

# N. J. Workers Compensation Act

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#### N.J.S.A. 34:15



- New Jersey's Workers Compensation Act was adopted in 1911.
- New Jersey followed the lead of Wisconsin's Progressive Movement of the early 1900's.
- Employee gives up right to sue employer for its negligence in exchange for guaranteed system of scheduled benefits.
- The statute is to be liberally construed to bring as many employees as possible under the coverage of the WC Act.
- It's called "workers' compensation, not employers' defense!"

# Defined Benefits in New Jersey

#### Medical Benefits

- No limit to medical benefits.
- Must get the employee to Maximum Medical Improvement (MMI).

#### Temporary Disability Benefits

 Wage replacement is determined by the State Division of WC and is based upon the injured employee's salary at the time of injury.

#### Permanent Partial Disability Benefits

- Payment for disability level claimant receives as a result of the injury.
- Based upon a chart issued by the State Division of WC.

#### SCHEDULE OF DISABILITIES AND MAXIMUM BENEFITS EXCLUSIVE OF AMPUTATION AND ENUCLEATION EFFECTIVE 1/1/2023

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PER- CENT	HAND <25% 280 WEEKS ≥ 25% 300 WEEKS	ARM 330 WEEKS	THUMB 80 WEBKS	FIRST 60 WEEKS	SECOND 50 WEBKS	THIRD 40 WEBKS	FOURTH 30 WEIKS	LEG 315 WEEKS	FOOT <25% 25 WEEKS >2% 255 WEEKS	GREAT TOE 40 WEBKS	OTHER TOE 15 WEEKS	EYE 200 WEEKS	1 EAR 60 WEBKS	2 EARS 200 WEEKS	PARTAL TOTAL BASED ON 600 WEEKS	
1	2.6000 762.00	3.3000 967.00	0.8000 234.00	0.6000 176.00	0.5000 147.00	0.4000 117.00	0.3000 88.00	3.1500 923.00	2.5000 733.00	0.4000 117.00	0.1500 44.00	2.0000 586.00	0.6000 176.00	2.0000 586.00	6.0000 1,758.00	1
11/2	3.9000 1,143.00	4.9500 1,450.00	1.2000 352.00	0.9000 264.00	0.7500 220.00	0.6000 176.00	0.4500 132.00	4.7250 1,384.00	3.7500 1,099.00	0.6000 176.00	0.2250 66.00	3.0000 879.00	0.9000 264.00	3.0000 879.00	9.0000 2,637.00	11/2
2	5.2000 1,524.00	6.6000 1,934.00	1.6000 469.00	1.2000 352.00	1.0000 293.00	0.8000 234.00	0.6000 176.00	6.3000 1,846.00	5.0000 1,465.00	0.8000 234.00	0.3000 88.00	4.0000 1,172.00	1,2000 352,00	4.0000 1,172.00	12.0000 3,516.00	2
21/2	6.5000 1,905.00	8.2500 2,417.00	2.0000 586.00	1.5000 440.00	1.2500 366.00	1.0000 293.00	0.7500 220.00	7.8750 2,307.00	6.2500 1,831.00	1.0000 293.00	0.3750 110.00	5.0000 1,465.00	1.5000 440.00	5.0000 1,465.00	15.0000 4,395.00	21/2
3	7.8000 2,285.00	9.9000 2,901.00	2.4000 703.00	1.8000 527.00	1.5000 440.00	1,2000 352,00	0.9000 264.00	9.4500 2,769.00	7.5000 2,198.00	1.2000 352.00	0.4500 132.00	6.0000 1,758.00	1,8000 527,00	6.0000 1,758.00	18.0000 5,274.00	3
31/2	9.1000 2,666,00	11.5500 3,384.00	2.8000 820.00	2.1000 615.00	1.7500 513.00	1,4000 410,00	1.0500 308.00	11.0250 3,230.00	8.7500 2.564.00	1.4000 410.00	0.5250 154.00	7.0000 2.051.00	2.1000 615.00	7.0000 2,051.00	21.0000 6,153.00	31/2
4	10.4000 3,047,00	13.2000 3,868.00	3.2000 938.00	2.4000 703.00	2.0000 586.00	1,6000 469,00	1.2000 352.00	12,6000 3,692,00	10,0000 2,930.00	1.6000 469.00	0.6000 176.00	8.0000 2.344.00	2.4000 703.00	8.0000 2,344.00	24.0000 7,032.00	4
5	13.0000	16.5000 4.835.00	4.0000 1,172.00	3.0000 879.00	2.5000 733.00	2.0000	1.5000	15.7500 4.615.00	12,5000	2.0000	0.7500 220.00	10.0000	3.0000 879.00	10.0000	30.0000 8.790.00	5
71/2	19.5000 5,714.00	24.7500 7,252.00	6.0000 1,758.00	4.5000 1,319.00	3.7500 1,099.00	3.0000 879.00	2.2500 659.00	23.6250 6.922.00	18.7500 5,494.00	3.0000 879.00	1.1250 330.00	15.0000 4,395.00	4.5000 1,319.00	15.0000 4,395.00	45.0000 13,185.00	71/2
10	26.0000 7.618.00	33.0000 9,669.00	8.0000 2,344.00	6.0000 1,758.00	5.0000 1,465.00	4.0000 1,172.00	3.0000 879.00	31.5000 9,230.00	25.0000 7,325.00	4.0000 1,172.00	1.5000 440.00	20.0000 5,860.00	6.0000 1,758.00	20.0000 5,860.00	60.0000 17,580.00	10
121/2	32.5000 9.523.00	41,2500 12,086,00	10.0000	7.5000 2.198.00	6.2500 1,831.00	5.0000 1,465.00	3.7500 1,099.00	39.3750 11.537.00	31.2500 9.156.00	5.0000 1,465.00	1.8750 549.00	25.0000 7.325.00	7.5000 2.198.00	25.0000 7.325.00	75.0000 21,975.00	121/2
15	39.0000 11.427.00	49.5000 14.504.00	12.0000 3,516.00	9.0000 2,637.00	7.5000 2,198.00	6.0000 1,758.00	4.5000 1,319.00	47.2500 13.844.00	37.5000 10.988.00	6.0000 1,758.00	2.2500 659.00	30.0000 8,790.00	9.0000	30,0000 8,790,00	90.0000	15
171/2	45.5000 13.332.00	57.7500 16.921.00	14.0000 4.102.00	10.5000	8.7500 2.564.00	7.0000 2.051.00	5.2500 1,538.00	55.1250 16.152.00	43.7500 12.819.00	7.0000 2.051.00	2.6250 769.00	35.0000 10.255.00	10.5000	35.0000 10.255.00	105.0000 32.511.00	171/2
20	52.0000 15,236,00	66,0000 19,338,00	16.0000 4.688.00	12.0000 3,516.00	10.0000	8.0000 2.344.00	6.0000 1,758.00	63,0000 18,459,00	50.0000 14,650.00	8.0000 2.344.00	3.0000 879.00	40.0000 11,720.00	12,0000 3,516,00	40.0000 11,720.00	120.0000 37,830.00	20
221/2	58.5000 17,141,00	74.2500 21.755.00	18.0000 5,274.00	13.5000 3,956.00	11.2500 3.296.00	9.0000	6.7500 1,978.00	70,8750 20,766,00	56.2500 16,481.00	9.0000	3.3750 989.00	45.0000 13,185.00	13.5000 3.956.00	45.0000 13,185.00	135.0000 43.722.00	221/2
25	75.0000 21,975.00	82,5000 24,173,00	20,0000	15.0000 4,395.00	12.5000 3.663.00	10.0000	7.5000 2,198.00	78.7500 23.074.00	71.2500 20,876.00	10.0000	3.7500 1,099,00	50.0000 14,650.00	15.0000 4,395.00	50,0000	150.0000 50,142.00	25
271/2	82.5000 24,173.00	90.7500 26,601.00	22.0000 6,446.00	16.5000 4,835.00	13.7500 4,029.00	11.0000 3,223.00	8.2500 2,417.00	86.6250 25,381.00	78.3750 22,964.00	11.0000 3,223.00	4.1250 1,209.00	55.0000 16,115.00	16.5000 4,835.00	55.0000 16,115.00	165.0000 57,132.00	271/2
30	90.0000 26,370.00	99.0000 30,534.00	24.0000 7,032.00	18.0000 5,274.00	15.0000 4,395.00	12.0000 3,516.00	9.0000 2,637.00	94.5000 27,756.00	85.5000 25,052.00	12.0000 3,516.00	4.5000 1,319.00	60.0000 17,580.00	18.0000 5,274.00	60.0000 17,580.00	180.0000 64,650.00	30
33 1/3	100.0000 30,856.00	110.0000 34,226.00	26.6667 7,813.00	20.0000 4,883.00	16.6667 3,907.00	13.3333 3,907.00	10,0000	105.0000 32,511.00	95.0000 27,910.00	13.3333 3,907.00	5.0000 1,465.00	66.6667 19,533.00	20.0000 5,860.00	66.6667 19,533.00	200.0000	33 1/3
35	105.0000 32.511.00	115.5000 36.183.00	28.0000 8.204.00	21.0000 6,153.00	17.5000 5,128.00	14.0000 4.102.00	10,5000	110,2500 34,314,00	99.7500 30.776.00	14.0000 4,102.00	5.2500 1,538.00	70.0000 20.510.00	21.0000 6.153.00	70.0000 20.510.00	210.0000	35
371/2	112.5000 35,106.00	123.7500 39,259.00	30.0000 8,790.00	22.5000 6,593.00	18.7500 5,494.00	15.0000 4,395.00	11.2500 3,296.00	118.1250 37,144.00	106.8750 33.143.00	15.0000 4,395.00	5.6250 1,648.00	75.0000 21,975.00	22.5000 6.593.00	75.0000 21,975.00	225.0000 131.850.00	371/2
40	120.0000 37,830,00	132,0000 42,492,00	32,0000 9,376,00	24.0000 7.032.00	20.0000 5.860.00	16.0000 4.688.00	12,0000 3,516,00	126,0000 40,116,00	114.0000 35.634.00	16.0000 4.688.00	6.0000 1,758,00	80.0000 23,440.00	24.0000 7.032.00	80.0000 23,440.00	240.0000	40
45	135.0000 43.722.00	148.5000 49.482.00	36.0000 10.548.00	27.0000 7,911.00	22.5000 6.593.00	18.0000 5.274.00	13,5000 3,956,00	141.7500 46.546.00	128.2500 41,007.00	18.0000 5.274.00	6.7500 1,978.00	90.0000	27.0000 7.911.00	90.0000	270.0000 177,930.00	45
50	150.0000 50.142.00	165.0000 57,132.00	40.0000 11,720.00	30,0000 8,790,00	25.0000 7.325.00	20,0000 5,860.00	15.0000 4,395.00	157.5000 53.570.00	142,5000 46,865,00	20.0000	7.5000 2,198.00	100,0000	30,0000 8,790,00	100,0000	300.0000	50
55	165.0000 51,504.00	181,5000 93,110,00	44.0000 12.892.00	33,0000 9,669,00	27.5000 8.058.00	22,0000 6,446.00	16.5000 4,835.00	173.2500 61,199.00	156.7500 53,218.00	22.0000 6.446.00	8.2500 2,417,00	110.0000 34,226.00	33.0000 9.669.00	110,0000 34,226,00	330.0000 265,980.00	55
60	180.0000	198.0000 101,574.00	48.0000 14,064.00	36.0000 10,548.00	30.0000 8,790.00	24.0000 7.032.00	18.0000 5,274.00	189.0000	171.0000 60,078.00	24.0000 7,032,00	9.0000	120.0000 37,830.00	36.0000 10,548.00	120,0000	360.0000 316,440.00	60
65	195.0000	214.5000 125,697.00	52.0000 15,236.00	39.0000 11,427.00	32.5000 9,523.00	26.0000 7,618.00	19.5000 5,714.00	204.7500	185.2500 95,033.00	26.0000 7,618.00	9.7500 2,857.00	130,0000	39.0000 11,427.00	130,0000	390.0000 371,280.00	65
66 2/3	200.0000	220.0000 128,920.00	53.3333 15,627.00	40.0000 9,767.00	33.3333 7,813.00	26.6667 7,813.00	20.0000	210.0000	190.0000 97,470.00	26.6667 7,813.00	10.0000	133.3333 43,039.00	40.0000 11,720.00	133,3333 43,039.00	400.0000 410,400.00	66 2/3
70	210.0000 107,730.00	231.0000 135.366.00	56.0000 16,408.00	42.0000 12,306.00	35.0000 10,255.00	28.0000 8,204.00	21.0000 6,153.00	220.5000 129,213.00	199.5000 102.344.00	28.0000 8,204.00	10.5000	140.0000 45,802.00	42.0000 12,306.00	140.0000 45.802.00	420.0000 430,920.00	70
75	225.0000 131.850.00	247.5000 163.103.00	60.0000 17,580.00	45.0000 13,185.00	37.5000 10.988.00	30.0000 8.790.00	22.5000 6.593.00	236.2500	213.7500 125.258.00	30.0000 8.790.00	11.2500 3,296.00	150.0000 50.142.00	45.0000 13.185.00	150.0000 50.142.00	450.0000 494.550.00	75
80	240.0000	264.0000 173.976.00	64.0000	48.0000	40.0000 11,720.00	32.0000 9.376.00	24.0000 7,032.00	252.0000 166.068.00	228.0000	32.0000	12.0000 3.516.00	160.0000 54.742.00	48.0000 14.064.00	160.0000	480.0000 527,520.00	80

WEEKS		90	90	97	103	109	115	121	127	133	139	145	151	157	163	169	175						16.10					
			96	102	108	114	120	126	132	138	144	150	156	162	168	174	180				SAWW \$ 1465.18 Maximum Rate \$1069.00							
MAX. DOLLAR AMT.		26,370	29,568	31,500	33,522	35,634	37,830	40,116	42,492	44,952	47,502	50,142	52,866	55,680	58,584	61,572	64,650				Maximum Rate Chart							
90 ataw 293																					Permanent Portial Disability Compensation Rate - 70% of Wage							
91 TO 96	25% #54WW	308	308																		Minimum Rate \$35.00 per week Amoutation - 30% of Award - Added							
97 TO 102	22% #34WW	308	308	322																	no counsel fee 25 Weeks Additional for Enucleation of Eye							
103 TO 108	29% « MANN	308	308	322	337																							
109 TO 114	29% #3MWW	308	308	322	337	352																						
115 TO 120	25%	308	308	322	337	352	366																				_	
121 TO 126	25% « MWW	308	308	322	337	352	366	381																			_	
127 TO 132	27% 	308	308	322	337	352	366	381	396																		_	
133 TO 138	20% of \$400W	308	308	322	337	352	366	381	396	410																	_	
139 TO 144	29% 4 SAWW	308	308	322	337	352	366	381	396	410	425																_	
145 TO 150	30% at \$AWW	308	308	322	337	352	366	381	396	410	425	440																
151 TO 156	38% -/ 300W	308	308	322	337	352	366	381	396	410	425	440	454															
157 TO 162	4 374.	308	308	322	337	352	366	381	396	410	425	440	454	469														
163 TO 168	43WW	308	308	322	337	352	366	381	396	410	425	440	454	469	484													
169 TO 174	SPL #SAWW	308	308	322	337	352	366	381	396	410	425	440	454	469	484	498												
175 TO 180	20% 45AWW	308	308	322	337	352	366	381	396	410	425	440	454	469	484	498	513											
181 TO 210	JUL JULION	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	513										
211 TO 240	40% ursaww	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	586									
241 TO 270	4DL ursaww	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	659							_	
271 TO 300	SOY. of SAWW	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	733							
301 TO 330	SDY. of SAWW	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	806						
331 TO 360	- 00% 3MWW	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	879					
361 TO 390	dox.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	952				
391 TO 420	775. -/ 3AWW	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,026			
121 TO 600	TSN. at SAWW	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1,099		

1/1/2023

17/20/23
OTAL PERMANENT DISABILITY - 70% of Wages - Maximum \$1099.00 - Minimum \$293.00 - 450 Weeks, Plus Additional BenefitsasSetForthinR.S.34:15-12[b)
EMPORARY DISABILITY - 70% of Wages - Maximum \$1099.00 - Minimum \$293.00 - Maximum 400 Weeks
EATH BENEFETS - 70% of Wages - 450 Weeks Plus Spounes's Stulturby Benefits Maximum Ratio 1909.00

# No Fault Concept



- Employees can recover benefits regardless of fauit.
- Workers' Compensation is an *exclusive remedy* which means that the employee may not sue his or her employer for injuries sustained.
- Employees who *intentionally* injure themselves are excluded from coverage.
- Employers who *intentionally* injure their employees can be sued outside of workers' compensation.
- Employers accept the employee's underlying medical conditions when they hire them
  - We take em' as we get em'

# Compensability



- An accident or occupational disease must arise out of and in the course of employment to be compensable
  - "Arise out of" the employment is a causation concept
  - "Arise in the course of" employment is a time concept
- In addition, for an occupational disease to be compensable it must also be due to causes and conditions that are characteristic of or peculiar to a particular trade, occupation, process, or place of employment and the contribution must be "in a material degree".
  - An adjuster reviews the claim petition and obtains the medical records to determine the nature of the claim because of different proofs required, different notice provisions and different statute of limitations provisions.

# How Can Employers Level the Playing Field?

- Establish sound hiring practices?
- Promote Wellness?
- More Safety Training?
  - Results in Fewer Accidents & less significant injuries
- Signage & other reminders to reinforce policies?
- Manage Claims?
- Zero tolerance for fraud?



# Managing Workers Compensation Claims

- Report claims as soon as they happen.
- Investigate claims to eliminate future occurrences.
- Report discrepancies or concerns to the adjuster.
- Direct medical care
  - PPO & EPO discounts
  - Nurse Case Managers
- Use Transitional Duty.



#### What Would You Do?



The stories you are about to hear are real. The names of those involved have been changed to protect their identity.

#### Claim Scenario #1



#### "Dump Truck" Bob – DPW Laborer

- 27 Years Old
- 6' 3" & 263 lbs.
- While getting out of a dump truck at the DPW Yard, Bob stepped into a pothole and experienced low back pain.
- Bob immediately reported this incident to his supervisor.

What questions need to be asked and actions taken?

- Bob is initially sent to Urgent Care & told to follow up in 5 days.
- At the follow up, Urgent Care sends Bob to 2 weeks of physical therapy.
- After 2 weeks, Bob is not getting any better and is sent to an Orthopedist.
- An MRI is ordered.

During the investigation of the claim, the adjuster finds that the claimant's father owns a landscaping business where the claimant works part time...





- The MRI shows Bob has disc protrusion impinging on nerve at L4-5.
- Bob is then referred to pain management and undergoes two epidural injections with limited success.
- Bob returns to the Orthopedist who recommends a micro discectomy but advises that Bob has a higher risk of post operative complications due to his size.
- As a result, Bob is sent for a second opinion with a neurosurgeon.
- The neurosurgeon recommends additional PT, additional injections, and for Bob to lose weight.

Can we make Bob lose weight?
What if Bob doesn't lose weight?
Is Bob's weight prolonging his care?

- Following the visit to the neurosurgeon, Bob received an injection with 60% improvement
- Bob, follows up with neurosurgeon who recommends additional PT, another injection, continued pain management, and weight loss.



Meanwhile...our defense attorney receives a letter from the State with an attached email from a "Joe Smith" stating that Bob's claim is fraudulent. We only have an email address and send "Joe Smith" an email...

- Following his second visit to the Neurosurgeon, Bob receives another injection that reduces his pain even more.
- Bob, attends his third visit with neurosurgeon who recommends additional weight loss (note, he did lose 25lbs).
- Bob undergoes a Functional Capacity Examine (FCE) and it is determined that Bob can return to his normal job requirements with no restrictions.
- Bob receives a Permanent Partial Disability award of over \$26K.







- Less than 6 weeks after the PPD award is paid, Bob files a reopener
- We file a Motion to Dismiss for Lack of Prosecution
- Four days after the Motion is filed, Bob is involved in an MVA resulting in a complaint of lumbar & cervical pain and the Judge does not grant our Motion to Dismiss
- Bob undergoes x-rays and a MRI and it is determined that <u>no</u> additional injuries or worsening of existing injuries resulted from the MVA

How do we differentiate between preexisting conditions and new injuries?





- Less than 6 months after the MVA, Bob files a claim petition seeking additional medical care related to injuries sustained in the MVA
- Bob is examined by the original Neurosurgeon that treated Bob during his first injury
- The doctor causally relates an exacerbation of his injuries to the MVA and recommends additional PT and injections
- Following this course of treatment, Bob is placed at MMI and released from care
- Less than 6 months later, Bob requests additional medical care related to injuries sustained in the MVA

Two different doctors.. Two opposing opinions...Now what?

- The same Neurosurgeon orders another MRI of the spine and cervical area.
- The MRI shows bulging at C3-4 and C4-5 and a disc herniation at C5-6.
- The doctor casualty relates these injuries to the MVA.
- Bob continues with PT five years after he initially stepped into the pothole getting out of his dump truck.
- Bob has two open claim petitions pending settlement.

It is estimated that Bob will receive an Award of \$77,829.00 for the MVA and \$10,000.00 pursuant to Section 20 related to the Reopener for stepping into a pothole.

#### Claim Scenario #2

#### "Mike the Mechanic" - Municipal DPW Mechanic

- 60 Years Old
- 5' 7" & 160 lbs.
- Date of Hire 12/01/1980
- Retirement Date 12/31/2020
- First Notice of Claim Petition filed 6/07/2021



What questions need to be asked?



- Mike's claim petition indicates that the stress and strain of employment duties either caused, aggravated, accelerated and/or exacerbated low back condition.
- Mike is evaluated by an Orthopedist as to a need for treatment /causality exam.
- The same Orthopedist had previously performed a lumbar fusion on Mike eight (8) years prior to Mike's retirement related to a workers' comp claim.
- The Orthopedist states that three (3) months prior to Mike's retirement, Mike had an appointment with the Orthopedist complaining of worsening pain in the lumbar spine.
- The Orthopedist determined that Mike's occupational duties contributed to the current symptoms.

Any concerns here?

- Due to the Orthopedists prior involvement with Mike, an independent medical exam (IME) was scheduled with another Orthopedist.
- The IME Orthopedist opined that Mike's pain was more likely the result of an adjacent level pathology relating to his L4-S1 fusion than it is a result of his "alleged occupational exposure".
- The IME Orthopedist stated that the onset of symptomatology is within the 7–10-year time frame the majority of providers cite for adjacent level pathology to become symptomatic.
- Due to a conflict in opinions, the Judge recommended that Mike undergo a third examination to determine causality.

Two different doctors.. Two opposing opinions...



- Dr. Tiebreaker related the current need for treatment to Mike's occupational duties.
- Treatment was then referred back to the original Orthopedist that had performed Mike's original surgery.
- An MRI showed a stable posterior fusion L4-S1, slightly progressed degenerative changes at L3-4 from a prior study. X-rays of the lumbar spine showed post-surgical changes.
- Based upon the results of these tests, Mike underwent pain management,
   PT, and a series of injections resulting in short term relief.

How do you differentiation between natural aging process and exacerbation of prior injuries?

- Based upon the limited success of the conservative treatment, Mike was sent to a spine surgeon.
- The spine surgeon recommended surgery in the form of a Lateral lumbar fusion/XLIF (fusion with implants), L3-4 and lateral ALIF L2-S1.
- Surgery is being scheduled.
- Due to second surgery on same body part, pending claiming petition will be significantly more expensive to settle.
- Likelihood of future medical care is high due to multiple surgeries.

Should Mike have been allowed to return as a mechanic following his first fusion surgery? Could we have stopped him from returning?



#### Claim Scenario #3

#### "Ellen the Elderly" - Clerk

- 79 Years Old
- 5' 0" & 116 lbs.
- Date of Hire 2010
- Retirement Date N/A
- First Notice of Claim Date of Loss



What questions need to be asked?



- As known and acknowledged by the insured, Ellen has Parkinson's Disease and is on various drugs to treat the symptoms of Parkinson's Disease, high (bad) Cholesterol, anxiety, & sleep disorders.
- Ellen tripped while going up the stairs in the municipal building resulting in a broken nose and fractures to both wrists.
- Ellen underwent emergency surgery to repair both wrists and spent four (4) days in the hospital.
- Following the removal of hard casts from her wrists two (2) weeks post surgery, Ellen was prescribed in home physical therapy and occupational therapy.
- Three months post surgery, Ellen was prescribed outpatient therapy; however, missed her initial outpatient appointment due to a non work related injury hospital stay.

Can the employer take into consideration the employees age/health in her day-to-day activities?



- Approximately one month after being prescribed out patient therapy, Ellen was sent for updated x-rays; however, Ellen was unable to attend to x-ray appointment due to non work related injury medical complications
- Ellen attended her first outpatient therapy session five (5) months post injury and six (6) weeks after initially being prescribed outpatient therapy.
- Two (2) months following her first outpatient therapy session, we were notified that Ellen had only attended one (1) of her outpatient therapy sessions.
- Due to non-compliance with prescribed treatment, the treating physician was contacted to determine if Ellen should be placed at MMI.
- The treating physician ordered a new MRI which revealed a tear of the central articular disc and joint effusion and a chronic healed intra-articular fracture of the distal radius.

How do we determine MMI in this scenario?



- Approximately one month later, repeat x-rays showed a healed tracture of the wrist with good alignment was noted.
- Ellen's care was then transferred to a new physician who administered a corticosteroid injection to the right wrist and noted the claimant is anticipated to return to work with restrictions by the one year mark.
- One (1) year and two (2) weeks post injury, Ellen was cleared for modified duty with a 10 lb. lifting restriction.
- We are awaiting the treating physicians determination if Ellen has reached MMI.
- If so, an FCE will be ordered to determine if Ellen will have permanent restrictions.

#### What will the FCE tell us?

How does the employer decide whether to accept Ellen back with permanent restrictions?

#### Conclusion:



- Remember we "take em' as we get em'."
- Pre employment physicals are critical in the hiring process.
- Accurate and detailed job descriptions are important.
- Separation or exit interviews that include an inquiry about potential job related injuries are highly recommended.
- FCE's are important prior to considering bringing someone back to work who has suffered a significant injury.
- Think hard before bringing someone back with permanent restrictions.
- Remember the interactive process!
- Consult with your adjusters, WC Defense Attorney, and City Solicitor when you have questions!

#### Conclusion:

- Complete the Incident Investigation Reports in detail.
- Document accident scenes with photos.
- Report claims timely three (3) days or less!
- Tell us about secondary employment.
- Tell us any feedback you might hear about the claimant's activities while out on workers compensation leave.
- Advise if the employee was the subject of any recent disciplinary actions/grievances.
- Was their vacation request recently denied?





Questions?