

Proving Extent Of Injury In Disputed Texas Workers' Compensation Cases

It is important to address extent of injury disputes as early as possible in a claim. Because carriers typically start denying medical treatment once maximum medical improvement has been certified, it is usually easier to address diagnosis and causation early in the claim, as opposed to later in a claim. When extent of injury is not addressed until after maximum medical improvement, the claimant will often have to go without benefits for some time while the case is being litigated. There are many more options available for dispute resolution prior to maximum medical improvement than after. Furthermore, the longer the condition goes untreated, the greater potential there is for additional damage or permanent impairment.



Causation and extent of injury go hand in hand. Every extent of injury dispute requires a finding about the cause of the diagnosis in dispute. More and more, insurance carriers are accepting liability for less severe diagnoses, like sprains and strains, and disputing serious diagnoses like herniated discs or carpal tunnel syndrome. A proper diagnosis with a medical opinion about the cause of the condition will give the claimant the best chance to prevail.

Medical opinions about the cause of an injury must be detailed. The mechanism of injury must be clearly understood and spelled out in the report. If the actual events and the medical report's recitation of the events are different, then the doctor's opinion is of no use. If the report has nothing more than a statement that the diagnosed condition is related to the work incident, it is considered to be "conclusory" and is of no use. There must be a detailed explanation about why the doctor believes, within a reasonable medical probability, that the work incident caused the diagnosis in question.

The other type of extent of injury case is where the whole body part has been denied. For instance, the carrier has accepted liability for a low back injury, but has denied liability for a neck injury. These cases still require diagnosis and an opinion about causation, but many judges will look at the initial complaints for guidance.

In these types of cases, the first question most often asked by a judge is, "when was the neck injury first documented in the medical records?" Problems usually arise because the claimant treated at the emergency room, where the focus was on the primary complaint and not the secondary complaints, or a company doctor where not all of the complaints are documented. When judges are concerned about the initial complaints, or the time between the event and the first complaint, documentation becomes vital.

With detailed documentation and thoughtful analysis of how injuries result from reported events, injured workers will prevail on liability issues. This may require medical providers to give even more than they already do, but the rewards should include happy patients who refer new patients and medical bills that have to be paid after liability has been established.



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