



Willson & Pechacek, P.L.C.

Newsletter



General Issue

JUNE 2019

Injured? How to Avoid Mistakes at the ER That Hurt Your Injury Claim

By *Jamie L. Cox*

If you are in a car accident, it is highly likely that you will end up in an emergency room. ERs provide necessary, crucial medical treatment immediately after an accident. ER doctors are specially trained to treat trauma victims for injuries sustained in a collision. Despite the vital role that ERs play in the treatment of accident victims, many people still misunderstand what being “discharged” by the ER means.

ERs try to determine the extent of your injuries as quickly as possible. The purpose of an ER visit is not to provide ongoing care for the patient, except in the most severe cases where immediate surgery is necessary or the injuries are life-threatening. In all other cases, you will be discharged from the ER with instructions to follow-up with your doctor or a specialist. It is imperative that you follow-up with the appropriate medical provider as quickly as possible after you are discharged. Do not wait weeks before going to your follow-up appointment. When you do follow-up with a doctor, it is important to ask questions and give complete information about your injuries.

Make sure the hospital sends your medical bills to your health insurance. Do not let the hospital tell you it “has” to bill the at-fault driver’s auto insurance. This is not true. Also, try not to sign an “Assignment of Benefits” or similar document that guarantees the hospital payment for its full charges out of any settlement you may receive in the future, because this can stop you from negotiating your hospital bills down to a reasonable amount.

Your statements to the ER staff about the car accident are important. At the ER, you will be asked questions by a nurse or doctor about the crash. A short, concise statement such as “I was T-boned” or “I was rear-ended” are fine. However, you should not go into great detail about how the accident happened because that can only hurt your claim. The more details you give, the more likely it is that your statements will be paraphrased in the records to the detriment of your claim. And above all else, do not admit that you caused the accident, even if you think you may be partially or fully at fault. Let your attorney and insurance company handle fault.

You must tell the ER nurses and doctors about every part of your body that hurts. It is natural to fo-

cus on the part of your body that hurts the worst. However, when you are being examined at the ER after the car accident, you should mention every discomfort or pain even if it seems minor. It is very common for the area of the body that feels like a minor injury immediately after a collision to turn into a chronic problem later on.

Finally, if you are the type of person who declines treatment at the scene of the accident and transportation to the ER, or who waits to see a doctor in hopes that the pain will go away on its own over time, that conservative approach will hurt your injury claim. Insurance companies will use the delay in seeking treatment against you. They will take the position that if you were really injured, then you would have treated right away. They do not care that you did not see a doctor because you could not afford it, or could not miss time from work, or you have a high pain tolerance. After an accident, if you did not treat at an ER, then you should see your doctor at least within a few days of the accident - the sooner the better.

Be sure to consult with your attorney if you have any questions about these matters or any other matters related to your car accident injuries.

Update to Iowa's Beginning Farmer Tax Credit Program

By Lee M. Rankin

On May 21, 2019 Iowa's Beginning Farmer Tax Credit Program received a few changes in how it is administered, but more importantly, it now has a bigger budget. After the law change, the program's annual budget was raised from \$6 million to \$12 million. The deadline for submitting an application is August 1 and the application fee ranges from \$300-\$500.

Under the Program, the eligible taxpayer receives a non-refundable credit to his or her Iowa income taxes if they lease farm land to a beginning farmer. The credit ranges from 5% for a cash rent lease to 15% for a crop share lease. Flex leases receive a credit for 5% attributable to the fixed amount and 15% for the risk-shared amount. There is an annual limit to the credit of \$50,000 and any unused credits may be carried forward 10 years.

Eligible taxpayers must be individuals, partnerships, family farm corporations, or family farm limited liability companies. Eligible taxpayers do not include: (a) taxpayers who have participated in the Pro-

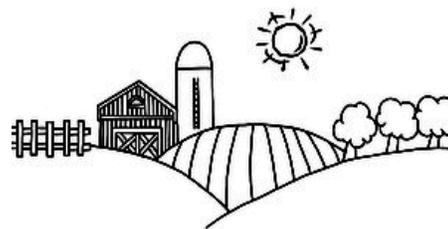
gram for at least 10 years, (b) those taxpayers who previously improperly terminated a lease that was eligible for the credit, (c) if the lease includes a confinement feeding operation, a taxpayer who is not a party to pending administrative or judicial action involving an animal feeding operation, (d) taxpayers classified as habitual offenders involving an animal feeding operation, or (e) taxpayers who are partners, shareholders, or members of the entity that is the lessee of the property subject to the lease.

A Beginning Farmer must be an Iowa resident individual, partnership, family farm corporation, or family farm limited liability company (and in the case of an entity, all owners must be Iowa residents). In addition, the Beginning Farmer must: (a) not have a net worth in excess of \$680,590.00, (b) have sufficient education, training or experience in farming (if an entity, one owner who is not a minor must fit this criteria), (c) has access to adequate working capital and production items, (d) materially participate in farming (if an entity, one owner who is not a minor must fit this criteria) and (e) must

not own more than 10% in an agricultural asset included in the agreement.

Lastly, the agricultural lease must be in writing and for a period of 2-5 years and may be renewed for a period of 2-5 years. In addition, the lease: (a) can include equipment, so long as it is not intended to be used as security, (b) agreement cannot be assigned and the property cannot be sub-leased, (c) the lease amount cannot be more than 30% above average cash rent for the county as published by Iowa State University.

The credits are awarded on a first come first serve basis. Once the \$12 million limit is reached, any eligible credits will be pushed into the following year. For those landlords and tenants who might qualify, it is certainly worth considering submitting an application.



Employee Rights Under the Family Medical Leave Act

By Paul S. Wilson

Under the Family and Medical Leave Act (FMLA), employees may be entitled to take up to 12 weeks of unpaid, job-protected leave for family and medical reasons.

To be eligible for FMLA, an employee must:

- Work for a covered employer, which is generally any employer other than a private company with fewer than 50 employees;
- Work for the covered employer for at least 12 months (this time period does not have to be consecutive);
- Have at least 1,250 hours of service for the employer during the 12-month period immediately preceding the leave; and
- Work at a location where the employer has at least 50 employees within 75 miles.

An eligible employee may take up to 12 workweeks of leave in a 12-month period for one or more of the following reasons:

- A child's birth or adoption;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condi-

tion that makes the employee unable to work; or

- To make family and child care arrangements for a spouse, son, daughter, or parent who is deploying in the military.

It is important for employees to follow their employer's requirements for requesting leave and provide enough information for their employer to determine whether the FMLA may apply to the leave request.

Employees usually must request leave 30 days in advance when possible. If the employee cannot give 30 days' notice, the employee must provide notice as soon as possible under the circumstances.

An employer may require certification in support of FMLA leave from a health care provider. An employer may also require second or even third medical opinions (at the employer's expense) of the employee's serious health condition.

Employees can also generally take FMLA leave on an intermittent or reduced schedule basis, as long as they communicate with their employer. For example, an employee may

take leave in separate blocks of time or reduce the time she works each day or week. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to disrupt the employer's schedule.

When the employee's FMLA leave is over, the employer must restore the employee to her original job or an equivalent job. An employee's use of FMLA leave cannot be used as an "unexcused" absence by the employer. Employers are also required to continue group health insurance coverage for an employee on FMLA leave under the same terms and conditions as if the employee had not taken leave.

An employer may not interfere with, restrain, or deny the exercise of any right provided by the FMLA. An employer may not terminate or discriminate against any employee for any reason related to FMLA leave.

If you believe that your rights under the FMLA have been violated, or have any questions regarding this law, please contact one of our firm's attorneys.

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Newsletter

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The Iowa Hemp Act

By Lee M. Rankin

The 2018 Farm Bill made industrial hemp an agricultural commodity eligible for production and for crop insurance coverage. As part of the Bill, it allows states to create a plan to regulate the production of industrial hemp. On May 13, 2019, Iowa enacted such a plan which is the first step to the legal production of Industrial Hemp in Iowa. Iowa's plan must be submitted and approved by the USDA. The remaining issue is the USDA must first develop its own rules for reviewing state plans before it can start reviewing state plans . . . a process which could take several months or longer. The USDA stated it intends to issue rules this fall in order to allow for planting in 2020.

If approved, it would allow Iowa farmers to plant up to 40 acres of industrial hemp per year. Producers first need to be licensed which includes fees ranging from \$500 to \$1,200 per year (dependent upon acres planted) and a background check. As part of the program, the industrial hemp to be produced must test below .3% THC. The law mandates testing by the Iowa Department of Agriculture and Land Stewardship, which will carry an inspection fee not to exceed \$1,000.

While not ready for production yet, it is expected that industrial hemp will be a legal crop in the coming year. For those interested it is time to consider whether or not it would be profitable endeavor.

PLEASE NOTE:

Due to the relocation of the Council Bluffs Post Office, Willson & Pechacek no longer has a P.O. Box. Please send mail to the physical street address:

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