



LAW OFFICES
of
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LEGAL BRIEFS NEWSLETTER

CASES & COMMENTS ON WORKERS' COMPENSATION

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CASE LAW UPDATE

Medical Treatment and MPN Issues

Knight v UPS (2006) 71 CCC 1423. An employer's failure to provide applicant with adequate notice of his MPN rights rendered the employer liable for the self procured medical costs. The Board noted that "the employer is required to give the injured employee notice of information about the use of the MPN, notice of the right to be treated by an MPN physician of choice after the first visit, notice of the method of accessing the list of MPN providers, and notice of the employee's right to use the second and third opinion process if he or she disputes either the diagnosis or the treatment prescribed by the MPN treating physician." The Board specifically pointed to the posting requirement under LC 3550(e) and indicated that failure to post the notice "shall automatically permit the employee to be treated by his or her personal physician...."

Andrade v SCIF (2006) 34 CWCR 132. Applicant requested a change of the treating doctor within the MPN, but the employer did not respond timely. The applicant was allowed to pick a new treating doctor outside the MPN.

Sharon Babbitt v Ow Jing, et. al. (2007) (WCAB *en banc*) 72 CCC 70. The defendant may transfer an injured worker into an MPN if the transfer is done in conformity with the applicable rules and regulations, no matter what the date of injury.

Which Rating Schedule?

Aldi v Carr, et. al (2006) 71 CCC 783 (WCAB *en banc*, writ denied). The 2005 PDRS applies unless one of the exceptions set forth in LC 4660(d) applies. See the *Baglione* discussion below.

Baglione v Hertz Car Sales (2007) 72 CCC 444 (WCAB *en banc*) outlines the three exceptions to the use of the 2005 PDRS when the date of injury is prior to 1/1/05:

- #1 - There is a medical legal report prior to 1/1/05 indicating the nature and extent of PD or
- #2 - There is a PTP report indicating PD or
- #3 - Where the employer was required to provide a notice pursuant to LC 4061

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