

## Jeffrey Seyfried defeat claimants objection to defendants suspension petition

Successfully defeats a claimant's objection to Defendant's Suspension Petition. The defendant filed a Suspension Petition, contending the employee had an earning capacity, as work was generally available within her medical and vocational capabilities. The employee argued the defendant was automatically precluded from proceeding with its Petition, as the employee was enrolled in college through the Office of Vocational Rehabilitation, ("OVR"). The matter was bifurcated on this issue. In support of her argument, Claimant cited Burgess v. WCAB (Plaza Foods), 612 A.2d 542 (Pa. Cmwlth. 1992). In response, it was argued that initially that Burgess should not be read so broadly to preclude an OVR recipient from ever having his/her benefits modified. Rather, Burgess simply stood for the proposition that a vocational counselor must consider a claimant's schedule when performing a job search. The WCJ agreed with our attorneys' argument and ruled that Burgess does not automatically preclude a Petition for Modification/Suspension and denied and dismissed Claimant's Motion to Dismiss. The WCJ has not set a trial schedule so that the matter may move forward on the merits of the case.