



Coverage For Home Injuries In New Jersey

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For many of us, almost overnight our work lives have been transformed from reporting to an official work location to working mainly from home. The impact of this sudden change will have significance for our level of safety, our economy, and in so many other areas, even the field of workers' compensation.

New Jersey courts have recognized that injuries at home that arise from work are on equal footing with injuries at work locations. In Benvenuti v. Scholastic Bus Co., No. A-3732-11 (App. Div. April 4, 2013), Mrs. Benvenuti was injured cleaning her bus on her home property. She was permitted to take the bus home as school bus driver. She testified at trial that she tripped over a rubber mat and fell exiting the bus in her driveway. Several witnesses testified that petitioner was permitted to sweep the bus at home. The Judge said that it was a job requirement to clean the bus between runs and found the case compensable, which decision was then affirmed on appeal.

In DeCoursey v. Tp. Of Randolph Police Department, A-0915-06 (App. Div. August 14, 2007), the petitioner was a police officer who was paid on an hourly basis during a 12-hour period. She received permission during that period of time to go home and have dinner. She drove home to the next town, kept in radio contact, and had her meal. She was injured walking on her property to her patrol car to return to the police station. The case was found compensable.

In Kossack v. Town of Bloomfield, 63 N.J. Super. 332 (Law. Div. 1960), a police officer was injured at home cleaning his revolver. The court found the injury compensable because petitioner had a duty to keep his revolver clean and the employer *did not limit that duty to time and place*.

It is important to note that New Jersey has a premises rule. One is at work when one is on work premises to do assigned duties. This is the same for those who work from home. Several examples are worth considering:

Scenario One: Suppose a teacher is injured teaching a class remotely from her home by tripping over a cord while reaching for a textbook? This would clearly be compensable as the teacher was engaged in approved duties at the time of the injury and she was in her work area.

Scenario Two: What if the very same teacher had gone out to get the mail during a break between online classes and had fallen on her driveway? We would deny this claim because this activity was not part of her teaching job at all. She was still on her property but she was not engaged in approved teaching activities.

Scenario Three: What if the teacher during a series of online lectures went to her kitchen to get a cup of coffee and burned herself badly on the arm with scalding coffee? This is more complicated because teachers, like all employees, are entitled to coffee breaks. If they are injured at the school cafeteria getting coffee, the case is compensable because of the mutual benefit doctrine in our state. Judges would likely rule the home injury getting coffee to be compensable for the same reason that this is covered at work: it is something that employers recognize as being mutually beneficial for their workers and for employers.

So what can school boards do to mitigate such claims? Well, a good starting point is to make clear to the approved home worker that only activities in the work area will be compensable, (exceptions: coffee breaks). In other words, it is helpful to define the following:

- What area of the home is the employee approved to work in? (perhaps just a small office)
- What time periods are covered (perhaps only normal school hours)
- Does the employee sign in and clock out? This could knock out late evening claims.
- What are the reporting requirements for home workers when they are injured (preferably, contact the Board same day and fill out an employee accident report).
- Who will take a detailed statement of the so-called home injury (preferably the adjuster at NJSIG).

American workers will become more accustomed to working at home as a result of this grave crisis we are living through. As the numbers of Americans working from home increases, the number of home injury claims will as well. This poses problems for employers because there are no witnesses for the Board of Education when an injury occurs at home. There are no security videos. For this reason, it makes sense to consider the bullet points raised above to minimize the exposure from such claims. Most importantly, the Board should limit the worker to a specific area of his or her home if at all possible. All home work should be approved only in that specific location.