

What Are Disfigurement Claims?

In Pennsylvania, if an employee sustains permanent, unsightly disfigurement or scarring of the head, face, or neck during their employment, they may be entitled to compensation. However, benefits will not continue to be awarded for more than 275 weeks, as determined at the discretion of the Workers' Compensation Judge after a hearing. Disfigurement could include loss of teeth or scarring that exists from a loss of an eye. Compensation also could be awarded for scarring from injury-related surgical scars, such as an Anterior Cervical Fusion surgical scar in the front of the neck. These benefits are awarded for a discretionary number of weeks multiplied by the pre-injury Average Weekly Wage of the injured worker.

How is this determined?

When an injury includes a scar or disfigurement above the clavicle, the injured worker may be entitled to an award separate from any other damages. The Judge determines the necessity of compensation after a hearing where the scar is observed and described on the record. The employee may not be entitled to disfigurement benefits if the Judge determines that the scars are not prominent enough to produce an unsightly appearance.

Once the Judge determines the scarring is related to the injury, the Judge must decide if the scarring is "permanent" or has lasted for more than six months. The hearing where the

scar is inspected is normally held more than six months after the scarring occurred. The Judge must also determine that the scarring was not usually incident to the employment. This is a fact-specific determination traditionally raised as a defense by the Employer/Insurer.

Some other things the Judge may consider:

- Whether the scar can be corrected by surgery.
- Whether the scar is under a hairline or beard.
- Whether the scar is in a crease or wrinkle.
- Whether the scar is not visible from 3 to 6 feet away.

The scar is inspected for unsightliness. In other words, the more severe the scarring is, the more weeks of benefits are awarded. In some instances, photographs are used and placed into evidence.

I recommended that you advise your employer that you have a scar on the head, face, or neck from the course of your employment. You may be entitled to an award even if you do not miss any time from work. Please be sure to identify the specific event that caused the scarring.