

THE GREY & GREY REPORT

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WHAT'S NEW AT GREY & GREY ...

The last six months have been some of the busiest in our 40 year history. In early 2006, troubled by the fact that the claims of many 9/11 victims were being denied due to time limits, partner Robert Grey drafted a bill to extend the time limits for 9/11 workers' compensation claims. After a media and legislative campaign led by Grey & Grey, a number of unions and the AFL/CIO, Governor Pataki signed a revised version of the bill into law in August, 2006. *Read more about the 9/11 bill in "Current Events" on page 3.*



After the 9/11 bill was signed, we turned our efforts to then Governor-elect Spitzer's plans to change the workers' compensation system, which he made clear was a top priority. Grey & Grey was deeply involved in the campaign to improve the workers' compensation system for injured workers. Our 59 page White Paper was used by the AFL/CIO, the New York Committee for Occupational Safety and Health (NYCOSH), the Business and Labor Coalition of New York (BALCONY) and others as a platform for positive change in the system. We wrote "fact sheets" about workers' compensation that were distributed to state legislators, and we personally visited

In this issue (Spring, 2007):

	Page
What's New at Grey & Grey	1
Current Events in Workers' Compensation.	2
Grey & Grey in the News.	3
Grey & Grey at Work.	4

many members of the Assembly and the Senate both locally and in Albany to try to persuade them to raise benefit rates and improve medical care while preserving benefits for permanently disabled workers.



New York State Capitol Building

On March 13, 2007, Governor Spitzer signed a law that makes many changes to the workers' compensation system. Some of those changes are good, some are not, and the jury is out on others. What we know now is discussed in *Current Events*. As we learn more, we will update information on our web site and our Fall, 2007 newsletter should also have more information.

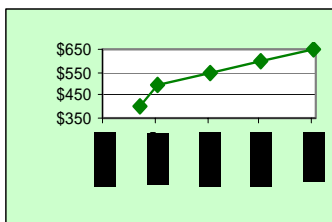
Our public service efforts have not gone unnoticed. At the end of 2006 Robert Grey was appointed to the Advisory Board of the Mount Sinai – I.J. Selikoff Center for Occupational and Environmental Medicine, and in January, 2007 he was elected to the Board of Directors of NYCOSH. Partner Brian O'Keefe is now the chair-elect of the Workers' Compensation Committee of the Nassau County Bar Association.

CURRENT EVENTS IN WORKERS' COMPENSATION...

Changes in the Workers' Compensation Law.

The law has changed for both medical care and money benefits. First, benefits have not changed for accidents that happened before March 14, 2007. If your accident happened before that date, your benefits will not go up because of the new law and they also will not be cut off because of the new law. The changes in benefits only apply to accidents that happen on or after March 14, 2007.

Increased benefit rate. There is no increase in the benefit rate for accidents between March 14, 2007 and July 1, 2007 (but there will be time limits for benefits in those cases). For accidents between July 1, 2007 and July 1, 2008, the maximum rate will be \$500. The minimum benefit rate also rises from \$40 per week to \$100 per week for accidents on or after July 1, 2007. For accidents between July 1, 2008 and July 1, 2009, the maximum rate will be \$550, and for accidents between July 1, 2009 and July 1, 2010, the maximum rate will be \$600. Starting July 1, 2010, the maximum rate will be two-thirds of the state average weekly wage (which will probably be about \$650 in 2010) and it will change each year after that.



Time limits on permanent partial disability awards. Workers injured after March 13, 2007 who are permanently partially disabled are no longer entitled to

be paid indefinitely. Instead, there is a scale of time limits depending on the level of disability. The scale is:

Degree of Disability	Weeks of benefits
96% - 99%	= 525 weeks.
91-95%	= 500 weeks.
86-90%	= 475 weeks.
81-85%	= 450 weeks.
76-80%	= 425 weeks.
71-75%	= 400 weeks.
61-70%	= 375 weeks.
51-60%	= 350 weeks.
41-50%	= 300 weeks.
31-40%	= 275 weeks.
16-30%	= 250 weeks.
1-15%	= 225 weeks.

These time limits apply only to permanent partial disability awards, and are in addition to awards for any period of temporary total or temporary partial disability. Permanent total disability benefits are not time-limited, and workers who are more than 80% disabled can apply for an “extreme hardship” extension of their time-limits.



Settlements. Up until now, it was up to the insurance company or the employer whether they wanted to offer a final settlement. Under the new law, once a worker is found to have a permanent partial disability, the insurer must offer the worker a settlement. If the insurance company fails to settle the case, then they have to pay into a special state fund, which should result in fair settlement offers.

Medical treatment There are major changes in the area of medical treatment. Workers still have the right to see the doctor of their choice. However, the Workers' Compensation Board will now issue a manual of "best practices" to health care providers. This guide should reduce delays in getting treatment covered by the "best practices," and doctors will still be able to request authorization for treatment beyond the guidelines.



In the area of authorizations, doctors no longer need advance approval for treatment that costs less than \$1,000 (up from \$500). However, for diagnostic tests (like MRIs) that cost less than \$1,000 the insurance company can require the worker to choose a facility in the insurer's network. If the test costs more than \$1,000, the insurer can require the worker to use a particular facility.

Getting prescription medication has long been a problem for injured workers. Under the new law, the insurance company has 45 days to pay the pharmacy or reimburse the worker for medications or to explain non-payment. However, the insurer can require the worker to use the pharmacy or mail order service selected by the insurance company.



There are many other changes that will be seen as Governor Spitzer makes appointments to the Workers' Compensation

Board. We are hopeful that the new administration will be an improvement for injured workers.

World Trade Center Claims.

There is ordinarily a 2 year time limitation to file a claim for workers' compensation benefits after an accident, and the Workers' Compensation Board ruled that claims resulting from September 11th fell into this category. As a result, many claims were denied due to time limitations. The September 11th bill for workers' compensation changed this by using the more flexible time limitations for occupational disease in these claims.

However, in order to take advantage of the new law, people who were involved in rescue, recovery and clean-up work in lower Manhattan, the NYC morgue or the temporary morgues, or the Fresh Kills landfill as workers or volunteers between 9/11/01 and 9/12/02 must file a WTC-12 registration form with the Board before August 14, 2007. This form must be filed whether or not the worker is ill and even if they already have a pending workers' compensation case.

WTC-12 forms are available from the Board, NYCOSH, and Grey & Grey, LLP. To date, Grey & Grey has filed over 500 WTC-12 forms for 9/11 workers and volunteers and has reviewed and notarized hundreds more.

GREY & GREY IN THE NEWS ...

Our efforts to improve workers' compensation for 9/11 victims and workers in general have caught the attention of the local and national media. The New York Times published an op ed written by Robert Grey, a case handled by Brian O'Keefe was reported on the front page of The Chief, and our attorneys have been quoted in the Daily News, the New York Post and Newsday, as well as appearing on News Channel 4 New York. Of course, our work continues to appear in legal publications as well.

GREY & GREY AT WORK ...

We work as hard for our individual clients as we do for injured workers in general. The best test of our work is in the results. One of our clients was originally injured in 1979 and had been represented by another law firm for many years without results until Grey & Grey took over the case. She recently received a check for \$250,000 for 12 years of benefits at the maximum rate. In another case, we won a decision finding that chronic neck and back injuries were an occupational illness for an operating engineer whose work exposed him to constant vibration and movement of heavy equipment. We also established cellulitis (a skin infection) as an occupational disease for a transit worker who was required to wear a certain type of boots.

In claims under the Volunteer Firefighter Benefit Law, careful legal work can make a tremendous difference in benefits. We recently obtained an award in excess of \$100,000 in retroactive benefits plus continuing payments of \$887 per week for the widow of a volunteer firefighter who died in the line of duty.

Our personal injury department recently settled a case for \$900,000 for a 50 year old maintenance worker who fell from a roof. The case had originally been dismissed by a judge who found that the State had no liability. On appeal, the judge's decision was reversed and the appeals court found the State 100% responsible. In another case a worker broke his wrist when the forklift he was operating fell into a gap between a truck and the loading dock. The defendant refused to make any offer at all before trial, but the jury returned a verdict finding it 100% at fault. Grey & Grey attorney Sherman Kerner was then able to settle the case for \$275,000.

Our Social Security Disability department recently won victories in two long battles. In one case, Pamela Segal won an award for nine years of retroactive Social Security Disability benefits. In another Samuel Flatt convinced the New York State Retirement System to reverse its denial of benefits and grant a disability retirement. Note: the firm now handles NYCERS and NYS disability retirement matters.

Thank you for choosing Grey & Grey and for recommending your friends and family to us.

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