



**Aisha Grant Taylor**

1330 Lady Street 6th Floor,  
P.O. Box 12487 (29211)  
Columbia, SC 29201

ataylor@collinsandlacy.com  
TEL: 803.255.0480  
FAX: 803.771.4484

### **The Impact of Diabetes & Other Obesity-Related Conditions on Workers' Compensation Claims**

There is an obesity epidemic in this country. Obesity's impact on the workplace is profound, with employer paid, obesity-related health care costs approaching \$8 billion per year. According to the Center for Disease Control (CDC), obesity and associated health conditions, particularly diabetes, are responsible of the increase in employee health care costs. It is estimated approximately 65 percent of the workforce is overweight, obese or morbidly obese. As a result, expect obesity to significantly affect the cost and resolution of workers' compensation claims.

According to a study from Duke University Medical Center, weight challenged workers are twice as likely to file workers' compensation claims. Once the claim is filed, the cost of medical care is seven times higher than the claims for non-obese workers. The cost of medical care is significantly higher because pre-existing heart disease, hypertension and diabetes, the three most prevalent obesity related non-industrial chronic conditions, significantly impact the treatment and outcome of workers' compensation claims.

Claims professionals face many challenges when managing claims involving injured workers who suffer from chronic disease.

In many instances, symptoms arising from the underlying illness make it difficult to accurately diagnose the work-related injury. In addition, many injured workers may experience a slow and complicated recovery from the treatment of work-related injuries due to additional health issues.

A report in the American Journal of Health Promotion says obese workers with diabetes are less productive on the job and more susceptible to severe injury situations that result in higher insurance costs. Injured workers with diabetes are more likely to develop adhesive capsulitis or wound healing complications. A worker with diabetes runs the risk of any injury he incurs, even the slightest abrasion, potentially escalating into a serious injury, which could result in an award of permanent and total disability benefits – easily a multiple six-figure claim.

In 2006, the Supreme Court of South Carolina weighed in on this issue in *Ellison v. Frigidaire Home Products*, 371 S.C. 159, 638 S.E.2d 664 (2006). In *Ellison*, Claimant fractured his left leg in a work related forklift accident. He was given a 20 percent permanent impairment rating to the leg. Claimant also suffered from pre-existing chronic disease including hypertension, sleep apnea, prostate cancer, diabetes and congestive cardiac disease, which rendered him physically unable to return to work after his accident. The Court held that Claimant could recover for a greater disability than that incurred from a single injury to a particular body part if the combination with any pre-existing condition hinders employment. It is important to note the *Ellison* decision only applies to claims with a date of injury prior to July 1, 2007. For all injuries occurring on or after July 1, 2007, the pre-existing impairment and the work-related injury must result in disability that is substantially greater and "caused by aggravation of the pre-existing impairment."

In addition to increased exposure for the indemnity benefits paid on a claim where the injured worker also has obesity-related chronic disease, claims professionals face increased medical costs. In order to treat the work-related injury appropriately and bring resolution to the claim, the underlying obesity-related medical conditions must be stabilized, which may require treatment of the chronic disease along with the work-related injury. Injured workers who are obese require specialized equipment for diagnostic procedures such as CT, MRI or ultrasounds. Most physicians do not have this specialized equipment, resulting in inefficient diagnostic studies and images with very poor quality. Many physicians will no longer agree to treat patients with weight challenges. The risks of surgery are disproportionately high and outcomes are poor or a total failure. Some physicians agree to continue treatment by recommending a weight loss program for the injured worker.

A recent trend with the South Carolina Workers' Compensation Commission has been to award the weight loss program even though the injured worker had non-industrial weight issues that preceded the injury. As of right now, there are no guidelines for weight loss treatment programs awarded by the Commission; however, prior awards have included physician-based exercise programs, gym memberships and Weight Watchers programs.

#### **Join the Fight!**

I have recently become an Executive Committee member of The Frye Foundation, founded by University of South Carolina track and field head coach Curtis Frye and his wife, Wilma. The Frye Foundation's mission is to raise money and scholarships for research on diabetes and mental illness. For Coach Frye, this mission is very personal. His father and brother died of complications due to diabetes, and his grandfather lost legs due to the illness. Wilma Frye's eyesight has failed because of complications of this disease, and Coach Frye has had diabetes for many years, but with the help of medication and lifestyle changes, he is doing well.

The Frye Foundation is a nonprofit organization dedicated to the assistance of people and their families that deal with diabetes and mental illnesses, as well as other charitable causes. The foundation will support the American Diabetes Association, the National Alliance on Mental Illness – Moore County, and the Mental Health America of South Carolina. In addition, two full scholarships will be awarded to prospective students in nursing or other health-related studies at Midlands Technical College in South Carolina and Sandhills Community College in North Carolina.

According to the American Diabetes Association, diabetes affects 25.8 million children and adults to the United States. It is estimated that the cost of diabetes in the United States is \$218 billion per year. Mental illness affects 57.7 million adults over the age of 18; about 1 in 4 in the United States according to the National Institute of Mental Illness.

If you or someone you know has ever been affected by diabetes or mental illness, we would like your help in joining The Frye Foundation's fight. There are many different ways for you to be involved. Our goal is to raise \$500,000 in support of this cause. We are starting this year off with free health screenings at local malls on May 14, 2011 and a Celebrity Golf Classic at the historic Pine Needles Lodge & Golf Club in Southern Pines, North Carolina on May 22-23, 2011. Please contact me or visit [www.thefryefoundation.org](http://www.thefryefoundation.org) for more information.