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Insurance Adjuster Attempts to Use Nurse Case Manager Against Injured Worker's Interests



This past July, I discussed on this blog issues related to the participation of a [nurse case manager](#) in a Georgia Workers' Compensation claim. In that post I pointed out that insurance adjusters sometimes assign a nurse case manager to a particular claim. The nurse case manager is not an adjuster, and they do not deal with issues related to wage benefits. Instead, they deal with the medical component of your case only and a nurse case manager can be helpful in setting up medical appointments, coordinating transportation to and from doctor's visits and working out issues with prescriptions.

Issues arise when the nurse case manager tries to influence your doctor about signing off on a return to work release or suggesting to the doctor that he include in his reports statements which say that your pain has subsided and that you are doing better. Some nurse case managers even try to influence the drug prescriptions written by the doctor. Others appear at each one of your appointments and try to stay in the room when your doctor examines you. You have the absolute right, by the way, to insist that your nurse case manager step outside during your examination and conversations with your doctor.

Other issues arise when the insurance adjuster uses the presence of the nurse case manager to damage the injured claimant's claim and to improperly influence medical treatment.

While I have seen instances where the nurse case manager truly cares about the health and welfare of the injured worker, more often than not the nurse case manager serves as the eyes and the ears of the insurance adjuster, with the primary goal of minimizing cost and to the insurance company.

I generally take a very cautious view towards nurse case managers and I will not hesitate to demand their removal from your case, as Georgia law allows a claimant and his attorney to reject the participation of a nurse case manager. I would, for example, most likely terminate the participation of a nurse case manager who wanted to stay the room during my client's examination with his doctor.

Case Study: Insurance Adjuster Attempts to Use Nurse Case Manger Improperly

Recently, I represented an injury worker in a case (which we have now settled) where the insurance adjuster hired a nurse case manager because my client's injury was complicated and because the injured worker decided to move from Georgia to another state. Because of these factors and because my client needed specialty care, I agreed to the participation of a nurse case manager for the purpose of coordinating doctor's appointments out of state, and to help arrange for physical therapy and rehabilitation.

As permitted by Georgia law, I asked the adjuster for copies of the nurse case manager's notes as well as the memos and letters issued by the adjuster to the nurse case manager. Here is the actual text of a memo written by the adjuster to the nurse case manager:

Nurse X..." our main concern is to have the claimant undergo the surgery, if Dr A agrees that it is indicated, and to get her released to full duty and maximum medical improvement status ASAP. We are continuing to pay her temporary total disability benefits. Please note she is represented by an attorney. If you receive any requests for Attorney Ginsberg, do not comply but forward the request to me for approval. I would ask that you send your status reports directly to me only and I will determine what information should be forwarded to (injured workers) attorney.

As you can see from this memo, the adjuster is telling the nurse case manager not to cooperate with me and that the adjuster intends to withhold information from me!

The nurse case manager (to her credit) responded to the adjuster and advised the adjuster that Georgia law obligated her to cooperate with me. Here is what the adjuster said next:

I am aware of the statutory requirements in Georgia and I do not have a problem with your complying [with the law] in providing Attorney Ginsberg with all correspondence. What I do not is any *ex parte* communications with Attorney Ginsberg. I want a copy of ALL emails, faxes and letters to her. I have had a problem with Attorney Ginsberg in the past with her over involvement with this claim and her attempts to direct how this claim is managed.

Now, we have the adjuster continuing her improper and unethical behavior by re-stating that the nurse case manager should not respond to correspondence directly from me.

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Once I saw these memos, I immediately wrote the adjuster to advise him in no uncertain terms that his actions in trying to deny me access to the nurse case manager's notes was improper under Georgia workers' compensation law. I also advised the adjuster that if this case went to a hearing, I intended to put him on the stand to explain his actions to a workers' compensation judge.

After receiving my email the adjuster did not respond to me but turned this case over to an insurance company lawyer. The lawyer cooperated fully with me and agreed to a very favorable settlement, which I suspect had something to do with my discovery the illegal actions of the adjuster.

This kind of nonsense goes on all the time and if you or your attorney is not paying attention you will find yourself at a disadvantage in terms of access to medical and other case records. I will, by the way, take as a compliment the adjuster's complaints about me and my efforts to "control" the management of my client's claim. Georgia workers' compensation is an adversarial system and I will not allow an insurance adjuster (or a nurse case manager) to get away with anything that damages my client's case.