



Jonathan Rosenfeld's Nursing Homes Abuse Blog

DePuy Hip Replacement Patients: What The Company Doesn't Want You To Know About Your Legal Rights

By **Jonathan Rosenfeld** on July 06, 2011

If you are the recipient of a DePuy ASR Hip System the past year has likely been filled with fear, anxiety and perhaps--- downright anger!

A little less than a year ago, the FDA ordered the recall of very popular DePuy hip replacement systems (ASR XL Acetabular System and Hip Resurfacing System) after they discovered that a significant number of the devices were indeed defective and required a second corrective surgery to remove the DePuy product and replace it with a new device.

Aside from the actual design of the hip, critics also fault Johnson and Johnson subsidiary DePuy for the type of materials used to manufacture their device. In some patients, the metal-on-metal design of the the hip implant has produced situations where bits of the metal splinters off and gets embedded in the surrounding tissue resulting in:

- Pain while walking

Jonathan Rosenfeld represents victims of nursing home abuse and neglect throughout the country. For more information please visit Nursing Homes Abuse Blog (www.nursinghomesabuseblog.com), Bed Sore FAQ (www.bedsorefaq.com) or call Jonathan directly at (888) 424-5757 (www.rosenfeldinjurylawyers.com).

- Pain when sitting or getting out of a care
- Pain in the hip, thigh or groin
- Joint inflammation

But, what about now?

All recipients of recalled DePuy products have received a letter ([depuv information for patients.pdf](#)) from their physician explaining the recall with an enclosure from DePuy.

The enclosure promises to "cover reasonable and customary costs of testing and treatment" and requests

While DePuy claims it will cover "reasonable and customary costs of monitoring and treatment," in reality DePuy's intentions are quite the contrary. DePuy has requested that patients submit all of their bills related to follow-up care to their private health insurance and Medicare first and then is offering only to pay the patient's out-of-pocket co-pays and deductibles.

While the offer initially comes across sincere, on second thought the suggestion that other parties and the government pick up the tab for DePuy's errors is just wrong. Why should tax payers or other people who pay insurance premiums be forced to shoulder the burden for a defective product?

Knowing that most health insurance plans (and Medicare) have subrogation language that requires recipients to reimburse the insurance company for any benefits they have paid due in relation to a claim against a third-party (DePuy) has thrust thousands of DePuy patients into situations where they will be burdened with future requests from their own insurance carrier-- and potential legal liability.

Perhaps the most alarming part of the DePuy recall mailer is its lack of information provided to patients about their legal rights. Nowhere does the mailer suggest that at the present time the interest of the patient and company are adverse-- which given the circumstances of this product recall-- they are indeed!

The lack of legal options available to patients to remedy this wrong is missing as well.

Other than a suggestion that DePuy will pay for follow-up visits with your doctor and reimburse for out-of-pocket expenses, there is no mention of the potential damages that victims of this DePuy nightmare may be entitled to.

For patients suffering from the effects of metal poisoning related to their DePuy hip the mailer provides little consolation regarding the long-term impact of metals such as cobalt chrome being introduced into the body. To the contrary, the DePuy mailer suggests that the introductions of metal particles to the body-- due to its own design is an 'expected process'.

Real injuries, real legal remedies

For the time being, DePuy certainly has made an effort to minimize the impact of their defective devices on the lives of thousands of hip replacement recipients. While indeed there are fairly drastic types of reactions to their hips, the fact remains that we know little about the long-term impact of DePuy hips on the lives of the people who currently have them embedded in their bodies.

Given the inherent conflict of interest between DePuy and its hip product recipients, it only seems reasonable that patients seek the counsel of their own attorney who can evaluate their individual claim and their perspective damages. In many circumstances, DePuy patients are entitled to money damages for:

- Pain
- Disability
- Lost wages
- Past and future medical care
- Assistance and care needs

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Sheesh! Don't let DePuy know that you know better! Put aside your DePuy mailer and contact lawyers who can assess your case and provide you with an assessment of your situation today. [Rosenfeld Injury Lawyers](#) continues to review all types of [DePuy cases](#) as well as similar hip replacement defects from: Zimmer and the Stryker Durom Cup and Trident.