Compensation Quarterly

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THE WORKERS' COMPENSATION UPDATE

2023 Legislative Report

By Melanie I. Kolek & Christopher Buccini

The Connecticut Legislature's session ended on June 7th. A number of proposed bills relevant to the worker's compensation practitioner were passed.

PUBLIC ACT 23-32 "AN ACT CONCERNING PLANS FOR THE TREATMENT OF WORKPLACE INJURIES AND ILLNESSES AND ESTABLISHING WORKING GROUPS TO REVIEW ACCESS TO MEDICAL RECORDS AND PARTIAL DISABILITY PAYMENTS UNDER THE WORKERS' COMPENSATION ACT."

This Act requires that all approved medical care plans under C.G.S. 31-279-10 include an administrative process which provides injured workers' the opportunity to seek a determination on the (1) need for, or appropriateness of, the medical and health care services recommended by the plan's providers and (2) payment for these services.

Essentially, this provision will provide an administrative procedure for an injured worker to seek medical opinions or treatment from an out-of-network provider despite being subject to an approval medical care plan. It remains to be seen what the process would consist of, whether it be a second opinion with a provider of the injured workers' choosing or whether it will allow the worker to seek out of network treatment altogether.

This Bill will also require that the Judiciary Committee convene two working groups to address issues with securing medical records and the current amount of permanent partial disability benefits allowed under the Act. The first working group is tasked with reviewing medical record related statutes and developing recommendations regarding the streamlining of third-party record requests to healthcare providers and also setting reasonable fees for expenses when responding to those requests. The working group is going to consist of a national third-party medical record provider, a representative of a national association representing third-party medical providers, an attorney specializing in personal injury law, an attorney specializing in workers' compensation law, a representative of a statewide Bar association representing attorneys, and one representative from three statewide associations representing hospitals, physicians, and medical specialty providers.

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IN THIS UPDATE

Interview with Administrative Law Judge Benjamin Blake

An Interview by Craig Abbott, Esq

CA: Good morning, Judge Blake! First, let me congratulate you on your appointment and confirmation as an administrative law judge. How has your experience been so far?

BB: Good morning to you. I have loved my two months thus far! I had some workers' compensation experience so I was looking forward to the appointment, but I have been very impressed with the collegial nature of the bar and also impressed with the level of preparation by the attorneys that have been in front of me.

CA: I know you have experience with the workers' compensation system and civil litigation in addition to your years as an elected official. I also know you are familiar with the mission statement of the Compensation Quarterly, and how we like to introduce the newer judges through these interviews. Can you please provide us with some detail as to your background?

BB: I am very excited to be a part of the workers' compensation system. I am a graduate of the University of Richmond and Quinnipiac University School of Law. I began my practice in both civil litigation and workers' compensation in 2004. For the last twelve years, I have proudly served as the mayor of Milford.

CA: Is there anything specific about your experience as a mayor that you can draw upon as an ALJ?

BB: I think the most pressing overlapping experience is dispute resolution. As mayor, I was responsible for over 2000 employees and was closely involved in labor issues, which included monitoring workers' compensation claims. I also had a variety of different interactions with the public, which included even working to resolve neighborhood disputes among residents. I think a totality of those circumstances certainly are helpful in performing this work as a ALJ in terms of taking a measured approached to all disputes.

CA: So I take it you were Milford, born and raised?

BB: Yes, and proudly so. I still live in Milford with my wife, Sandy, and my three children ages 13, 11 and 8.

CA: As I have similar age children, I am guessing they keep you rather busy?

BB: Yes, in my downtime you will likely see me at a baseball game. A majority of my time is spent shuttling children to different athletic and academic activities. I thoroughly enjoy it and would not have it any other way.

CA: I want to thank you so much for your time.

BB: Thank you.

Editor's Note: Craig Abbott is a partner at Solimene & Secondo, LLP in Meriden and his practice focuses in workers' compensation and insurance defense.

[The initial version of this bill would have required providers and third-party providers to provide requested records within 30 days of receipt of the request. There was also a proposed $25 per day late penalty provision for records sent after 30 days.]

The second working group is going to review the level of permanent partial disability payments available to injured workers under the current workers' compensation laws. Specifically, they are going to review whether the existing statutes adequately protects all injured workers and whether the benefit levels should change. The permanent partial disability benefit working group is going to consist of two attorneys, one representing claimants and one representing respondents along with two representatives of attorney groups from a statewide Bar association and one from the statewide trial lawyers association, and finally a representative of a statewide association representing in-state workers' compensation insurers.

Both working groups are to report their findings and recommendations to the respective committees by February 1, 2024.

PUBLIC ACT 23-80 "AN ACT CONCERNING WORKERS' COMPENSATION AND PORTAL-TO-PORTAL COVERAGE FOR TELECOMMUNICATORS."

This Act extends portal to portal workers' compensation coverage for telecommunicators (as defined in C.G.S. 28-30) i.e. emergency dispatchers in the following instances:

(1) they are subject to emergency calls while off duty;

(2) when they are responding to a direct order to appear at their work assignment when non-essential employees are excused from working (typically during weather-related emergencies);

(3) after working two or more mandatory overtime shifts on consecutive days.

PUBLIC ACT 23-35 "AN ACT EXPANDING WORKERS' COMPENSATION COVERAGE FOR POST-TRAUMATIC STRESS INJURIES FOR ALL EMPLOYEES." This law expands workers' compensation coverage for post-traumatic stress injuries to all employees. Now, all workers who experience death or mutilation-induced trauma on the job can make a claim for compensability assuming a mental health professional examines the eligible individual and diagnoses such individual with a post-traumatic stress injury as a result of a qualifying event.

Specifically, the changes to the statute define a qualifying event for all employees as an event arising out of and in the course of employment on or after January 1, 2024, in which an employee: (i) Views a deceased minor; (ii) Witnesses the death of a person or an incident involving the death of a person; (iii) Witnesses an injury to a person who subsequently dies before or upon admission at a hospital as a result of the injury and not as a result of any other intervening cause; (iv) Has physical contact with and treats an injured person who subsequently dies before or upon admission at a hospital as a result of the injury and not as a result of any other intervening cause; (v) Carries an injured person who subsequently dies before or upon admission at a hospital as a result of the injury and not as a result of any other intervening cause; or (vi) Witnesses a traumatic physical injury that results in the loss of a vital body part or a vital body function that results in permanent disfigurement of the victim.

In addition to the acting within the course if employment, the qualifying event must be a substantial factor in causing the injury, and the post-traumatic stress injury must not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement or similar action of the eligible individual.

PUBLIC ACT 22-139 "AN ACT CONCERNING ADOPTION OF THE RECOMMENDATIONS OF THE TASK FORCE TO STUDY CANCER RELIEF BENEFITS FOR FIREFIGHTERS."

This Act established a firefighters cancer relief subcommittee of the Connecticut State Firefighters Association that will review claims for wage replacement benefits submitted to the firefighters' cancer relief program established pursuant to section 7-313j and provide wage replacement benefits, in accordance with the provisions of subsection (b) of section 3-123, to any firefighter who the subcommittee determines is eligible for such wage replacement benefits.

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This Act further states that a firefighter who is approved for wage replacement benefits by the subcommittee shall be eligible for such benefits on and after July 1, 2019, and for a period determined by the subcommittee, provided such period shall not exceed twenty-four months. The maximum weekly wage replacement benefit under this section shall be determined by the subcommittee. A firefighter may receive wage replacement benefits concurrently with any employer-provided employment benefits, provided the total compensation of such firefighter during such period of receiving benefits shall not exceed such firefighter's pay rate at the time such firefighter was diagnosed with a condition of cancer described in section 7-313j. However, no firefighter shall receive compensation under this section concurrently with the provisions of chapter 567 or 568 or any other municipal, state or federal program that provides wage replacement benefits.

The Act further states that no approval of wage replacement benefits for a firefighter by the subcommittee shall be used as evidence, proof or an acknowledgment of liability or causation in any proceeding under chapter 568. Further, no approval of wage replacement benefits for a firefighter by the subcommittee shall create a presumption that the firefighter's cancer was work related for purposes of chapter 568, and a claim for benefits to the fund shall not be construed to diminish or affect in any manner a firefighter's rights and benefits or any rights and defenses that an employer may have under chapter 568.

Each municipality within the state is required to annually contribute, not later than December 15th of each year, $10 per career and volunteer firefighters within such municipality's district to the firefighters' cancer relief account established pursuant to section 7-313h of the general statutes.

This Act also requires the Workers' Compensation Commission to maintain a record of all workers' compensation claims made by firefighters due to a cancer diagnosis. Not later than January first of each year, the Workers' Compensation Commission shall submit a report summarizing such records to the General Assembly.

The original proposed bill would have amended Connecticut General Statutes § 31-294j creating a rebuttable presumption that a firefighter's diagnosis of cancer arose out of and in the course of employment for purposes of workers' compensation.

A number of other relevant bills did not make significant progress beyond the Labor and Public Employees Committee. This included **HOUSE BILL 6550 "AN ACT REQUIRING NOTICE OF DISCONTINUANCE OF PRESCRIPTION MEDICATION UNDER A WORKERS' COMPENSATION CLAIM."** This Bill would have required respondents to provide notice to an injured worker and the Workers' Compensation Commission before discontinuing payments for prescription medications that they may be receiving under the claim.

Congratulations are in order for Administrative Law Judges Carolyn Colangelo, Maureen Driscoll and David Schoolcraft as all were re-appointed. Welcome to our new Administrative Law Judges Shanique Fenlator and Benjamin Blake.

Please note that the complete text of all public acts, proposed bills and analyses are available on the General Assembly website at cga.ct.gov. (The authors would like to thank Executive Committee Member and State Representative Christine Conley for her continued assistance in addressing and identifying key bills as the session was in process.)

Records, Compensation and Chaos

When I sit down with a new injured worker client, among the myriad mantras they hear are: *"…if the doctor didn't say it in writing, I can't prove it's true. I will need the record…";* and *"…don't leave the doctor's office without a Work Status Form if you want me to help you get paid…";* and my favorite, *"…don't tell me you need an MRI or physical therapy. Show me the paper from the doctor that says you do. Don't leave their office without it!"* The practice of Connecticut workers' compensation has always been about what the doctors say in writing; not what your client thinks they were told. As a result, getting to the actual records is one of the keys to helping your client obtain the needed care and a successful practice.

One would think obtaining medical records for compensable care would not be the problem it is because the insurance carriers will not pay the provider's bill for compensable care without the record(s). The statute tells us at C.G.S. §31-294f(b) ***"All medical reports concerning any injury of an employee sustained in the course of his employment shall be furnished within 30 days after the completion of the reports, at the same time and in the same manner, to the employer and the employee or his attorney."*** But how do you determine when the "completion of the reports" occurs? Arguably this language was intended to deal with the occasional late report; not to create a standard to allow delay until the last minute.

When I started practice in 1988 and private practice in 1998, this was a problem requiring regular follow up, but nothing like it is now. In the remote past there were a few offenders, most notably state-owned medical providers who waited thirty days from the visit date to deal with a records request; which they did not and do not allow a request for before the actual date of service. I once had a client who waited over forty-five days for an MRI to be authorized, which authorization only occurred with the help of the Chairman's Office at the time because, despite the mantras above, the client didn't walk out of that visit with a note saying he needed the MRI. Now, while the State entities remain problematic as ever, nearly all medical providers use a third-party service to prepare their records. Despite electronic medical records, the timeframes to receive medical records are growing longer, not shorter. To make the process of getting the needed records even more difficult, the records vendors are charging fees (like $2.00 per request) for "requesting electronic records processing." If you are lucky, you get to choose between regular mail (which may include a fee for postage), fax (preferable) or a downloadable version from their vendor website. In our experience, the vendor usually selects for you, and you don't get to choose. Let's face it, fax receipt or downloadable is the only real choice when a hearing is pending or your client is waiting for medical care. If you are very lucky and have the staff to do so, in extreme cases, contacting providers directly to explain that their patient can't get their testing authorized or surgery authorized without that record, you may find a sympathetic person and receive the record you requested weeks ago in time for a hearing. Other options include sending your client to each provider's office to request the records or requesting that the records be sent directly to the client to avoid problems with the request violating HIPPA (which specifically excludes workers' compensation records).

The CBA Workers' Compensation Executive Committee set up a Subcommittee to propose legislation to attach requirements for release of records timely. The draft was voted on by the Executive Committee and passed through the CBA process for endorsing proposed legislation. In March of 2023, the Judiciary Committee of the General Assembly held a hearing on the proposed legislation. The draft proposal sets a thirty-day timeframe from the vendor's receipt of the records to their release and it attaches significant penalties for failure to provide the records within the timeframe proposed. The proposed penalties are automatic and may be one potential solution to ensure receipt of a record within the timeframe outlined. To meet the burden of proof in a workers' compensation claim, medical reports are required to be successful for your client. As a result, obtaining those records is a fundamental requirement for the claimant or their attorney to successfully access timely care under the system.

In April a proposed substitute Bill No.6797 was voted out of the Judiciary Committee 37-0. That bill is now in the process of being revised through the redrafting process. Upon information and belief a working group for the revision is being assembled as this article is finalized. At this point, it is unclear whether the legislative process can help fix the problems the system has with access to records.

So what is a claimant's attorney to do? Years ago, a letter to most treaters to request that they please send your client's records to your

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attention, as they are generated, actually worked. Not anymore. Now you need to know which providers your clients are seeing and when (as in the exact dates of service). You need dedicated staff to follow upon that information. On the day your client is seen, you can fax in a request for records to the provider with a recently dated medical authorization and they will theoretically reply with a copy of the requested record(s) upon receipt, which almost never happens. What they really do (assuming they don't reject your request because there is something "missing" or "incorrect" with the request, such as they don't like the medical authorization attached as it is too vague or not dated properly) is forward your request to their third-party vendor as is now a standard practice without copying the requestor and assume the matter is done. Receiving a copy of that request to the vendor would be one way the requestor could follow up. How do you know which third party vendor the particular provider uses? Does their website tell you? [*No*] Can you rely on the last time you requested a record from them to indicate which vendor they are using? [*Not always*] Can you send directly to the vendor to request the record if you know who they are? [*Yes, if they are still the vendor*]. Will they timely reply if you don't set a diary? [*Rarely*]

A recent change in the landscape includes one medical records' vendor refusing the usual faxed in requests for medical records. *"We no longer support fax, mail or email requests. Any requests submitted via these methods will delay your processing time. For quicker turnaround times and efficiency in supplying records, all requests are managed electronically online via ChartSwap, www.ChartSwap.com."* The letter goes on to require registering as a Record Requestor, then you sign-in and search for the provider, enter your request details, then upload supporting documents which are not identified in the fax used for the notice. Once the request is reviewed and records are available, then the requestor will receive an email that the records are available. Then you login, pay the invoice, and download the documents. Under this scenario, you will need to pay for the records in order to access them, regardless of any statutory obligation to do so.

And what is a claimant's attorney to do about the constant bills for records related to compensable treatment? Given the statute, my solution has been to file and ignore them. There are many records requests where there is an obligation to pay for the requested records. However, I would argue based upon the statutory language cited above at C.G.S. §31-294f(b), that they are not properly issued bills if the treatment is compensable. I did an informal survey of several defense lawyers and a few adjusters asking if the respondents are ever billed for compensable medical treatment records and if billed did, they pay? The unanimous response is they are not usually billed and would advise their clients not to issue payment, if they were. Practicing medicine in the workers' compensation forum requires production of medical records. That production is a cost of doing business for the providers. These bills are either an unreasonable misreading of the statute or a decision to ignore that a statute exists.

My staff spends more time chasing records and trying to obtain them than they do actually processing the claims we need to follow up on. This has become a costly part of practicing in this arena. What can be done about this problem? Can the Chief Administrative Law Judge require medical practices to clearly post on accessible websites the vendor's name and process to access records and perhaps set penalties if that site isn't up to date? Could making records once processed through the vendor accessible through a patient portal with lawyer access be the answer? Should the Chief Administrative Law Judge set a rule denying charges to be assessed to the requestor of the records making it a cost of doing business for medical providers for all compensable care? Should you subpoena the doctor to an Informal Hearing unless records are provided as was suggested at a recent Executive Committee meeting (as a tongue-in-cheek option, since that answer is clearly no)?

Workers' compensation practice is costly in time spent processing claims from both sides even with the regular office visit records available. Medical providers who practice in the Connecticut workers' compensation arena are paid rates higher than most insurers or Medicare to acknowledge the paper intensity of workers' compensation claims, yet they routinely ignore C.G.S. §31-294f(b). Records are dictated into voice recording transcribers and processed routinely. Despite the increasing speed of voice recorders used by the majority of medical practices, obtaining (timely) records is continually an issue. Vendors assist with many phases of the process of compensation claims. Third-party record vendors are a long way away from actually helping in this writer's opinion and the ones who suffer for it are the injured workers the system is designed to help.

Cori-Lynn S. Webber is a Board-Certified workers' compensation attorney in private practice located in Windsor. She represents primarily injured workers, though she does handle respondents work as well. Her main area of practice has always been workers' compensation since she started practice in 1988. She has been a defense attorney for the State Attorney General's office, an attorney for the captive law firm for CNA insurance company, and has been in private practice in Windsor since 1998. Many thanks to the lawyers, paralegals adjusters and especially Rebekah Royer-Poppel, Attorney Webber's paralegal who made substantial contributions to the drafting of this article.

Verrilli-Belkin 25th Annual Workers' Compensation Charity Golf Event for CT FOODSHARE

By Richard L. Aiken, Jr.

For the first time in its history, the Verrilli-Belkin Charity Golf Event had to be rescheduled. The 25th Annual Charity Golf Event and Dinner was supposed to be held on Monday, September 11, 2023. Due to weather as well as poor course conditions, the event was postponed until Monday, October 16, 2023. 86 golfers participated in the tournament. Additional members of the CBA as well as sponsors and doctors attended the reception and dinner. **Judges Mastropietro, Delaney and Waldron** were sponsors of the event. There were a total of 59 sponsors. Again, **Miller, Rosnick, D'Amico, August & Butler, PC** sponsored On-Course refreshments.

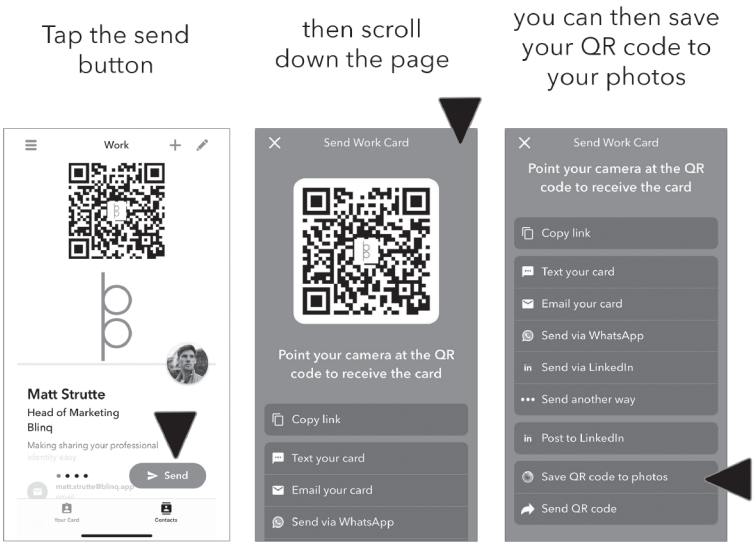
The "Hit-The-Green" contest on Hole 6 was coordinated by **Kerry Skillin** and **Erin Bailey** of CRC. **Heather Porto** and **Nancy Berdon** assisted with registration and the raffle. The low gross winner in the Women's Division was Jenny Sciglimpaglia. (This was not the first time that Jenny won low gross). The low gross winner in the Men's Division was Chris Thomas. The low net winner was Vin Massey. Other net winners included Dr. David Forshaw, Brian Kenney, Craig Abbott and Greg Lisowski.

The closest to the pin winners were Chris Thomas, Bill Beckert, Clayton Quinn, Rick Aiken and Bob Weber.

The net proceeds of the event, which totaled approximately $9,500.00, will be donated to **CONNECTICUT FOODSHARE.** Over the past 25 years, the Workers' Compensation Section of the Connecticut Bar Association has donated in excess of $250,000.00 to Connecticut Foodshare.

TECH TIPS #26

By Scott A. Carta



In this installment of Tech Tips I am going to touch on networking. Some of us are naturals at networking and for others it can be uncomfortable. And if you are like me, you never seem to have business cards handy when you finally make a connection. Well, we may forget to bring business cards, but we never forget our smart phones, right? So why not have a business card on your phone. The app Blinq does just that, by creating a quick response or QR code that can be scanned by others to obtain a digital business card from you.

Here is how it works. First, download the Blinq app from the App Store or Google Play. Then create an account and sign in. Customize your digital business card by adding your name, title, company, website, email address, phone number, social media profiles, and any other relevant information. You can also add a logo, profile picture, and background color. Next, the app will generate a QR code for your digital business card which can be scanned by other people to view your card. You can also share your digital business card by sending the QR code as a link by text or email or by adding it to your email signature.

You can create up to 2 free digital business cards. If you want more than that, you can upgrade to the premium plan. You can add notes to your digital business cards, such as your availability or areas of practice. You can also track who has viewed your cards so you can see who is interested in your business.

So, when you are at an event and make a connection, simply open the app, show the person your QR code and they can scan it with their camera app and your digital business card will be saved to their phone. It is as easy as that. Happy Networking!

Blinq

Editors' note: Scott A. Carta is a partner with the law firm of Leighton, Katz & Drapeau, LLC. in Rockville, CT. He is also on the Board of Editors for Compensation Quarterly and is a Board-Certified Workers' Compensation Specialist.

Case Comments

APPELLATE COURT DECISIONS

Retiree not entitled to total disability benefits post retirement.

Cochran v. Department of Transportation, 220 Conn. App. 855 (2023)

The Appellate Court held that a worker who is retired and took himself out of the workforce was not entitled to a claim for total disability benefits made post-retirement. The claimant sustained a compensable back injury in 1994. Surgery was performed in June 1994; a further back surgery was performed in April 1995. A voluntary agreement was issued and approved in 1995 for 29.5% of the lumbar spine. On April 1, 2003 the claimant, at age 54, took an incentivized early retirement from the employer. The plaintiff had no intention of returning to work.

In 2013 the claimant underwent an unauthorized back surgery with a New York physician. A Commission Medical Examination by Dr. Dickey in 2017 gave a minimal work capacity to the claimant. Claimant counsel presented an opinion from vocational specialist who found the claimant unemployable. The trial judge found that the 2013 back surgery related to the work injury and ordered a three month period of total disability following the 2013 surgery and ongoing total disability beginning on December 30, 2017.

The CRB affirmed the decision. The Appellate Court reversed the Board decision; in doing so, the Court stated it had plenary review over the case. The Court's decision stated that "he [claimant] elected to remove himself from the workforce where he had no intention of returning and more than 10 years later sought to obtain Section 31–307(a) benefits. We cannot conclude the plaintiff is entitled to Section 31– 307(a) benefits when he removed himself from the workforce with no intention of returning." The Appellate Court found this to be an issue of first impression. The Supreme Court has granted certification for this matter.

Martinoli v. Stamford Police Dept. 220 Conn. App. 874 (2023),

Similar to the finding in *Cochran,* the Appellate Court found that the claimant, who had retired without any intention of returning to the workforce, was not entitled to subsequent total disability benefits as it cannot be said that the injury caused his removal from the work force. The claimant suffered from compensable cardiac issues and was deemed totally disabled as of July 2015 . Indemnity benefits were ordered by the trial judge and affirmed by the CRB. The Appellate Court again reversed the Board decision, stating that the claimant elected to retire from his employment in 1999 and testified that he had no intention to return to work and therefore was not entitled to total disability benefits. The Supreme Court has granted certification on this matter as well.

COMPENSATION REVIEW BOARD DECISIONS

Trial judge's findings will not be overturned if there is sufficient evidence to support decision.

Bell v Hartford Healthcare at Home, 6473 CRB-8-22-4 (August 18, 2023)

The claimant was employed as a practical/revisit nurse since 2014 and was required to carry a blood pressure cuff as well as a backpack weighing approximately 18 pounds with her right arm. She alleged that she developed significant swelling of her right arm in 2019 and was diagnosed with epicondylitis. Dr. Risinger subsequently opined that the source of the claimant's arm pain was from her shoulder and recommended surgery. Dr. Risinger opined that the claimant's right shoulder issues resulted from work related overuse. Dr Lena performed a respondents' medical examination and found no significant pathology in her right shoulder. Dr Lena opined that the repetitive use of a blood pressure cuff and backpack would not cause any significant issue.

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The Commission's examiner Dr. Jambor essentially agreed with Dr. Lena pertaining to the issue of causation. The Trial Judge found the opinions of Dr. Lena and Dr Jambor credible regarding the issue of causation and dismissed the claim in its entirety. The Board affirmed the decision, noting once again that it is within the discretion of the trial judge to accept or deny some but not all of a physician's opinions.

Claim for temporary total disability benefits dismissed due to claimant's failure to provide medical support for disability.

Britt v. Cos Cob TV and Audio, 6481 CRB-7-22-9 (August 18, 2023)

The claimant alleged that he suffered injuries to his low back on February 24, 2020 while lifting a television. The claim was initially denied due to the claimant's pre-existing low back issues. The claimant was seen by Dr. Brady on February 28, 2020 at which time he was diagnosed with a lumbar strain and prescribed medications and therapy. Dr. Brady provided no comment regarding the claimant's work capacity. The claimant was then seen by Dr. Katz on April 28, 2020. Dr. Katz opined that the claimant's low back condition was due to the lifting incident and recommended MRI. Dr. Katz indicated that the claimant was totally disabled at that time as well.

The trial judge found the claim for the back injury compensable however the claim for temporary total disability benefits through April 28, 2021 was dismissed. On appeal the claimant contended that the temporary total disability claim was supported by medical evidence and should have been ordered through April 28, 2021. The CRB affirmed the finding of compensability of the back and found a valid claim for temporary total disability benefits up to April 28, 2020 but nothing further given the lack of medical treatment thereafter as well as the claimant's failure to present any evidence of ongoing disability.

Attorney Fee Dispute

Pelc v. Southington Dental Associates, PC, 6454 CRB-8-21-11 (July 21, 2023)

The claimant was represented by counsel from 2007 through May 2018. An agreement had been reached whereby the claimant would receive 80% of temporary total disability benefits and counsel would receive the remaining 20% as a legal fee. The claimant retained new counsel in July 2018 who subsequently advised prior counsel of a tentative settlement in April 2019. Stipulations were approved in June 2019 with instructions from the presiding judge that counsel hold the entire attorney's fee in escrow pending resolution of the fee split or additional litigation over the fee dispute.

An action was filed in Superior Court seeking to transfer the fee dispute claim based on arguments that the Workers' Compensation Commission did not have jurisdiction over the issue in addition to claims of bias. The Board held that the Workers' Compensation Commission had subject matter jurisdiction over the issue of allocation of approved fees as discretion to adjudicate these issues lies solely with the Commission. The Board affirmed that Trial Judge's denial of Motion to Stay proceedings in the Workers' Compensation forum. The Board also affirmed the Trial Judge's finding that there was insufficient evidence to support any claim of judicial bias.

Dismissal of contested injuries claimed to be the result of underlying compensable injuries.

Jinks v. Stop & Shop Companies, LLC/AHOLD USA, 6465 CRB-6-22-1 (January 5, 2024)

The claimant sustained compensable injuries to his chest on April 12, 2017 while moving a bin at work. The claimant thereafter alleged that he suffered two subsequent work episodes on September 14, 2018 and January 21, 2019 and that he suffered Post Traumatic Stress Disorder due to his injuries. He also alleged that he developed a diabetic condition that was substantially related to his work injuries. The claims for PTSD, diabetes and all associated treatment were dismissed as the Trial Judge relied on the opinion of Dr. Pier, a Commission's examiner and neuropsychologist, who disagreed with the diagnosis of PTSD and causation. The Judge further found that the respondent's medical examiner was more credible than the treating physician regarding the denied diabetic condition. On appeal the Board concluded that there was sufficient evidence in the record to support the Judge's factual conclusions and findings. It should be noted that the claimant alleged due process violations as the Judge did not order a Commission's examination regarding his claim of compensable diabetes. The Board determined that a trial judge is not required to order a CME in all cases, citing the Appellate Court case of *Jodlowski v. Stanley Works,* 169 Conn. App. 103 (2016).

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