

Impairment Ratings For Traumatic Brain Injury In Texas Workers' Compensation Claims

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While most mild traumatic brain injury patients recover fully (think Jason Witten, back on the football field a week after a concussion diagnosis), a significant percentage experience permanent impairments related to the traumatic brain injury. Experience has shown that many injured workers in Texas who suffer from traumatic brain injuries are certified to have little or no permanent impairment resulting from their injury. It may be that medical providers are not aware of the methods available to rate brain injuries under the fourth edition of the AMA Guides To The Evaluation of Permanent Impairment.

Traumatic brain injury impairment ratings should be considered under Chapter 4 of the AMA Guides. As the introduction to Chapter 4 notes, "impairment criteria are defined in terms of the restrictions or limitations that the impairments impose on the patient's ability to carry out activities of daily living, rather than in terms of specific diagnoses." Therefore, an impairment rating should not be affected by a diagnosis of "post concussive syndrome" vs. "concussion" if the resulting effects of the injuries are the same.

Chapter 4 contains five sections – the central nervous system, the brain stem, the spinal cord, the muscular and peripheral nervous systems, and pain. An evaluator must rate an injured worker under each of these sections, if functional deficits are found in each, and combine the ratings for each section for a total brain injury impairment rating.

The most common impairment in the traumatic brain injury patient will most likely be found under the central nervous system section. This is where the neuropsychological examination becomes a factor. Under the central nervous system section of Chapter 4, the evaluating physician must look at specified functional deficits of brain injury, such as sleep disturbance, cognitive problems, speech deficiency, and emotional and behavioral problems. Then, each one of those aspects is rated using tables contained in Chapter 4. Those tables provide numeric ranges for mild, moderate and severe injury. The most severe of the impairments, which is the highest impairment rating for the above deficits, represents the impairment rating for the central nervous system. If no other impairments under Chapter 4 are noted, then this number will represent the appropriate impairment rating for the traumatic brain injury.

For example, an injured worker with a traumatic brain injury who is able to perform activities of daily living with the assistance of a journal, which is a common brain injury rehabilitative device, may be rated under Table 2 of Chapter 4. This table, titled "Mental Status Impairments," provides a *whole person impairment range* from 15% to 29% for a person whose "impairment requires direction and supervision of daily living activities." It is within the discretion of the evaluator as to what impairment between 15% and 29% best fits the injured

worker's condition. Under that same table, a traumatic brain injury patient who requires continued supervision and home or facility confinement would be given an impairment rating between 30% and 49%.

Because objective improvement in brain injuries can take two or more years, according to the Medical Disability Advisor, prematurely rating a mild to severe traumatic brain injury patient may result in an inflated impairment rating. Access to targeted rehabilitation programs can facilitate a faster and more complete recovery, which is the goal of all system participants.

Proving and defending against a diagnosis of traumatic brain injury requires being familiar with the expected symptomology and a thorough review of the available medical records. In most every case, specialized testing will be necessary to diagnose and document the functional deficits associated with a traumatic brain injury. If these deficits exist, then special attention should be given to the impairment rating certification because of the potential ranges of impairment in play, subject to the discretion of the evaluator.



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