

THE GREY & GREY REPORT

Published by:

GREY & GREY, L.L.P.

WORKERS' COMPENSATION – SOCIAL SECURITY DISABILITY – PERSONAL INJURY

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WHAT'S NEW AT GREY & GREY ...

We understand that our clients, and the world in general, rely more and more on technology to get information and to get things done. At Grey & Grey, we make every effort to make sure that our technology serves our clients.

In 2011, we redesigned and re-launched our web site, complete with a blog where we will post the latest legal developments and news, an RSS feed, and a link to the Grey & Grey, LLP Facebook page. Check it out at www.GreyAndGrey.com, and subscribe to our blog.



We also installed a new telephone system to seamlessly link our four office locations and to help us answer your calls more quickly.



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We also pleased to welcome several new attorneys and staff to the firm. Our workers' compensation department added experienced attorneys Janice Molloy and Christa Collins, while our personal injury department added veteran attorney William Mahlan.



Our educational and leadership activities have continued. Robert Grey continues to serve as Chairman of the Workers' Compensation Alliance, a political action committee that advocates for the interests of injured workers in the workers' compensation system. Mr. Grey also continues to lecture on a regular basis for the New York State Bar Association, local bar associations, and unions.

Brian O'Keefe continues to serve as the president of the Brehon Law Society of Nassau County, Steve Rhoads serves on the Open Space Preservation Committee of Nassau County, and many of our other attorneys are active in professional and charitable organizations.

WHAT'S NEW IN WORKERS' COMPENSATION ...

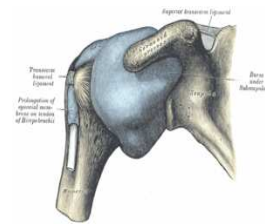
At the end of 2010, the Workers' Compensation Board issued Medical Treatment Guidelines, or "MTG." The MTG originally applied to treatment for the neck, back, shoulder, and knee injuries, and were later expanded to include carpal tunnel syndrome. "Treatment" includes diagnostic tests, medications, therapy, surgery, injections, etc.



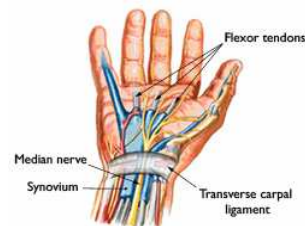
In an emergency, no prior authorization is needed. After providing emergency medical care, the doctor submits the bills and medical reports to the insurance company. If the insurer contests the issue of whether it was an emergency or whether the treatment was necessary or related to your case, it will object to the bill. In that event a Judge will decide.



If it is not an emergency, then the doctor must read the MTG and make a decision whether the requested treatment is covered and pre-approved on the Guidelines. If it is, then the doctor proceeds without authorization and sends bills and reports to the insurance company. Again, if the insurance company objects, then a Judge will decide.



If the doctor concludes that the requested treatment is not covered or pre-authorized on the Guidelines, then the doctor must submit a request for a "variance" using form MG-2. The insurance company will grant or deny the variance. If there is a denial, then your doctor must discuss the denial with you and you must sign the MG-2 form to request a hearing so that a Judge can decide the issue. You can choose to allow the Board's Medical Director to make the decision instead of a Judge.



The Board has also issued new guidelines for permanent disability that are effective on January 1, 2012. The new guidelines do not change the awards for "schedule loss" benefits for permanent injuries to the hands, feet, fingers, toes, hearing loss, vision loss, or facial scars. However, almost any other condition that is permanently disabled will now have to be decided under the new rules.

The new guidelines repeatedly state that medical impairment does not translate into loss of wage earning capacity, and that worker's compensation benefits depend on the loss of wage earning capacity, rather than medical impairment. This is a significant change from present workers' compensation practice, which tends to minimize the consideration of functional loss and vocational factors except in rare instances.

We hope that the Board will place a strong emphasis on the multiple portions of the guidelines that prohibit conversion of medical impairment into compensation benefits and which require consideration of other factors. The guidelines recognize that there are few employment options available for many workers who are limited to sedentary work as the result of occupational injury. Such workers have little if any earning capacity and must be protected by the workers' compensation system.

We are concerned that the new guidelines do not give the judges any guidance about the weight of medical impairment, functional loss, and vocational factors, or the weight to be given to any given vocational factor. While this will allow the judge to make an individual assessment of each injured worker, it may result in dissimilar outcomes in otherwise similar cases.

If the new guidelines are applied so that full and fair weight is given to the impact of functional loss and vocational factors on wage earning capacity, then the system may well achieve more substantial justice than it has in the past when inquiry was limited largely to medical impairment. If, however, the Board fails to properly emphasize the impact of functional loss and vocational factors, or if those factors are accorded

insufficient weight in the ultimate determination, then substantial loss of benefits may occur due to the minimization of medical impairment under the new guidelines.

We will continue to monitor the implementation of the new guidelines and use them to obtain the best possible results for our clients.

WHAT'S NEW IN PERSONAL INJURY...

The personal injury department continues to achieve outstanding results despite the general trend of smaller jury awards due to the bad economy. Recent awards include \$640,000 for a school bus driver who sustained neck and back injuries in a motor vehicle accident; \$1.1 million for a construction worker who sustained severe burns after embers from welding operations ignited his pants leg; \$450,000 for a truck driver who sustained leg and back injuries when he fell between the truck and a loading platform due to a negligently placed dock plate and \$500,000 for a brick-layer who sustained leg injuries when he was struck by a piece of construction equipment.

Grey & Grey searches for opportunities to provide the best possible representation for our clients. We are pleased to welcome William Mahlan, Jr as the newest addition to our personal injury staff. Bill, an accomplished trial lawyer with 26 years of experience, will be handling our cases venued in Queens County.

Remember, the key to any successful case is getting the right attorneys working to protect your interests. If you, a friend or family member are injured due to someone's negligence, call Grey & Grey. Your consultation is always free, and we don't get paid unless we get you a recovery.

WHAT'S NEW IN SOCIAL SECURITY...

Understanding the Workers Compensation Offset. Claimants receiving both workers' compensation benefits and SSD may find their SSD benefits limited by Social Security's "Workers' Compensation Offset." Workers' compensation benefits will never be reduced by the receipt of SSD benefits, but SSD benefits may be reduced if you receive workers' compensation. The amount of the reduction depends on your prior earnings and the amount of your workers' compensation award.

Social Security usually looks at your highest earnings in the last five years prior to your disability date. You can only receive 80% of your highest monthly benefit between your combined workers' compensation and SSD benefits. Any cost of living increase (COLA) granted by Social Security is not affected by the offset. When you turn 65 the SSD automatically converts to SSR (retirement) and the offset no longer applies.

	Example 1	Example 2
Highest Annual Salary in prior 5 years	\$55,000.	\$65,000.
Maximum benefit (High salary/12 x .80%)	\$3,666.66	\$4,333.33
Social Security Monthly Benefit without offset (DIB)	\$1,800.00	\$1,800.00
Childs Monthly Auxiliary benefit without offset	\$ 900.00	\$ 900.00
Workers' Comp Benefit weekly	\$ 600.00	\$ 500.00
Workers' Comp Benefit monthly (weekly x 4.3)	\$2,660.00	\$ 2,166.00
Applying the offset :		
SSD with offset (offset if Max – WC is less DIB)	\$1,006.66	\$1,800.00 (full)
Aux (offset if Max - WC – DIB is less than full Aux)	\$0.00 (total offset)	\$ 366.34
Total Combined Benefit ==	\$3,666.66	\$ 4,333.33

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