

WC-R1CATEE Tips for Defense Attorneys:

1. Has the employee experienced a *change of condition for the better since the last work release?*
2. If the employer asserts that it will take the employee back and will provide a job within the employee's restrictions, *submit an approved job description signed by the authorized treating physician.*
3. Is there a recent Functional Capacity Evaluation (F.C.E.) *which documents a greater exertional level than that which was last recommended?*
4. Does the employee have *medical conditions not related to his/her injury which would disable him/her even if the employee had not incurred the work injury?*
5. Was the Social Security *disability award based on more than just the employee's work injury* and its residuals?
6. Is there an Independent Medical Evaluation (I.M.E.) *opinion which varies substantially from the ATP (Authorized Treating Physician)'s opinion?*
7. Is all *objective testing negative?*
8. The *most recent work release from the ATP (Authorized Treating Physician) will be given the most weight*, even if the ATP has previously issued less restrictive releases.
9. An injured worker does *not* have to be *permanently and totally disabled to qualify for catastrophic* designation; work history, age, education level, and transferability of skills are considered if the employee is released to work with restrictions.
10. *Do not submit surveillance videotapes.* If you have such a tape of an injured worker and feel it demonstrates greater physical ability than has previously been documented, get the tape to the authorized treating physician and request the doctor's opinion of the employee's current work abilities and restrictions. Then, submit that medical opinion, in written form.
11. Once the Rehabilitation Division issues an administrative decision determining that a case is catastrophic in nature, the employer/insurer have 20 days to file a Form WC-R1 to appoint any Board-registered catastrophic supplier of their choice, OR to file a WC-14 to challenge the decision at a hearing. *Do not file an appeal and simultaneously file a Form WC-R1.* As indicated on the WC-R1 itself, by filing the WC-R1, the employer/insurer accept the designation as catastrophic.
12. *Catastrophic designation may not be forever.* Pursuant to O.C.G.A. §34-9-200.1(i), subsequent to the designation of catastrophic, a hearing may be requested based upon reasonable grounds to address a change from the catastrophic definition. For example, if an employee who lacked skills to return to suitable employment is retrained to obtain such skills, the employer/insurer could argue that the employee's injury is no longer causing an inability to work at suitable employment. In such a case, the *employer/insurer might request a hearing before an administrative law judge to prove change of*

condition from catastrophic to no longer catastrophic. Remember that *rehabilitation is mandatory for employees whose injuries are designated as catastrophic in nature, and catastrophically injured employees are required to cooperate with rehabilitative efforts,* including efforts to return to suitable employment when return to work is feasible. If a judge finds that the employee is not cooperating, benefits may be suspended