

Nevada Workers' Compensation Law Blog

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High Rate of Error and Inconsistency for PPD ratings

The March/April 2010 edition of the AMA Guides Newsletter reports that a review of over 6,000 cases, mostly from California, resulted in 80% of them questioned by expert rating reviewers. For the very small number of Nevada cases reviewed for this study, the error rate was much less, with an average difference of 3% whole person impairment. This study confirms what most attorneys who represent injured workers know about rating evaluations. There is a tremendous difference in ratings by the various rating doctors authorized to perform ratings in Nevada, even though the rating doctors should theoretically reach the same numbers by following the methods in the Guides.

In discussing the causes of errors found in ratings done under the AMA Guides, 5th Edition, the newsletter authors state that it is more likely that an erroneous rating will be higher, rather than lower than is appropriate. The greatest source of error is examiner inexperience or lack of knowledge. Spine injuries are most likely to be rated incorrectly. Errors were also found in ratings for shoulder injuries and carpal tunnel syndrome, while knee injury ratings were less likely to be wrong.

Because of the high incidence of error in rating evaluations, I always ask the adjuster to agree with me on which rating physician will do the initial rating evaluation. Adjusters want to avoid having to hire a defense attorney to litigate the PPD if the injured worker appeals from the PPD offer, and they want to close the claim as soon as possible. Adjusters will therefore often agree to use a rating physician who is well known and has a reputation for performing objective and accurate ratings. However, if the adjuster does not agree to use a particular rating physician with the injured worker's attorney, the adjuster is obligated to use the rating doctor assigned by the Division of Industrial Relations from the rotating list of rating doctors.

I sometimes see cases where the injured worker who is not represented by an attorney agrees with the adjuster to use one of the rating doctors on a short list sent by the adjuster. It puzzles me that someone without any information about the doctors on that list would agree with the insurer to use one of the doctors suggested by the insurer instead of requiring that the insurer use the doctor assigned. Invariably, the unknowing injured worker agrees to be rated by a rating

doctor that I would never choose for my client. The injured worker must then pay \$650 up front for a second rating and appeal the offer based on the first rater's exam.

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