

An aerial photograph of a city skyline, likely New York City, featuring numerous skyscrapers and a large body of water in the foreground. A prominent water tower is visible on the left side of the image. The text is overlaid on the left side of the image.

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Jones Jones

New Jersey Jurisdiction Primer

Each state within proximity of the Greater New York City area has distinct laws regarding workers' compensation benefits. These laws can vary significantly regarding when and how much benefit a worker can collect, requiring a determination of jurisdiction as one of the first steps in reviewing a workers' compensation claim.

What is jurisdiction?

In basic terms, jurisdiction is determined by looking at what meaningful contact the employee in question had within the state around the time of the injury. When a state is determined to have jurisdiction, that state's legal representatives have a vested interest in the employee's claim and the state's laws regarding workers' compensation will apply.

In some instances, jurisdiction will be clear but there will often be a variety of factors to consider when determining jurisdiction.

Common questions used to determine jurisdiction:

- **Where did the incident occur?** If the accident occurs in the state of New Jersey, New Jersey will automatically have jurisdiction.
- **Where is the company's headquarters?** Jurisdiction may not automatically fall to the state or country in which a company is based.
- **Where does the employee live?** The employee's primary address or where they received mail could be a significant determining factor for jurisdiction.
- **What office or company building does the employee regularly report to?** Given the proximity between New York and New Jersey, employees may live and work in different states.
- **Was the employee traveling on business at the time of the incident?** Past cases have shown that even when traveling internationally, jurisdiction can fall to the home base of the employee.
- **Where did medical treatment occur?** As medical treatment is not part of the employee's job function, it is not typically a primary determining factor for jurisdiction but can affect future medical provider claims.
- **Were there any other parties involved in this incident?** For example, the employee could have been traveling out of state on a contract for a third party.

How can companies assist with determining jurisdiction?

- Keep accurate hiring records.
- Regularly review physical hiring paperwork to ensure dates, addresses and details are easily identifiable.
- Verify physical hiring records are transcribed correctly to digital forms.

- Keep detailed accounts of employees traveling in and out of the state.
- Make note of any unusual out-of-state situations. For example, conducting an interview or hiring an employee over the phone while in a different state could influence jurisdiction.

Jurisdiction Disputes

During a jurisdiction dispute, the parties involved in the workers' compensation claim will look to make a case for the jurisdiction that benefits each of them more favorably. Further complicating matters, it is also possible for workers to collect benefits in more than one state.

In New York and New Jersey, jurisdiction disputes are common. The following are important areas of differentiation in terms of workers' compensation benefits between the two states.

New York vs New Jersey

- **Wages:** In New York, indemnity benefits, or lost wages that you would expect to be paid while recovering from a work-related injury/illness, are tax-exempt and are calculated as a 35% reduction from the employee's gross salary to a maximum or minimum; New Jersey provides 70% of an employee's average weekly wages before the injury.
- **Disability:** In New York, compensation for permanent loss of use of an extremity (i.e., an arm or leg) is limited to a certain number of weeks based on a schedule loss of use (SLU); In New Jersey, claimants may receive a permanency award for their injury.
- **Treatment:** In New York, respondents (in this case the employers) do not direct or control where an employee receives medical treatment; In New Jersey, the respondent controls treatment of the petitioner (in this case the employee) in an accepted workers' compensation claim.
- **Out of office claims:** New York has a "home office exception" for compensable accidents since 1968; New Jersey has several cases of work from home accidents which have been deemed compensable.

What is the impact of a jurisdictional dispute on a workers' comp claim?

A jurisdictional dispute can be costly to an employer, particularly when a company does not have sufficient insurance in the state in which jurisdiction is determined. In this case, the state's Uninsured Employers Fund will assist with covering the costs of the workers' compensation claims. The assistance the Uninsured Employer Fund can provide varies across all 50 states and employers that require its services can be sanctioned with high fines. For example, in New Jersey, companies can face fines up to \$5,000 for each 10-day period without coverage and in New York companies can face up to \$2,000 for each 10-day period without coverage.

Companies seeking expertise in workers' compensation cases in New York and New Jersey should engage a specialist who knows the unique challenges of the local landscape. Jones Jones LLC has 100 years of experience in workers' compensation law with offices in both New York and New Jersey to assist clients with jurisdictional disputes.

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