

## Lesson 3:

### Failing to Get Medical Treatment the Right Way

**Rule: The insurance company picks the medical provider. The injured worker can request a change in treatment.**

When you need a doctor, of course you choose to go to the one you know and trust. But when you have a workers' comp claim and the insurance company is paying for your medical treatment that is not the rule. You must accept the treatment provided for you by the insurance company unless you have permission to go elsewhere. And if you go in your own for treatment you could even endanger your rights to get your compensation.

Perhaps you want to see your own doctor so much that you are willing to pay for a second opinion. You still need to know the proper way to have that opinion count.

### Chris

Chris, a bus mechanic, fell at work on a slippery floor in the garage. By the end of the day it was clear that his knee was getting worse and he reported the injury. He was told to go to the urgent care center where he was given work restrictions, including no lifting objects heavier than 50 pounds. With no work fitting that description available for him at the bus company, Chris sat at home. The only treatment he was offered was physical therapy and return visits to the physician's assistant that he thought didn't listen to him and wasn't making him any better. So he went to see an orthopedic surgeon on his own. That doctor, Dr. Goode, performed an MRI and scheduled surgery for three weeks later. Chris put the MRI on his health insurance that he got through work. But when he received a letter from the health insurer asking if the treatment was work-related, he didn't know what to do. He called the workers' comp insurance adjuster, who

was angry that he had gone to an unauthorized doctor. She refused to pay for the treatment with Dr. Goode and threatened to stop paying for any treatment at all. Chris was confused: how could his workers' comp claim go so bad, so quickly?

### **Chris's grade on getting the right medical treatment the right way: F**

Chris made an error in judgment about workers' compensation. Because the insurance company has to provide medical treatment in accepted claims, it can send Chris to the doctor that it chooses. But Chris can ask the insurer to send him to a doctor of his choice. He shouldn't go to the new doctor until he has asked for that visit **in writing**. The insurance company has 14 days to respond. If there is no response, then the North Carolina Industrial Commission can be asked to order the visit. But if Chris doesn't follow the rule, then his doctor's opinion – even if it is 100 percent correct – can be thrown out.

And the workers' comp adjuster isn't the only one mad here – the health insurer likely won't want to pay for an accepted work-related injury. How can Chris get himself out of this and improve his grade? He may have a difficult time getting the workers' comp insurance company to pay for Dr. Goode. The adjuster may be willing to send him to another doctor since there is a surgical recommendation. But the adjuster could refuse to send him anywhere, and even if she doesn't, she could try to delay treatment. Given Chris's past behavior, he has made sure that the adjuster will be calling the shots. Chris needs some legal advice, and fast, to dig him out of this hole.

### **Chris's potential final grade: C**

Let's review the issues: Chris did report the injury right away and went to the company doctor. But he messed up on the medical treatment part, and now needs a lawyer to help.

Here's how Chris did:



- ✓ Reporting the accident
- × Failing to ask for a change in medical treatment in writing before seeing the doctor.
- × Getting unauthorized medical treatment
- ✓ Hiring a lawyer

## Lesson 4:

### Failing to Understand What a Doctor Does

**Rule:** Doctors and medical personnel keep a record of everything they observe

Practicing medicine is hard. In addition to figuring out how best to treat a medical condition, the doctor has to follow regulations, bill insurance companies and keep detailed records. Understanding that doctors and medical personnel are writing down everything that they see or hear that is critical to your claim.

#### Devon

Devon worked as a corrections officer at a youth facility for three years. His job was difficult. Students sometimes injured staff members when they were upset or angry. Staff members often didn't get along. Devon had some problems with student behavior and with the other staff. Devon's supervisor would have said that Devon was an accident waiting to happen. But Devon's injury at work didn't happen because of a fight or because he had to put a student in a hold. He got hurt when he was loading equipment into a car. Devon stepped onto a rock he didn't see and rolled his ankle, stumbling and stopping just before he fell to the ground. "Just like last summer," he thought.

When Devon was playing in his regular weekly basketball game the prior year, he fought for a rebound but landed on another player's foot. Devon spent a month in a rigid ankle brace before he could play basketball again. Worse, he had to go out of work on short-term disability because corrections officers have to be able to restrain the students. But Devon thought that this new injury wasn't nearly as bad. He went inside and iced his ankle, took some medicine, finished his shift and went home.

The next morning his ankle was really swollen so he pulled out the old brace from last year and called in sick. His wife called his family doctor and he

went in to see him. At the office, the nurse felt his foot and ankle and looked back at the computer screen.

“I see it’s the same left ankle bothering you again,” the nurse said. “Did you take anything for it?”

“Just some pain meds, nothing big.” Devon was ready to get this over with.

“Did you put any ice on it?”

“Yes, off and on most of the day yesterday at work when it started hurting, and again last night.”

“Dr. Avalon will see you shortly.”

Dr. Avalon came in, checked the chart, asked Devon where it hurt and ordered an x-ray. When nothing was broken, he gave Devon a prescription and a referral to a specialist in sports and physical medicine because he said Devon needed physical therapy.

Devon went to the appointment with the surgeon. When he was given a medical history form to fill out before he saw the doctor, he put down that he had rolled his ankle and that the problem had started “last summer.” He left a lot of the form blank. The doctor was running an hour behind and rushed in.

“Well, this seems to be a chronic problem,” said the surgeon. “You like to play basketball, huh? Let’s see about getting you back on the court. I don’t know whether we will talk surgery in the future, but I believe we can skip it for now.” As he spoke, the doctor mostly stared at the computer screen. Devon wasn’t sure of the doctor’s name and was too shy to admit it, so he didn’t say much. The exam took five or six minutes, and the doctor was gone.

Devon was happy to hear that he wouldn’t need surgery. But the physical therapy the doctor recommended was a problem since he would need to miss work. Devon knew then that he should report the injury, so he filled out a form and gave it to the supervisor.

This time Devon was given some desk work, but with his foot in a brace there wasn’t much else he could do. Within days of reporting his injury Devon received medical releases to sign that allowed the insurance adjuster to get any