



Union Construction Workers' Compensation Program

Administered by Wilson-McShane Corporation

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PROGRAM PERFORMANCE: 2016 CASE STUDIES

- 1. An iron worker fell fracturing his right ankle.** He underwent surgery to repair the fracture, and eventually returned to work after being released without restrictions. He left this employer to work for other contractors, which continued for a number of years. The employer called the program and their insurer when they received an attorney's Claim Petition.

The attorney was informed of the employee's involvement in the program and withdrew the petition. The program's alternative dispute resolution process became involved. At the first facilitation the parties agreed that a neutral examination would assist in resolving the various issues. The examination took place shortly after the facilitation.

The neutral doctor recommended additional surgery and stated that the need for the surgery was related to the original fall. At the second facilitation the employee expressed his desire to have the neutral doctor perform the surgery, and become his treating doctor. The parties agreed that this would be acceptable since the doctor was part of the Exclusive Provider Organization (EPO). The doctor agreed to be the treating doctor and the second surgery had an excellent outcome which returned the employee back to full duty work at union scale and fringes.

- 2. A facilitation meeting was held regarding a back injury claim allegedly not reported within the required 180 days.** Both sides were represented by attorneys who presented what information was available. It appeared that the employee failed to report the alleged injury within the requirements of the law. After settlement discussions failed to resolve the dispute, arbitration was set to take place. The parties agreed that extra time was needed to prepare for the hearing, and the arbitrator accordingly adjusted the calendar for the case.

During a discovery deposition of a supervisor it was revealed that an incident involving a back strain was reported, but that the employee needed no medical care or time off, and continued working full duty for a number of weeks after the reported incident. A First Report of Injury was not filed until the employee complained about his back pain after he was laid off. The parties agreed that a Dispute Resolution Examination (DRE) was necessary to provide an opinion regarding the nature and extent of the low back problem, and whether the alleged incident was a contributing factor. The examination and report were completed on an expedited schedule so that the arbitration was not delayed. After reviewing the report, however, the parties settled all the issues in the case, canceled the arbitration, and submitted a Stipulation for Settlement for the arbitrator's review and Award.

- 3. A plumber was working full duty for over five years with the same contractor when his family doctor told him that his knee needed surgery.** The employee had a long history of knee problems that pre-dated this employment. The insurer was considering a Dispute Resolution Examination (DRE) to determine whether the surgery was related to his current employment, or if it might be a pre-existing condition that needed surgery for reasons other than work. The employer and the employee wanted to proceed with surgery and have a return to work as soon as possible. The insurer called the program.

The insurance adjuster and the dispute resolution facilitator reviewed the medical records. The records showed a significant history of knee problems, but lacked any recommendation for surgery. They also noted that the employee had no restrictions for the last five years and was now continuing to perform his duties subject to some restrictions. After this review, the adjuster accepted the claim and approved the surgery with an Exclusive Provider Organization (EPO) orthopedic specialist.



4. The program received a letter from an attorney complaining that the insurer was not paying temporary total disability benefits after the injured worker was laid off from a light duty job. He argued that although the layoff was an expected seasonal event his client's restrictions entitled him to wage loss benefits. The facilitator called the adjuster to review the case law regarding this particular situation, which appeared to support the attorney's position. After getting confirmation from the insurer's attorney, the adjuster willingly commenced payment of wage loss benefits.

5. An employee filed an incident report after tripping on materials at the work site. Several weeks later he made a claim for knee problems he believed were related to the incident. The employer submitted a First Report of Injury to their insurer.

After conducting their investigation the insurer denied liability citing significant pre-existing knee conditions contained in the medical records. The short period of medical treatment was paid for by the union's Health and Welfare Fund pending the outcome of the disputed claim. The employee fully recovered and went back to full duty work for a new employer.

The parties retained attorneys who requested a facilitation to discuss the disputed claim. Both sides were well prepared for the meeting and motivated to settle the case. The employer, the employee and the insurer attended the meeting with their attorneys, which after several hours of intense negotiations resulted in a full, final and complete settlement of the case, including the intervention claim by the union's Fund.

6. An employee was helping lift materials into the back of a truck when he began to experience pain in his low back. The employer filed the First Report of Injury with their insurer, the claim was accepted and proper benefits were paid.

A number of months after the injury the employee complained about knee, neck and shoulder pain. The insurer denied liability for these conditions and the parties requested a neutral medical examination through the program. The neutral doctor found that the low back condition was work-related, but that the knee, neck and shoulder pain were pre-existing conditions unrelated to the accepted claim.

A mediation session with a program mediator was scheduled to attempt settlement. The mediator helped the parties settle the claim at the session, but the settlement documents were held up while the insurer's attorney negotiated with the medical providers who treated the knee, neck and shoulder conditions. Eventually those negotiations were completed and the mediator received a Stipulation for Settlement and then signed the Award.

7. An employee made a claim for benefits six months after he was laid off. He alleged that he injured his low back when he jumped off a crane tread a couple months before the layoff. The initial medical records for treatment two weeks after the claimed date of injury reported a slip and fall at his home was the cause for his pain. Records after the layoff related the pain to the jump from the tread. During the insurer's investigation the employee's named witnesses stated that they were unaware of any injury at work. Based on the investigation the insurer denied liability for the claim.

The case went through the program's entire dispute resolution process including a full hearing before an arbitrator. After considering the conflicting testimony of the witnesses and the inconsistent history given by the employee in the medical records the arbitrator found the employee's claim was not credible and upheld the insurer's denial of liability.



- 8. A union carpenter was hanging sheetrock when the scaffold he was on rolled into a large hole throwing him forward.** His head hit the floor and he felt immediate pain in his neck that went into both of his arms. He was taken to a hospital by ambulance and underwent an emergency surgery resulting in a fusion of the C6-7 disc.

A Network Qualified Rehabilitation Consultant (QRC) was placed on the file. When he was released by his surgeon to light duty the QRC assisted in his return to the employer who provided light duty work. The QRC attended the medical appointments keeping the employee, employer and insurer informed about the recovery.

When it seemed that the treatment was not improving his condition the QRC made an appointment with the surgeon who agreed that physical therapy was not working. The physical therapist had suggested that chronic pain might be the problem, but the doctor disagreed recommending instead a work-hardening program.

Everyone agreed that work-hardening would give the injured worker his best hope for a recovery and successful return to the trade. The QRC found a program that was close to the employer's office so that light duty work could be provided during the work-hardening process. If the program failed to result in improvement, the pain management would be the next option and vocational goals would be reviewed.

- 9. A union laborer was hammering a concrete wall at shoulder level for a prolonged period of time.** At the end of his shift he reported having pain in his right elbow. His employer completed the First Report of Injury and took the injured worker to a designated Exclusive Provider Organization (EPO) Occupational Clinic for treatment.

The doctor diagnosed lateral epicondylitis, provided anti-inflammatory medication, and released him to light duty, which the employer was able to accommodate. When the injury failed to respond to the initial conservative treatment the insurer selected a Network Qualified Rehabilitation Consultant (QRC) with a nursing background to manage the medical treatment and assist in the return to work efforts of the employer and employee.

Conservative therapy continued and light duty work remained in place. Eventually it was determined that without surgery the restrictions would become permanent and the employee would be unable to return to laborer's work. The parties agreed to attempt surgery.

The QRC recommended and the insurer approved an EPO specialist with a reputation for excellent surgical outcomes for this type of procedure. The doctor performed a right elbow arthroscopic loose body removal and a lateral epicondylectomy. Five months after the surgery the injured worker attended his final appointment with the QRC. He was released to return to work without restrictions and went back to full-duty work.

- 10. A laborer struck his knee and felt significant pain.** He immediately went to the doctor who treated the knee before for a similar injury. The doctor took him off of work for one day then released him to light-duty. The doctor made a referral to an EPO facility where an MRI was recommended.

The insurer initially denied the claim as a continuation of his pre-existing condition. The injured worker did not understand the denial and called the program. The facilitator requested the medical records and reviewed them with the adjuster. The EPO doctor found a new injury occurred at work affecting a different part of the knee which was unrelated to the pre-existing condition. The insurer picked up the claim and all benefits were paid. The injured worker got the proper care without delay and returned to his pre-injury job.



11. A sheet metal apprentice got his thumbs pinched in a lift. He was taken by ambulance to receive emergency treatment. The adjuster accepted the claim and assigned a program QRC to assist with the follow-up care within the EPO. The injured worker resisted going to the appointment set up by the QRC because he was told “he could go to the doctor of his choice”.

The facilitator called him to explain the purpose of the EPO and his ability to select any doctor within the network, but that the QRC had made arrangements for treatment by a hand specialist on an expedited appointment. The injured worker agreed to get the medical treatment within the EPO. The treatment resulted in a very good outcome, and the apprentice returned to his pre-injury job.

12. A plumber, one of the contractor’s “core guys”, injured his lower back and began treating with his non-EPO chiropractor. The insurer accepted the claim and was paying the bills submitted by the non-EPO provider. The employer provided light-duty so there was no lost time on the claim.

The adjuster eventually called the injured worker and said he must move his care to an EPO provider. This didn’t make much sense to him so he called the program to ask if the insurer could force him to change doctors. The facilitator arranged a conference call with the injured worker, the employer and the adjuster to discuss the situation.

All three agreed that the chiropractor was providing proper care and return to work restrictions, so continued care was approved. The EPO’s nominations committee reviewed and approved the chiropractor’s inclusion into the EPO network of providers. The insurer was happy to learn that the chiropractor was no longer outside the approved list and could be used in the future without the need for an exception.