

Judge Wojtenko's Memorandum Requires Medical Providers to Adhere to Discovery Rules

Many medical providers challenge what they allege to be inadequate reimbursements for authorized medical treatment provided to an injured worker. The New Jersey Workers' Compensation statute provides the Division of Workers' Compensation with exclusive jurisdiction of disputed medical charges arising from a work-related injury. Due to this, medical providers are increasingly filing applications with the Division seeking additional payments for services rendered.

As there is no fee schedule in the State of New Jersey, the issue in these medical provider claims is what constitutes usual, customary and reasonable charges. In order to address this issue, former Chief Judge Peter Calderone, on November 21, 2013, issued a memorandum notifying the Division that interrogatories are allowed to be served in medical provider claims without a motion.

Subsequent to Judge Calderon's memorandum, medical providers were serving interrogatories in every medical provider claim. Despite Judge Calderon's decision, medical providers must now adhere to discovery rules set forth in N.J.A.C. 12:235-3.8(g) due to a new memorandum of Chief Judge New Jersey Division of Workers' Compensation Russell Wojtenko, Jr. Specifically, interrogatories in medical provider claims "may be allowed in other cases, upon motion, for good cause shown."

Comment: With the October 7, 2016, memorandum of Chief Judge Wojtenko is requiring medical providers to prove why they are entitled to have respondents answer interrogatories in matters that should be resolved without the need for discovery requests. Therefore, it is essential that employers make sure medical providers adhere to the current discovery rules.