

The Third-Party Perspective

It *is* about the money!

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GOAL

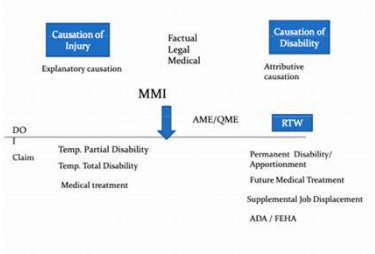
Today the goal is

1. To discuss the predominant PARTIES that are engaged in the processing of a claim.

1. To discuss the different SPECIES OF BENEFITS (money) that are available to the injured worker.

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TIME LINE



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PARTIES

The parties involved in the workers compensation process are:

1. The injured worker.
2. The claims examiner
3. The applicant attorney and the defense attorney
4. The treating physician
5. The insurance companies and their state associations
6. The medical legal reporter

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CATEGORIES

The common categories of money are:

1. Temporary disability
2. Permanent disability
3. Medical treatment
4. Some form of return to work assistance

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INJURED WORKER

THE INJURED WORKER.

- 1.)The worker is the primary focus of attention.

Most just want to return to some sense of normalcy. They need assistance.

There different types of injured workers. The two ends of this spectrum are :

- 1.)The aggressive injured worker
- 2.) The complacent and non-participating worker.

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INJURED WORKER

The injured worker seeks :

1. Medical attention. To cure and relieve them from the effects of the injury.
1. Supplemental benefits to kept them liquid during the healing process. They need to avoid economic distress.

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CLAIMS EXAMINER

CLAIMS EXAMINERS

Employed by insurance companies or third party agency. Examiners have relationships with everyone who has a **financial interest** in the claim process.

They also have to answer to the **state**. State Workers' Compensation Appeals Board, rating agencies (this is where the WPI issued by the physicians is categorized and adjusted by the state for future earning capacity, occupation and age) , employee assistance programs, criminal divisions, auditors.

All need to be responded to.

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CLAIMS EXAMINER

Active elements of the claim desk:

Each claim must have a plan of action for resolution. Very highly dependent on the medical progress of the patient.
Coordination with state agencies. WCAB and affiliates. Is the claim being administered properly?
Claim progress is highly dependent on the receipt of medical information and the medical progress of the patient. This is mostly the treating physicians' responsibility but it will come under your review eventually.
Medical information provides CONTROL of the claim.
The claim needs to be directed towards settlement.

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CLAIMS EXAMINER

Types of settlements.

1. **Stipulation.** Permanent disability is issued in an annuity form. Usually bi-weekly. The level of permanent disability is governed by a state schedule. Future medical benefits are left open.
1. **Compromise and Release.** Lump sum. Other collateral issues are also disposed of. The employer is then "released" from any future responsibility.

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APPLICANT'S ATTORNEY

Applicant's Attorney

Represents injured worker. Receives 15% of the injured worker's eventual award.

For entire settlement if Compromise and Release it is 15 % of the entire award.

If the settlement is by Stipulation future medical treatment is left open and the attorney is paid 15% of the Permanent Disability.. 15% of any collateral issues.

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DEFENSE ATTORNEY

Defense Attorney

Represents employer. Responsible for precise assessment of employer's entire exposure. All conclusions are supported by quantified substantial evidence for financial prediction .

Participates in the nature and extent of the subject matter of the AME report in California. Causation only if asked for.

Assists in disposing of all issues. Liens, collateral issues like employment issues.

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TREATING PHYSICIAN

Treating physician.

Medical treatment at the front end of the claim. Either pre-designated or through MPN (Medical Provider Network).

Treatment is usually regulated through a designated state schedule. If not then recognized medical publications and personal knowledge of the physician.

At MMI the treating physician is responsible to account for all species of benefits.

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INSURANCE COMPANY

The Insurance Company

Provides coverage for employer for workers' compensation matters.

Employer may be self-insured. Bond posted. Greater participation in claim.

Monitored very closely by the state.

Invest in risk management.

Utilize claims examiners.

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MEDICAL LEGAL REPORTER

The Medical Legal Reporter.

Task is to organize and represent medical evidence to the court and the parties with sufficient detail and accuracy to resolve medical disputes, promote understanding and eventual resolution.

Selected by the parties (AME, QME or through a state panel).

Report to be completed timely and in response to all parties requests.

All species of benefits must be addressed.

All medical conclusions must be expressed in a quantified form and in a temporal form (what happened and when did it happen). Always prepare a time line for your own reference in dictation and for potential deposition or supplemental report. Don't put the effect before the cause.

Everyone sees your report

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TEMPORARY DISABILITY

Temporary Disability

Two types of Temporary Disability, Partial and Total. To see the nature and extent of treatment during the temporary disability period it is again important to secure the Benefits Printout from the employer. This can be used to augment your time table.

Temporary Disability is issued when the employee is unable to return to work either entirely or partially. It is prior to MMI.
2.3 of weekly wage.

Keeps employee from falling into economic distress during recovery.

Potential Temporary Disability dictation:

"It is, in my opinion, that the periods of temporary partial and total disability subsequent to the work related cumulative trauma from May 10, 2011 to May 10 2012 might be considered reasonable and justified as authorized by the patient's caregiver if and when causation is established with reasonable medical probability and based on a preponderance of the evidence.

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TEMPORARY DISABILITY CONT.

Or, if there is uncertainty:

The only period of Temporary Total disability that has been identified is the period that began on August 31, 2012, although the deposition indicated that Mrs. X stopped working at the store X on August 29, 2012. There is uncertainty caused by the work related injury of 2011, which seems to have been to the lumbar spine, since Mrs. X stated in her deposition that Dr. Y performed an epidural injection on April 10, 2012, one month before the work related injury of May 10, 2012, such a high degree of uncertainty exists that neither attribution nor appropriateness of temporary total disability can be stated with reasonable medical probability.

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PERMANENT DISABILITY

Permanent Disability

You are members of IAIME. It is the industry leader in the use of the AMA Guides.

Know that the examiners are given regular training in rating classes for the 5th Edition or whatever Edition is designated by their jurisdiction. this training comes in the form of state mandated minimum requirements in medical, financial and employment subjects. They also are required to attend continuing education courses and submit evidence of this training. In addition to that, the experience of reading, analyzing and rating hundreds of medical reports a year makes them familiar with the rationale of the Guides and what the elements of a particular rating would be. They know when something constitutes substantial evidence.

Physicians need to know the book very well.

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PERMANENT DISABILITY

It is imperative that physicians identify the source by page number and section. All interested parties are going to confirm your conclusions.

Every conclusion must be accompanied by an explanation. This is true for all conclusions throughout the report as well as Permanent Impairment.

Each injury must be independently rated.

On matters of combination refer to your particular states statutes. California instructions differ than those of the AMA Guides.

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MEDICAL TREATMENT

Medical Treatment.

Utilization Review programs have sprouted up all over the country. It is imperative that you recognize these statutory limits and recommendations.

Recommendations by the IME are used for setting reserves.

These recommendations must be precise and discussed per injury.

They are referred to in the authorization of treatment even if you differ from the schedule of your particular state.

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RETURN TO WORK

Return to Work.

Significant amendments have been made throughout the nation on return to work processes.

You are medical experts. You must confine you comments to what the employee is medically able to do. What limitations exist.

this must be done per body part.

Do not get trapped into making employment decisions.

Issue your work limitations to each injury and body part. Limit your comments to that.

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