

AVOIDING CLAIM AND LITIGATION ERRORS

Judge Nathan Pogirski
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1. THREE-WAY CONTACT

- Insured
- Claimant
- Employer

Properly investigate new claims:

- *Speak to the employer & witnesses*
- *Do a claims search*
- *Secure all pertinent medical records*
- *Watch Statute of Limitations*
- *Call counsel on questionable claims*



2. FACTUAL & MEDICAL INVESTIGATION

- Thoroughly investigate both facts of accident & claimant's injury
- Speak to the employer and witnesses
- Call counsel on questionable claims and rely on their assessment of the case
- Use adjusters with experience in PA Workers' Compensation claims
- Obtain past and present medical records
- Do a claims search



3. USE CORRECT BUREAU DOCUMENTS

- NCP/NTCP
- Notice of Compensation Denial
- Medical Only NCP's
- LIBC-757 NATRTW
- Supplemental Agreements

File the proper Bureau documents & know which documents have been filed on your case. Be aware of the time deadlines for the Bureau document you are using.



4. PANEL PROVIDER LIST

- Review list regularly and update
- Things to consider:
 - Do the providers treat the claimant with respect?
 - Do the providers have prompt service?
 - Do the providers communicate well with employer, insurer and counsel?
 - Do the providers disable claimant based on subjective or objective evidence?
 - Give providers a job description and job availability



5. ACKNOWLEDGE THE FACTS

- Don't be afraid to admit to facts in any petition
- Focus on the relevant issues in the petitions
- Rely on counsel's analysis



6. INDEPENDENT MEDICAL EXAMINATIONS

- Know the doctor
- Use the proper specialist
- Provide a history of the injury
- Send Bureau Records
- Evaluate all injuries/diagnoses

Send all medical records including films & prior records.

Remember to send the doctor copies of all additional medical records, relevant testimony and surveillance for review prior to her/his deposition.



7. LITIGATION ON IME RESULTS

- Modification/Suspension
- Termination
- Review

*Do not file petitions until you have evidence.
Send the entire file to defense counsel.
Rely on counsel's assessment of the case.*



8. RETURN TO WORK

- Issue Notice of Ability to Return to Work
- Explore job availability
- Communicate with employer and counsel about importance of modified duty work
- Promptly offer work to claimant
- Issue Notice of Modification/Suspension immediately upon a return to work



9. MEDIATION

- Always consider mediation as an option to resolve the entire case
- Have Medicare issues resolved before mediation
- Provide mediation statement to WCJ
- Properly evaluate case & be realistic
- Don't expect to low ball a pro-se claimant
- Get demand out before mediation
- Communicate & be nice



10. APPROPRIATE USE OF URO'S

- *Custom compound medications*
- *Narcotic/opioid medications*
- *Chiropractic treatment*
- *Follow deadlines to file*



Final Thoughts

- Communicate
- Resolve what you can
- Be prepared



Questions

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Thank You

Judge Nathan Pogirski
Barbara Welton, Esquire – Thanks for 8 great years as a presenter!
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