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## MEDICAL CARE FOR PREEXISTING CONDITIONS

BY: SCOTT A. O'MARA

If the worker has a job related injury there is entitlement to several benefits; one of the most important benefits is medical care. The California Constitution states that medical care for job injuries is to CURE or RELIEVE the effects of the job related injury.

The employer wants to contain and control as many costs as they can in the work related injury. In doing so, they then attempt to remove any medical condition that has become more disabling or problematic because of the job related injury.

The labor code speaks very generally that an injury is the result of a specific or cumulative trauma of work events or disease arising out of the employment. However, there are many situations where there is an aggravation of preexisting medical conditions that were non-industrial and this preexisting medical condition, whether that be a disease or condition, has connectivity because the work related injury, or the treatment for the work related injury, aggravates or accelerates those preexisting conditions. This then makes those conditional changes in the body or the system compensable, particularly when it comes to the medical care.

The employer does not want to see this expansion of medical care because the medical care can be a lifelong obligation for the employer that was not initially impacted by the specific or cumulative trauma, but the condition became more problematic or more symptomatic as time passed because of the aggravation of this preexisting condition(s).

One of the thoughts is that a compensable consequence would be that the worker sustained an injury to his left knee and then becomes more reliant on the right knee to move around. Due to this, the right knee becomes more symptomatic and needs medical care; this would expand the coverage under the workers' compensation system. Another example would be a worker that has a non-industrial heart condition existing prior to his employment of the

job related injury. With the job related injury, if it has caused an elevation in the blood pressure, and this elevation of the blood pressure has caused an enlargement of the heart, this then would place the responsibility for the medical care for the heart to the employer.

The case law is rather direct that if the industrial injury or treatment for the industrial injury aggravates or accelerates the previous existing disease or condition resulting in disability, the injury is compensable for a level of disability and becomes the responsibility for the employer to provide the medical care for this new element.

Of interest is the elements of change, most workers do not have knowledge of, nor do the physicians that are treating, understand or embrace the concept of the aggravation of the preexisting non-industrial condition. The job related injury is the responsibility of the employer. The doctors that treat under the employer's medical provider network list are doctors that are limited in their full medical view and as are the doctors in the Carve-Out. If these doctors expand medical care under the workers' compensation system, the doctor will be under review by the employer or adjuster for additional costs. This awareness the doctors have can remove the unrepresented worker from the full medical protection for them and their family because of the aggravation of preexisting non-industrial disease or conditions by the job related injury or treatment.

There can be changes in medical conditions that are non work related. These changes are initially considered to be non work related by either the work related injury or the medical care received for the work related injury. These changes must be reviewed and embraced as a responsibility of the employer. The treating doctors are a very important element to articulate how the above mentioned injury or medical care for said job related injury are a factor in the aggravation or worsening of the preexisting non industrial disease. The medical care is articulated by the California Constitution is the Cure or Relieve the effects of the injury and the broad perspective is necessary for full protection of a California injured worker.

Therefore, it is paramount that there is a continuous review as to any worsening of preexisting or new medical conditions that developed in part or in total because of the job related injury, or for care for the job related injury causing same.

The role of the treating doctor is a significant factor for access to medical care. In addition, there must be awareness that the employer's doctors that are on their medical provider

network list or doctors on the Carve Out list may view the cases very narrowly to continue to have their standing as treaters for the employer.

The injured worker through their attorney must expand the knowledge and the responsibility of the treaters so the medical care is available to Cure or Relieve all medical conditions, either current, preexisting or in the future, that are related to the job related injury and that the job related injury or treatment for same has impacted either preexisting need for medical care prior to the injury, or additional medical care that develops after the job related injury.



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