

MAHCP Member Wins Her Workers Compensation Board Claim

Your WCB benefits have been denied or discontinued what do you do? Where do you go? What help is available to you? Many of us receive decisions from the Workers Compensation Board (WCB), employers or others affecting our work life and don't consider, or aren't aware that there may be other options or recourse.

An MAHCP member hurt herself while working. Although she wasn't recovered from the effects of that injury, her benefits were discontinued. She had become a member of MAHCP in 1984 and until recently had never required the use of the union. As a result of her decision to approach the union and the resulting outcome she is very appreciative and extends thanks to all involved on her behalf. She views her dues as an excellent investment.

The details of her experience may be helpful to other members and so . . . This is her story.

While transferring a patient in an X-ray department this MAHCP member had an onset of pain and discomfort. She continued to work, and found her symptoms getting worse, instead of better as she had hoped they would. Her work required her to don and wear a somewhat heavy and cumbersome lead apron. Wearing this amplified her symptoms, she was in spasms, and stayed that way. She sought medical treatment and filed a claim for compensation of benefits and services which was accepted by the adjudicative staff of the WCB. She started physiotherapy treatments, pharmacological therapy, and continued being mobile, as instructed by her physician. In spite of her best efforts, and those of her care providers, her injury failed to resolve itself.

Investigations, including imaging studies, revealed pre-existing condition(s) involving her injured anatomy. She had a previous injury, involving surgical intervention, some thirty (30)



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years prior. However she has been pain free until this workplace injury occurred. In essence, she was fully functioning and asymptomatic, prior to the workplace accident and onset of pain on June 14, 2006.

MAHCP agreed with the findings in a memo dated September 8, 2006; where the WCB's health care consultant said that the MAHCP member's complaints are indeed consistent with the mechanism of the workplace injury.

WCB had a second review conducted by a different consultant. Her MRI results were sent to Healthcare services again, and the applicant was again asked the same questions. In a report dated October 6, 2006 the physician says the current and ongoing symptoms are related primarily to the pre-existing pathology aggravated by the compensable injury.

Her doctor says: *"Based on her overall presentation, it appears that she was doing quite well until the injury that occurred on June 14, 2006. Not having had any recurrent symptoms prior to that, the event at work would appear to be the main contributing factor to her ongoing symptoms. Pre-existing changes noted on her imaging certainly could be a contributing factor, but the history suggests that there was an event that led to her being symptomatic"*. Again, we agreed.

She returned to work in a graduated fashion and with clearly defined physical restrictions. She was assigned modified work for four (4) hours per day. Again, in spite of her best efforts, she was unable to increase her hours of work or return to her full and regular duties. In November of 2006 her family doctor advised against increasing her hours of work.

There were many ensuing discussions and letters exchanged prior to a decision being reached by the primary adjudication. Following this initial determination MAHCP was able to successfully argue on behalf of our member on a number of different points. As each case and circumstances are unique there is no benefit to report on the specific discussions.

One point worth mentioning is the concept and application of "recovery norms". WCB tends to use comparisons based on "recovery norms" and "averages". These measurements do not always reflect individual circumstances when "norms" or "averages" are used solely to deny a claim, they may not be fair or just. We are not automatons; we are individual workers who respond to injuries very differently. While providing general guidelines they can be very unreliable depending on the individual's circumstances.

MAHCP enlisted the aid of a professional appeals consultant to review this particular case. After thoroughly reviewing the case she recommended an appeal. The consultant vigorously argued the MAHCP member's case and the Review Office of the WCB agreed with our position. In their decision, they overturned the decision of primary adjudication, re-instated benefits retroactively to the date of termination of those benefits, and will continue paying her benefits while she recovers from her injuries.

So please note that if you are not satisfied with a decision reached by the WCB that it is very much within your rights to appeal, and that appeals can be and are often successful.

THE CARD THAT DOES SO MUCH FOR SO MANY!

