

DEMYSTIFYING CATASTROPHIC DESIGNATIONS

It has come to our attention that some people are unsure how a claim is analyzed for a determination of whether or not the injuries are deemed catastrophic in nature. The following is a sequential analysis of the steps the Managed Care and Rehabilitation Division takes in making a determination.

To begin, the Board requires a form WC-R1CATEE with complete supportive documentation (see below). Incomplete applications will be denied and may be resubmitted when the documentation is complete. The documentation accompanying the form WC-R1CATEE should be limited to the information requested and tabbed for easy usage. Superfluous information, i.e. every medical record from the start of the claim, slows the evaluation process. The medical history can accurately be described in the correspondence transmitting the form WC-R1CATEE.

O.C.G.A. §34-9-200.1(g) provides the definition of a catastrophic claim. In (g)(1)-(5), the Board relies heavily on the medical documentation. These injuries are catastrophic per-se. As such, evidence that the employee is capable of working is irrelevant. If these employees return to work, it affects their rights to indemnity benefits, not their catastrophic designation. Likewise, while a catastrophic designation precludes a form WC-104, employer/insurer can still utilize the form WC-240 process. Moreover, if released to return to work, the catastrophic rehabilitation supplier, utilizing the “return to work hierarchy”, should pursue return to work options with a different employer when nothing is available with the employer at the time of the accident. Re-training may be appropriate to achieve this goal.

Please note in (g)(2) cases involving amputations, if it is less than an entire hand or foot, the Board needs a physician’s statement, preferably the authorized treating physician, establishing that the amputation resulted in the functional loss of that appendage. In addition, a photograph or diagram (i.e. as crude as tracing of your hand/foot) reflecting the locations of the amputation would be helpful. Likewise, in (g)(4) cases involving burns, the Board needs a physician’s statement, preferably the authorized treating physician, as to the percentage of the specific surface area and type of burn, in order to find the claim catastrophic.

In (g)(6) cases, the Board’s focus is on the employee’s ability to work. For this analysis the Board reviews both medical and vocational factors. In order to do this, the following specific information must be submitted for review:

- Current medical diagnosis [within 1 year, preferably 6 months]
- Current *relevant* medical records, especially from the authorized treating physician [within 1 year, preferably 6 months]
- Recent opinion of the authorized treating physician of the employee’s work capabilities with, if released, detailed quantitative description of restrictions
- Employee’s education level including highest grade completed and any subsequent studies, certificates, etc. (if applicable, note the type of special education classes taken).
- Employee’s work history for past 15 years including job titles and physical requirements of each job

If the employee is receiving Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) and wants it to be considered as evidence in cases after July 1, 1992 (not required), the following information is also needed:

- A copy of the Social Security Administration's findings and award of SSDI or SSI benefits; **OR**
- If a judicial decision or rationale was not issued, documentation from the Social Security Administration listing the diagnoses on which the employee was found to be disabled, as well as notification that the employee was approved for SSDI or SSI; **OR**
- If such documentation is unavailable, an affidavit that the above was sought and unavailable, detailing the disability(ies) on which the Social Security award was based, and information about whether each of the disabling conditions was related to the employee's work injury.

Once the completed applications and objections, if any, have been submitted, the rehabilitation coordinators review the material thoroughly. In the (g)(1)-(5) cases, the medical documentation either establishes the claim as qualifying for catastrophic designation or not. As such, the Board rarely receives catastrophic designation requests that do not meet the definition, or are objected to, in these claims.

In (g)(6) cases, as outlined above, the focus is on the employee's ability to return to suitable employment. Suitable employment necessarily is 8 hours per day. Consequently, the first analysis is whether or not the employee is released to return to work. If yes, the first question posed by the Workers' Compensation Act is whether the employee can return to his/her prior work. If not, past work history combined with education level and age are analyzed to determine if the employee has transferable skills that will enable him/her to perform "any work available in substantial numbers within the national economy for which such employee is otherwise qualified." Many cases are clear cut, i.e. a 55 year-old worker who has always done heavy labor as a construction worker, with an 8th grade education has a back injury and is restricted to sedentary work (Standards of U.S. Department of Labor as defined in the Dictionary of Occupational Titles (DOT), see below). Undoubtedly he does not have transferable skills. If there are no transferable skills and the employer cannot accommodate the work restrictions, then the employee would be deemed catastrophic.

In the close cases, the rehabilitation coordinators may refer to the Social Security Administration Vocational Rules (commonly referred to as "the Grid"), Dictionary of Occupational Titles (DOT) and Selected Characteristics of Occupations Definitions in the Revised Dictionary of Occupational Titles for *guidance*. Ultimately, the decision remains within the Board's discretion. For example, a 47 year-old worker, with a history at a light unskilled level work and an 8th grade education with no transferable skills, has a back injury and is released to sedentary work. In that case, the Grid indicates that he is not disabled; however, he may still be deemed as catastrophic for workers' compensation purposes, since at this juncture, the employee is incapable of returning to work. With a catastrophic designation, the employee can receive re-training that will enable him to return to the work force. Once retrained, it can be shown that the employee now has transferable skills that would enable him to perform work in the national economy for which he is now qualified. At that time, as with any (g)(6) claims, employer/insurer may then request a change in condition hearing to have the catastrophic designation removed.

Note that often restricted work is referenced as “light” duty work. However, exertional levels have specific meanings. Make sure the physician(s) commenting on work capabilities are in fact referencing specific exertional levels. Below are the definitions of exertional levels as outlined in the Standards of U.S. Department of Labor as defined in the Dictionary of Occupational Titles (DOT) as referred to above:

- **SEDENTARY:** work involves exerting up to 10 pounds of force occasionally or a negligible amount of force frequently to lift, carry, push, pull, or otherwise move objects, including the human body. Sedentary work involves sitting most of the time, but may involve walking or standing for brief periods of time. Jobs may be defined as Sedentary when walking and standing are required only occasionally and all other Sedentary criteria are met.
- **LIGHT:** work involves exerting up to 20 pounds of force occasionally, or up to 10 pounds of force frequently, or a negligible amount of force constantly to move objects. Physical demand requirements are in excess of those for Sedentary Work. Even though the weight lifted may be only a negligible amount, a job/occupation is rated Light Work when it requires: (1) walking or standing to a significant degree; (2) sitting most of the time while pushing or pulling arm or leg controls; or (3) working at a production rate pace while constantly pushing or pulling materials even though the weight or the materials is negligible. (The constant stress and strain of maintaining a production rate pace, especially in an industrial setting, can be and is physically demanding of a worker even though the amount of force exerted is negligible.)
- **MEDIUM:** work involves exerting 20 to 50 pounds of force occasionally, or 10 to 25 pounds of force frequently, or an amount greater than negligible and up to 10 pounds constantly to move objects. Physical demand requirements are in excess of those for Light Work.
- **HEAVY:** work involves exerting 50 to 100 pounds of force occasionally, or 25 pounds of force constantly to move objects. Physical demand requirements are in excess of those for Medium Work.

Hopefully, this information clarifies the mystique surrounding the catastrophic designation process. As always, if any question arises that is either not addressed herein, or remains unclear, please feel free to call me at 404-651-7831 for guidance or anyone in the Managed Care and Rehabilitation Division.

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