Union Membership Doesn't Make Your Workers' Comp Claim Automatic

Your Union Can Protect Your Job, but Workers' Comp Is Still a Separate System

If you're hurt at work in New York and belong to a union, you may have more support than a non-union worker. Your collective bargaining agreement may protect seniority, set rules for modified duty, provide disability or wage-continuation benefits, and give you a grievance process when the employer violates the contract. None of that replaces your New York workers' compensation claim.

Workers' comp is a separate state system with its own medical rules, wage-loss benefits, hearings, and deadlines. A union representative can help with contract rights, but the Workers' Compensation Board decides whether you receive statutory benefits after a job injury.

At Pasternack Tilker Ziegler Walsh Stanton & Romano LLP, we've represented injured New Yorkers for more than 90 years, including members of building trades, transportation, healthcare, municipal, and industrial unions. The strongest union-worker cases usually come from coordinating both systems instead of assuming one will automatically take care of the other.

What Your Union Can Change (And What It Can't)

Union membership doesn't change the basic rule that covered employees can pursue workers' compensation for job-related injuries and occupational illnesses. What the union contract can change is what happens around that claim: your job classification, seniority, supplemental benefits, return-to-work options, and the process for challenging an employer's contract violation.

The New York Workers' Compensation Board itself tells injured union members to find out what resources their union may offer as part of the return-to-work process. That is useful recognition of the union's role, but it also shows the limits of that role: the union and the Board are handling different pieces of the worker's recovery.

1. **Workers' Comp Decides Statutory Benefits.** The Board handles medical treatment, wage-loss benefits, disability findings, hearings, and other issues created by New York Workers' Compensation Law.
2. **The Union Contract Protects Contract Rights.** A CBA may control seniority, bidding rights, job classifications, grievance procedures, light-duty assignments, or supplemental benefits.
3. **The Two Systems Can Overlap.** A return-to-work decision that looks reasonable in a workers' comp file can have consequences under a union contract, while a union disability payment may need to be coordinated with workers' comp benefits.

4. **Neither System Automatically Protects the Other.** A union grievance doesn't preserve a workers' compensation issue, and a favorable workers' comp decision doesn't necessarily resolve a dispute over the CBA.

Union Benefits Can Help During Recovery, but Coordination Matters

Many union members have access to benefits that go beyond workers' comp. Depending on the union and the plan, those benefits may include sick-leave banks, wage continuation, short-term or long-term disability coverage, supplemental benefit funds, or disability pension options.

Those programs can provide important financial support, but the plan documents matter. Some payments supplement workers' compensation. Others may create an offset, repayment obligation, or reporting requirement. The amount of a worker's average weekly wage under workers' comp is calculated under state law; a separate union benefit doesn't simply rewrite that calculation.

- **Wage Continuation:** Some CBAs keep all or part of a worker's regular pay going for a period after an injury.
- **Disability And Supplemental Funds:** Union or jointly administered plans may provide benefits in addition to workers' comp, subject to the terms of the plan.
- **Pension And Retirement Rights:** A long absence, disability retirement, or job-classification change may affect pension or service-credit issues outside the workers' comp case.
- **Reporting And Repayment Rules:** Overlapping benefits sometimes have to be reported or coordinated, which is why workers should not assume two payments can simply be collected independently.

Your Union Usually Doesn't Get to Choose Your Workers' Comp Doctor

Medical treatment is another area where contract expectations and workers' comp rules can get confused. In New York, an injured worker can generally treat with a healthcare provider authorized by the Workers' Compensation Board. If the insurer uses a preferred provider organization, a worker may have to use a PPO provider for non-emergency treatment during the first 30 days, but broader provider choice generally returns after that period.

That means a union's preferred clinic or occupational health program may be convenient and may understand the trade, but union membership by itself doesn't erase the worker's right to choose an authorized doctor. The medical record still needs to document the diagnosis, work connection, disability status, and treatment plan clearly enough for the carrier and Board.

Light Duty Can Affect Both Your Benefits and Your Union Rights

Return-to-work decisions are where union membership can make a real practical difference. A CBA may define which light-duty assignments are available, who can perform them, how seniority works, and whether a temporary reassignment changes a worker's classification.

Workers' comp asks a different question: what work can you medically perform, and what are you earning after the injury? If your disability causes you to return at lower wages, the Board says you may qualify for reduced-earnings benefits of up to two-thirds of the difference between your pre-injury and post-injury wages.

That makes it risky to accept or reject modified work without understanding both sides. A job may fit your medical restrictions but create a contract issue. A position that looks protected under the CBA may still pay less and create a reduced-earnings issue under workers' comp. Coordination matters before the decision is made, not after the consequences appear.

The Insurance Company Still Uses the Same Tools Against Union Members

A union card doesn't change the insurance carrier's role. The carrier can still investigate the claim, review prior medical history, dispute whether an injury is work-related, challenge treatment, and require an independent medical examination.

The most common pressure points in a union worker's claim include:

- **Independent Medical Examinations:** The insurer may send you to an IME that disputes your disability level, need for treatment, or connection between the injury and your job.
- **Pre-Existing Conditions:** Prior back, knee, shoulder, or other treatment can become the basis for an apportionment or causation dispute, especially after years in a physically demanding trade.
- **Return-To-Work Pressure:** A carrier may argue that your medical restrictions allow work even when the actual job assignment creates questions under the CBA.
- **Delayed Or Disputed Treatment:** Authorization disputes can interrupt surgery, therapy, or other care even when your treating provider believes it is necessary.

Strong medical evidence is especially important when the carrier's version of your condition conflicts with your treating doctor's opinion. And if an independent medical examination is scheduled, knowing what the exam can affect before you attend can prevent avoidable problems.

A Union Grievance and a Workers' Comp Dispute Are Not the Same Fight

Suppose you're medically cleared for restricted work, but the employer assigns you to a position that violates the seniority or classification rules in your union contract. The union may have grounds to challenge that assignment through the grievance process.

At the same time, the Workers' Compensation Board may need to decide whether the job fits your medical restrictions, whether your reduced wages are related to the injury, or whether wage-loss benefits should continue. One dispute is contractual. The other involves statutory benefits.

A workers' compensation hearing is an administrative proceeding where the carrier and the injured worker can present medical and other evidence to a Workers' Compensation Law Judge. If a benefits dispute reaches that stage, understanding what happens at a workers' comp hearing can help you see why union representation and workers' comp representation serve different purposes.

Five Steps Union Workers Should Take After a Job Injury in New York

The first days after a work injury are where the two systems can be coordinated most effectively.

1. **Report the injury promptly.** Tell the employer what happened and make sure the report accurately identifies the injury and how it occurred.
2. **Tell your union representative.** Ask which CBA provisions, benefit funds, disability plans, or grievance rights may apply to your situation.
3. **Get appropriate medical care.** Make sure the provider is authorized for workers' comp and that the medical record clearly connects your symptoms and restrictions to the job injury.
4. **Do not assume a union benefit replaces workers' comp.** Find out whether wage continuation, disability benefits, or other payments must be coordinated with the statutory claim.
5. **Review major return-to-work or settlement decisions before acting.** A choice that affects workers' comp can also affect seniority, job classification, future earnings, or another union benefit.

You Can Choose Your Own Workers' Compensation Attorney

A union referral can be a useful way to find legal help, but New York injured workers have the right to choose their own attorney or licensed representative. Your lawyer represents you in the workers' compensation claim; the union represents members under the labor agreement.

That distinction matters when the claim involves permanent restrictions, a contested IME, reduced earnings, a possible Section 32 settlement, or a return-to-work decision with long-term career consequences. You should be comfortable that the attorney understands both the workers' compensation issue and the union-related consequences surrounding it.

You also don't pay a workers' compensation attorney directly out of pocket. If there is a monetary award and a legal fee is requested, the fee must be approved by the Workers' Compensation Board and is deducted from the award. Choosing a workers' comp attorney who focuses on New York claims gives you someone responsible for protecting your individual claim while the union handles the contract issues it was created to address.

Our New York Workers' Compensation Lawyers Help Union Members Protect Both Sides

Union membership can be a major source of support after a workplace injury, but it doesn't make workers' compensation automatic. The CBA, union benefit plans, and grievance process can add valuable protections while also creating decisions that need to be coordinated with the Board claim.

Our attorneys help injured union members protect medical benefits, wage-loss payments, and long-term workers' comp rights while accounting for the employment issues surrounding the claim. When a carrier disputes treatment, schedules an IME, challenges a return-to-work restriction, or pushes for a settlement, we look at the decision in the context of the worker's full situation rather than treating the comp file in isolation.

If you've been injured on the job in New York, [contact us] to speak with an attorney about your workers' compensation claim and how it may interact with your union benefits and contract rights.