

WORK COMP REPORTER

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Stop the Bleeding! Apply Direct Pressure to Source of the Injury

By Jerry Portele

It seems that at the heart of an awful lot of claims lies a deep, open wound that takes forever to heal and sometimes never does. It bleeds and bleeds and regardless of the treatment, your money keeps on flowing out of it. That wound is the open ended compensable injury and if you don't take steps to limit its spread, you will be looking at one of those claims that never seems to go away.

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We've all experienced them: Those claims that you have that, regardless of what you try and do to make it fade away into the night, it never does. It's there in the morning when you turn on your computer and it's the last one to say good night to you when you leave the office. It's the claims that somehow got away from you, the ones that started off as a sprained ankle, then turned into myofascitis, and then transformed into chronic regional pain syndrome. Or the low back sprain/strain that evolves into facet arthritis, spondylolisthesis, and ultimately a bulging disk. They last for years, cost tens if not hundreds of thousands of indemnity dollars, and hundreds of man hours to adjust. So, how do you keep them from becoming like a cheap set of luggage that you can't get rid of? The answer is, sometimes you just can't. For those other times, though, your best defense is to get defensive early and make sure that the original compensable injury is corralled and defined. Then, force the claimant and his doctors to prove that any add on conditions naturally resulted from the compensable injury.

This article is not a discussion on waiver and all that those deadlines entail. This article is a short primer on keeping the extent of a claimant's injury from becoming the thing that keeps you up at night.

Tips For Successfully Defending the Extent of Injury Issue

1. Take a thorough recorded statement.
 - A. Ask for a complete medical/prior injury history.
 - B. Confirm the mechanism of injury.

The recorded statement is often thought of as a tool that is tailored for confirming the compensability of the claim as a whole. However, in the event an injury is deemed to be compensable, that same recorded statement can be used to combat additional injuries from being added on to the original injury. To ensure that the recorded statement can be utilized in defense of an extent of injury dispute, make sure that a detailed version of the mechanism of injury is obtained. That means questioning each and every movement and instrumentality involved in the injury. A lot of times, the way the claimant hurt himself simply does not support the additional complained of injuries. For example, a claim of a torn ACL should not be supported by a claimant alleging that she injured her knee standing up from a sitting position. Such a movement would not put any strain on the ACL.



2. Carefully review initial and all subsequent medical reports.

Sounds easy enough and it is. You should monitor every narrative to make sure that 1) the doctor isn't adding new injuries to the claim and 2) you identify any pattern in the narratives that appear to be setting up the addition of new injuries. For example, you can always see claims for RSD or CRPS coming when descriptions of mottled skin, irregular sweat or temperature patterns, and excruciating and non-descript pain start appearing in the notes. When you see those, it's time to get an independent doctor involved to either confirm or refute the claims for the add on conditions or injuries.

3. Utilize an RME physician or peer review physician to obtain an opinion on extent of injury.

- a. Specifically inquire if the complaint of injury would likely stem from the original incident and mechanism of injury.

This is where your recorded statement could become a huge factor. Carefully worded questions inquiring into the exact nature of the compensable injury and put into the context of the exact mechanism of injury as described by the claimant can lead to very enlightening answers.

4. Seek a Designated Doctor examination, when appropriate.

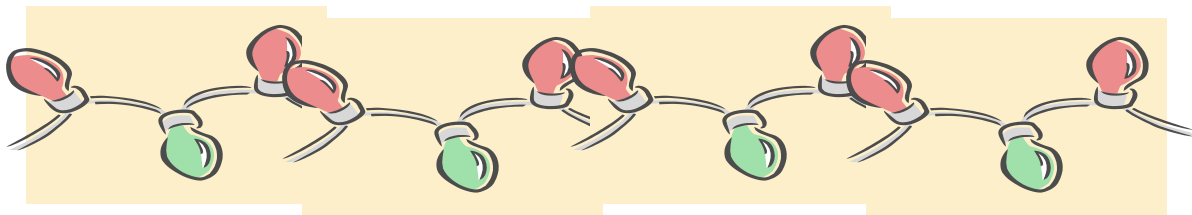
Though sometimes requesting a designated doctor on the issue of the extent of injury can be cringe inducing, a well thought out and carefully worded Designated Doctor Analysis can serve as a way to confirm the extent of the claimant's compensable injury. In fact, as we have spelled out here in Newsletters past, the Analysis will likely serve as your clarification questions, given the new obstacles the DWC has put up in trying to get clarification from the Designated Doctor.

5. Specifically state the grounds for carrier's dispute of extent of injury.

When you draft your PLN-11 accepting the compensable injury or draft your dispute on the extent of the claimant's injury, it is imperative that you clearly define what the carrier has accepted and what the carrier is denying. Don't write "The Carrier accepts a right knee injury". Instead specifically spell out the condition that the carrier has accepted such as "The Carrier accepts a medial meniscal tear of the right knee". This puts everyone on notice, from the DWC to the claimant, to the treating doctor, that the compensable injury has boundaries and will be treated as such.

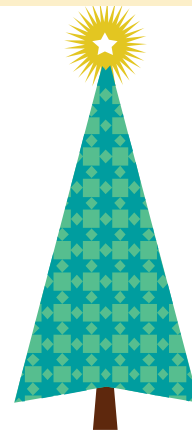
Obviously, this is not an exhaustive list of the tips that you should use in evaluating and determining the extent of the claimant's injuries, but it may be a good Top 5 list. Confirming or limiting the extent of injury is an effective way to slap a tourniquet on the money hemorrhage that unchecked compensable injuries can become. Pappas & Suchma, P.C. is happy to provide any assistance you need in the use of any of these tips. We are a phone call or an email away.

**Questions?
Call us at
713-914-6200**



DWC Holiday Hours

All DWC offices will be closed
December 24, 2010 in observance
of the Christmas Holiday.
Remember to get those filings in on
time!



**“the achievements of an organization are the
result of the combined efforts of each individual”**

Recent Enforcement Action

HCPs Restricted from the WC System or Designated Doctors

List (DDL) HCP Name	License Type	License Number	Status	System Role	Restricted Period Start Date	Restricted Period End Date
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<u>Osborn, Charles R.</u>	DC	4497	Workers' Compensation System Removal	TD Consulting Referring	12/3/2010	--
<u>Durkop, David</u>	DC	6210	Workers' Compensation System Removal	TD Consulting Referring	11/12/2010	3/1/2014
<u>Voge, Victoria M.</u>	MD	K1122	Suspended or Removed from the DDL	DD	9/29/2010	3/29/2011
<u>Rafaeian, Manouchehr</u>	MD	J6684	Suspended or Removed from the DDL	DD	12/1/2010	5/31/2011
<u>Holleman Jr., James F.</u>	DO	K4082	Workers' Compensation System Removal	TD	9/10/10	--
<u>Shanti, Ihsan</u>	MD	K4562	Workers' Compensation System Removal	TD	09/03/10	--
		K4562	Workers' Compensation System Removal	MMI/IR	09/03/10	--
		K4562	Workers' Compensation System Removal	DD	09/03/10	--