

Manager/Supervisor Risk Management

#43– 4/5/12

TOPIC: WORKERS' COMPENSATION – DISPUTE RESOLUTION

We are only going to address a small part of what otherwise would be a big topic. Generally the treating doctor's findings determine what benefits are owed to the injured worker. The area we will be addressing in this topic is how the injured worker can address any disagreements with their treating doctor's conclusions. Once again, we are stating things in very broad, general terms.

In the pre-reform days (before 2004) the employer and injured worker would either agree on a neutral doctor (AME), or would each get their own doctor (QME) to address the disputed issues. It became an arena of battling experts that drove up costs when, in many situations, up to three doctors were examining and ordering tests on the injured worker. "Doctor shopping" was common with both the injured worker and employer looking for physicians with a known bias for their side. The non-adversarial system had degenerated into expensive conflict.

The post reform process has substantially done away with doctor shopping. Now when a party disputes the treaters' conclusions they formally request a Qualified Medical Examiner Panel (QME) from the State. The State will send them a panel of three doctors, with specialties in the appropriate medical area, for consideration by the injured worker. The injured worker chooses one of the three. The chosen physician does not become the treating doctor, but they will have the final decision power on all disputes for the life of the claim. Normally, the worker only gets one panel, and is stuck with the doctor they choose.

When the injured worker is represented by an applicant's attorney there are a couple of subtle changes. Instead of the injured worker choosing the QME from the panel of three, each side disqualifies one, and the remaining doctor becomes the QME. Also to avoid the chance of a State panel with three "bad choices" the panel QME process can be bypassed with both sides agreeing on a (non-panel) agreed medical examiner (AME).

So why is this important to the supervisor/manager? First of all, it is important to remember that the injured worker might not recognize that the WC dispute is not with their employer. They are questioning the conclusions of their treating doctor, and the employer has no input in that process.

Secondly, it should be understood that the QME process probably will slow the claim down. Appointments with panel doctors are sometimes tough to get. They have to obtain previous medical reports, and might require additional medical tests which could cause the employee to miss additional work time.

Lastly, recognize that disputes can often be resolved informally by communication between the injured worker, their treater, the claims examiner and/or the YCPARMIA WC Nurse.

Next topic: Workers' Compensation – 132a and Serious and Willful