. We know how to push these cases forward because we know the system, the Board, the medical proof these claims require, and the tactics carriers often use when a surgery request raises the value of a case.

No one should have to wait in pain while a valid surgical recommendation gets pushed from one desk to another. If your workers' compensation insurance company is delaying or denying surgery your doctor says you need, [contact us](#) to speak with a New York workers' compensation attorney at our law firm. We can review what's happening, explain your options, and fight for the medical care and benefits you're entitled to under New York law. Schedule an appointment at one of our 11 office locations throughout New York.