



NEWS & NOTES

"Serving All Pennsylvanians"

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Josh Shapiro, Governor
Nancy A. Walker, Secretary

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HANDS TO WCAIS INTEGRATION

The Health & Safety Division is pleased to announce that starting in August, you will be able to submit all Health & Safety reports, documents, and certification applications in one location with one login. The Health & Safety System, also known as HandS, will be merged into the Pennsylvania Workers' Compensation Automation and Integration System (WCAIS).

WCAIS is a modern systems platform designed to meet the needs of Pennsylvania's workers' compensation stakeholders. In anticipation of this merger, the Health & Safety division is preparing to provide all the necessary support to our stakeholders.

What you should expect prior to and following the merger:

- Timely communications will be sent to stakeholders prior to and following the merger
- Ongoing professional assistance from the Health & Safety staff and WCAIS IT staff

For the most up-to-date WCAIS Customer Service resources, please visit: <https://www.wcais.pa.gov/ol/pub/dt/dist/index.html#/CustomerSuccessCenter/1>.



BWC WELCOMES TWO NEW EMPLOYEES



Last month, Jeffrey Zimmerman joined the bureau as the Assistant Director. Jeffrey will be overseeing the Claims, Health and Safety, Special Funds, Compliance, and UEGF divisions.

He will also be responsible for employee engagement and leadership development.

Jeffrey has been working for the USDA for the last several years. He is a native of Pottsville, Schuylkill County. After high school, Jeffrey joined the US Army and lived in North Carolina for many years. He served a tour of duty in the Middle East during his time in the military. Jeffrey has a PhD in public policy and administration. He is interested in studying how leadership impacts agencies, such as performance, morale, retention, and other variables. His dissertation is titled: The Impact of the Supervisor-Subordinate Exchange on State Government Employees.

Jeffrey is married and has two children, a 22-year-old daughter and a 3-year-old son. He enjoys spending time with his family, running long-distance, and being outdoors.

Jeffrey enjoys going to the library and using the Dewey Decimal System to find books or periodicals. He prefers encyclopedias over internet searches!



The bureau also welcomed Melissa Hamsher as the new Chief of the Health & Safety Division. Melissa holds two engineering degrees from Penn State.

Melissa worked at the Commonwealth as an Engineer for the Department of Environmental Protection for the Bureau of Oil and Gas. She left to pursue an opportunity in the private sector, as the Vice President of a publicly traded company. After the company was acquired five years ago, she focused on consulting for renewable energy companies.

Melissa and her husband live on a 65-acre farm, located 9 miles from Beaver Stadium at Penn State. They have an Australian Shepherd, two barn cats, a wild herd of deer, a pack of coyotes, and the occasional bear. They are working to relocate back to Mechanicsburg, where they are from.

Melissa's passions are all things Florida Keys (she gets there as much as she can, even if it is only for a short weekend), mosaic tile art, and soap making.

It's now time for Melissa to give back to the Commonwealth and positively impact the health and safety of our Pennsylvania workers.

PA WC CONFERENCE A HUGE SUCCESS!

On May 29 - 30, staff members from the three workers' compensation program areas, led by Rachel Werner, organized and accomplished another successful workers' compensation conference. More than 1,250 people registered to attend this year's conference, representing employers, case managers, third-party administrators, defense/claimant counsel, labor, and more.

We thank the committee, speakers, staff, and everyone who has attended the conference over the years and participated in the breakout session conversations. This is what makes the Pennsylvania Workers' Compensation Conference a huge success!



"Time well spent. I feel much more confident about workers' compensation and hope to attend next year."

"This year was very good. Perhaps the best I ever attended."

"Location amazing, food good, panels great. This is the only conference I come to because I get so much out of it."

"The staff are great here. Everything was very well orchestrated."

PATHS JULY SAFETY TRAINING EVENTS

With summer here, PATHS will offer more than 50 training sessions on a variety of topics, including insect safety, active shooter training, and heat-related injuries and illnesses. Other topics include powered industrial trucks and hot work. Click on the links below to view the training objectives and register.

JULY

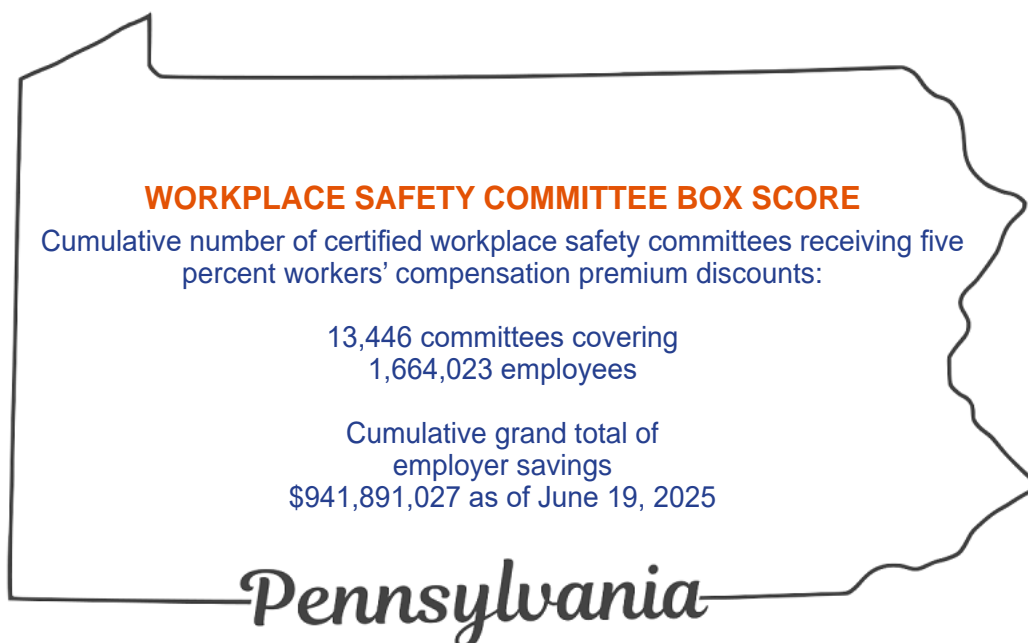
10	Heat-Related Injuries and Illnesses	9:30-10:30 a.m.
10	Insect Safety	11:00-11:30 a.m.
16	Active Shooter Training	10:00-12:00 p.m.
23	Powered Industrial Trucks	1:30-2:45 p.m.
24	Pre-Operational Process Review	11:00-11:30 a.m.
29	Return to Work	1:30-2:30 p.m.
31	Hot Work	11:00-11:30 a.m.

WORKPLACE SAFETY COMMITTEE (WSC) CERTIFICATION

15	WSC Certification Initial	1:30-3:00 p.m.
30	WSC Certification Renewal	1:30-2:45 p.m.

PATHS is a statewide service providing employers and employees easy access to cost effective health and safety resources. Services provided by PATHS will enable participants in the workers' compensation system to create safer, incident-free workplaces.

Training can be provided onsite by request, or you may register for online webinars on various topics through the PATHS Training Calendar. Visit our website <https://www.pa.gov/agencies/dli/resources/for-employers-and-educators/workers--compensation-for-employers/workers--compensation-compliance/health-and-safety-division.html> for various safety-related resources.



CLAIMS CORNER

Preparing the Notification of Suspension or Modification in WCAIS

Adjusters using the Prepare Notification of Suspension or Modification on the Actions tab of the claim must:

- Ensure you've checked both required certification checkboxes before generating the prepared LIBC-751
- Print the document from the Documents & Correspondence tab of the claim
- Sign the document
- Upload the signed Notification of Suspension or Modification on the Actions tab in WCAIS
- Mail the signed form to the injured worker

The date the adjuster uploads the signed version is the "Received" date at the bureau. Per Section 413 (c and d) of the Workers' Compensation Act, a Notification of Suspension or Modification must be received by the claimant and the bureau within seven days of the insurer's suspension or modification of benefits.

The Annual Claims Status Report (ACSR) is coming to WCAIS in January 2026!

Remember, you control the size of your list. You can eliminate your ACSR Report by filing EDI SROI Sxs or FNs every time a claim's benefits are suspended or stopped, including litigated claims.

Thank you for all your hard work in getting us back on track with adhering to § 121.16 of the PA Workers' Compensation Chapter 121 Regulations for updating claim statuses. Any claims not completed from your Pre-ACSR list will be listed on your 2026 WCAIS report and will remain on your list until the claim is updated. Please keep working on your current lists.

Stay tuned for more information about this new automated process.

HEALTHCARE HAPPENINGS

Medical Fee Review

We will do the entry for you every time you file a medical fee review application electronically in WCAIS. WCAIS has an option for you to choose BWC staff to enter **all** service lines from a bill. The option to enter your own service lines remains the same, just in case you prefer to enter the information yourself.

Coming in September 2025

Medical fee review applications will soon be **required** to be filed electronically in WCAIS. Starting September 2, 2025, we will return your application if it is submitted on paper. If you are not a registered user in WCAIS, please act now and contact the bureau's Helpline at 1-800-482-2383 or ra-li-bwc-helpline@pa.gov for assistance with WCAIS registration.

One-on-One Personal Training

The Healthcare Services Review Division offers one-on-one personal training to help individuals file medical fee review applications electronically in WCAIS for healthcare professionals, healthcare providers, and their attorneys or billers.

These trainings provide step-by-step instructions on the following:

- How to file a new application for medical fee review
- How to resume a draft application for medical fee review

HEALTHCARE HAPPENINGS (CONT'D.)

- Completing all sections of the medical fee review
- What happens after the medical fee review has been submitted

Utilization Review Request Training

Learn how to properly file a Utilization Review Request, plus tips on how to avoid your request from being returned to you. Join us Thursday, July 24, 2025 from 2:00-2:30 p.m. at https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZWE1OGRiYTEtMThZC00ZmYzLWFIYjktYWMyZmEzOTA1ZWU1%40thread.v2/0?context=%7b%22Tid%22%3a%22418e2841-0128-4dd5-9b6c-47fc5a9a1bde%22%2c%22Oid%22%3a%22ca3bd1e9-f7db-4404-97cc-ffcc7fdb8a8%22%7d.



Provider Under Review

Accurate contact information for the provider under review saves both time and money in the utilization review process.

When submitting an application for utilization review, please make sure to select the correct address and phone number for the provider under review.

If the correct information is not already showing in the grid, click the Change Address icon in the Actions column to select or add the new information.

The screenshot displays the WCAIS Claim #12345 interface. At the top, there's a navigation bar with 'All Matters' and a search bar. Below this, a sidebar on the left contains various icons. The main content area is divided into sections. The 'MATTER INFORMATION' section shows the claimant as 'Worker, Injured' and the defendant as 'Small Business', with a date of injury of '05/10/1999'. A 'View Claim Summary' link is also present. The 'PROGRESS' section shows three steps: '1. Provider(s) Under Review', '2. Treatment(s) to be reviewed', and '3. Certification'. Below this, instructions guide the user on how to add a provider. The 'Provider(s) Under Review (1)' section contains a table with one entry for '1. Doctor, Michael'. The table has columns for 'Provider Under Review', 'Business Address', 'Phone Number', 'Email', 'License #', 'PUR Status', and 'Actions'. A red arrow points to the 'Change Address' icon in the 'Actions' column. At the bottom, there's a button labeled 'Add Provider Under Review'.

Provider Under Review	Business Address	Phone Number	Email	License #	PUR Status	Actions
1. Doctor, Michael	PO Box 100, Anywhere, PA 17121	(717) 777-7777		MD123456		 

HEALTHCARE HAPPENINGS (CONT'D.)

Impairment Rating Evaluation

The submitter of a Request for Designation (RFD) can withdraw the request in WCAIS if it is in Pending Examination or Pending Assignment status.

View IRE Designation

WCAIS Claim #: 1111111 [View Claim Summary](#)

Claimant/Employee Name Last, First	Defendant/Employer Name Company	Date of Injury 01/26/2005
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IRE Request for Designation: RFD-11111

Designation Type Bureau Designated	RFD Status Pending Examination	Date Request Submitted 11/25/2024
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Designation Information | Documents and Correspondence | Interested Parties and Associated Recipients

[Withdraw this Request for Designation of a Physician to Perform an Impairment Rating Evaluation](#)

To withdraw the RFD, navigate to the Designation Information tab of the RFD and click on the new hyperlink:

After successfully withdrawing the RFD, the status will change to Withdrawn.

If you have questions about Medical Fee Review, Utilization Review, or Impairment Rating Evaluation, or would like to schedule training, please contact the resource account at RA-LI-BWC-HCSR@pa.gov.

WORKERS' COMPENSATION AND WORKPLACE SAFETY ANNUAL REPORT

The 2024 Pennsylvania Workers' Compensation and Workplace Safety Annual Report is available now! The report demonstrates our program's commitment to workplace safety, superior customer service, innovation, and excellence in carrying out the provisions of the Workers' Compensation Act.

View the 2024 Workers' Compensation and Workplace Safety Annual Report at <https://www.pa.gov/content/dam/copapwp-pagov/en/dli/documents/individuals/workers-compensation/publications/documents/2024-wc-annual-report.pdf>.

SUPERSEDEAS FUND REIMBURSEMENT PAYMENTS VIA DIRECT DEPOSIT

The bureau is required to make SFR payments via direct deposit through a registered vendor with the Commonwealth of Pennsylvania Vendor Data Management Unit (VDMU).

View the instructions and get started today at <https://www.pa.gov/content/dam/copapwp-pagov/en/dli/documents/businesses/compensation/documents/instructions-for-direct-deposit-with-tpa-info.pdf>.



Risk-Based Multifactor Authentication arrives in WCAIS!

Multifactor Authentication will be implemented for the workers' compensation community late June through August, one user group at a time. View the [MFA Quick Reference Guide](#), which provides step-by-step instructions. More communications are coming your way!

Attorney Comprehensive WCAIS Survival Guide

The [Attorney Comprehensive WCAIS Survival Guide](#) has been updated! Please save or bookmark this valuable guide for a quick and easy reference.

Upload a Letter to the Judge on a Closed Dispute

WCAIS will now allow parties to upload a Letter to the Judge for 20 calendar days after a final decision has circulated. The sole purpose of this functionality is to allow parties to request an amended decision directly within WCAIS.

WCAB Voluntary Mediation Requests

As highlighted in the last News and Notes, the Workers' Compensation Appeal Board has begun to accept requests for voluntary mediations. Parties may choose to request a Mediation if they believe they can resolve all or part of a pending Appeal or WCAB Petition. View the training at <https://www.youtube.com/watch?v=6tzvegmhK4c>, and the slides can be viewed at https://maestro.pa.gov/list/attachment/download/WCAIS_Attorney%20WCAB%20Mediation%20Training_FINAL.pdf?j=241101F&a=1w0tmxp5w0x13nu9fd8llyra3xkutarsk1ptiww0bx2rjvma67.

Please note that the Mediation Statement, which is confidential, must NOT be uploaded to the Documents and Correspondence tab of the Appeal, as such an upload would allow the other parties in the Appeal to see the Statement. Rather, submit the Mediation Statement as follows: select the "Requests" tab, click on the "Mediation" Request Type hyperlink, and select the "Submit Mediation Statement" button and upload the Mediation Statement.

Upcoming Projects

- For more information on the Hands to WCAIS Integration, please visit the [Health & Safety website](#).
- For more information on the Annual Claims Status Report, please visit the [Claims website](#).

WCAIS Training Comes to Teams Bi-Monthly Agenda

- July 2025 - How to File a Utilization Review Request
- September 2025 – WCAIS Configurable Dashboard
- November 2025 – HandS now in WCAIS

We want to hear from you! Do you have questions, comments, or concerns? Please reach out to each program area for help:

Bureau of Workers' Compensation (BWC)

Information Services Helpline:
Toll-free inside PA: (800) 482-2383
Local outside PA: (717) 772-4447
Email: ra-li-bwc-helpline@pa.gov

Workers' Compensation Office of Adjudication (WCOA)

Phone: (844) 237-6316
Email: wcoaresourcecenter@pa.gov

Workers' Compensation Appeal Board (WCAB)

Phone: (717) 783-7838
Email: ra-li-wcab@pa.gov

KIDS' CHANCE OF PA

HOPE, OPPORTUNITY, AND SCHOLARSHIPS FOR KIDS OF INJURED WORKERS.

At Kids' Chance of Pennsylvania, we're dedicated to helping our kids who need it most – those who need assistance for college or vocational education because a parent was killed or seriously injured in a work-related accident. The hardships created by the death or disability of a parent often include financial ones, making it difficult for deserving young people to pursue their educational dreams.

Since its inception in 1997, Kids' Chance of PA has awarded over 1,000 scholarship grants to eligible students of more than \$2.6 million in tuition assistance. During the 2023-2024 academic year, we awarded \$188,000 in scholarships to 40 students. Through our involvement with the PHEAA/PATH program, two thirds of our recipients are eligible and received additional funds to relieve their financial burden!

Kids' Chance of Pennsylvania scholarships are made possible by the generous contributions of our scholar sponsors, corporate and community partners, and donors. Donations can be made online, by check, or through corporate donation programs like United Way or SECA. We are proud to announce the establishment of endowment funds to support our scholarship program now and well into the future! Information on how to send direct donations to

the long-term endowment fund will be available on our website, www.kidschanceofpa.org, by contacting us via email at info@kidschanceofpa.org, or by telephone at (215) 302-3598.

In addition to the donation sources listed above, Kids' Chance of Pennsylvania holds several fundraising events throughout the year, such as our annual golf outings in Hershey and Plymouth Meeting and our 5K Run/1-Mile Fun Walk in Pittsburgh. We held a Silent Auction and a Classic and Exotic Car Show last fall.

Additionally, we are developing a Student Engagement Committee to explore additional ways that we can support our recipients with their future career aspirations after they graduate.

We need your help in spreading the message of Kids' Chance of Pennsylvania! If the family has young children, we have a Planning for the Future database where we store this information and reach out to the family when the children are old enough. Our mission is about supporting as many students as possible, and we need you to do that. Please reach out and we will send you information to pass on, or you can direct the family to our website – <https://kidschanceofpa.org>. Thank you for doing your part to help us give #moremoneyformorekids!



Every year, millions of teens work in part-time or summer jobs that provide great opportunities for learning important life skills and acquiring hands-on experience. Federal and state rules regarding young workers strike a balance between ensuring sufficient time for educational opportunities and allowing appropriate work experiences.

Information about YouthRules! can be found at <https://www.youthrules.dol.gov/>.

For information about the laws administered by the Wage and Hour Division, log on to <https://www.dol.gov/whd/regs/compliance/whdfs43.pdf>, or call the Department of Labor's toll-free helpline at 866-4USWAGE.

A VIEW FROM THE BENCH

Bob Evans Restaurants v. Schriver (WCAB), 334 A.3d 8 (Pa. Cmwlth. 2025)

The issue before the Commonwealth Court was whether claimant's notice of appeal to the Workers' Compensation Appeal Board (WCAB) complied with the regulations for appeal, specifically Section 111.11(a)(2) of Title 34 of the Pa. Code. The employer filed a review petition seeking to lower an average weekly wage (AWW) calculation based on an error in the statement of wages. The workers' compensation judge (WCJ) found the employer's wage evidence and calculations to be credible and reduced the AWW along with the compensation rate and allowed the employer to recoup the overpayment.

The claimant filed an appeal to the WCAB on the notice of appeal form. The appeal form did not contain specific allegations in the body of the form for Findings of Fact and Errors of Law being appealed and stated to see attached correspondence. No correspondence was attached. The WCAB reversed the decision of the WCJ on the AWW reduction.

The employer appealed to the Commonwealth Court, alleging the WCAB could not hear that issue on appeal because the issue was not listed on the Notice of Appeal. The Commonwealth Court agreed with the employer. The claimant argued the employer was on notice of the basis of the appeal at oral argument before the WCAB. The Commonwealth Court noted that the oral argument is not transcribed and contained in the official record and no precedent exists to support this argument. The Commonwealth Court mentioned Rule of Appellate Procedure 1551(a) that states review of quasijudicial orders shall be conducted by the court on the record made before the government unit.

The Commonwealth Court found that Section 111.11(a)(2) is binding on the WCAB and does not permit an appellant to wait until oral argument to identify the relevant issues on appeal. The Commonwealth Court held the claimant waived all issues related to the WCJ decision, including the AWW issue.

City of Philadelphia v. Bell (WCAB), No. 648 C.D. 2024, 2025 WL 980776 (Pa. Cmwlth. Ct. Apr. 2, 2025)

The Commonwealth Court answered the question as to whether a workers' compensation judge (WCJ) was required to set aside a Notice of Compensation Payable ("NCP") mistakenly issued through an EDI transaction.

As an initial hurdle, the Commonwealth Court explained by footnote that EDI stands for Electronic Data Interchange. EDI is the "computer-to-computer exchange of standard business data between companies and the Commonwealth of Pennsylvania. Generally used within the workers' compensation insurance community to exchange accident, payment, insurance, and medical information, EDI permits the transfer of large volumes of information more efficiently and accurately than in paper form."

In the instant case, the claimant was a 17-year firefighter for employer. He was diagnosed with colon cancer. In June 2022, he reported the same as a work-related condition and requested that it be accepted as a compensable workers' compensation claim. On September 26, 2022, the employer issued an NCP accepting medical liability for a work-related injury of colon cancer.

On October 6, 2022, the employer filed a Review Petition alleging that the NCP was issued in error and that it had intended to issue a Notice of Workers' Compensation Denial ("NCD"). The employer submitted an affidavit from its Risk Management Counsel indicating that it was her understanding that the adjuster would be issuing an NCD based upon its investigation of the claim. It was not the employer's intention for an NCP to be issued. The employer also submitted an affidavit from the adjuster. The adjuster started processing claims on June 27, 2022. She started processing Pennsylvania claims in August 2022. On September 12, 2022, the adjuster reviewed the claimant's claim. The adjuster contacted Employer's Risk Management Counsel and informed her that a denial was recommended based upon the investigation. The adjuster testified that she did not understand the EDI system's process or the automatic generation of compensability-establishing documents depending on the compensability options she chose. The adjuster chose to "partially deny" within the insurer's software, but she did not realize that through EDI, it would trigger acceptance of a claim by issuance of an NCP accepting medical liability. The

A VIEW FROM THE BENCH (CONT'D.)

employer also submitted email evidence showing that the denial of the claim was the intended course of action.

The WCJ found that the adjuster did not understand the EDI process and intended to partially deny the claim within the internal software to ensure payment of treatment with a panel provider. The WCJ refused to set aside the NCP despite the adjuster's mistake. The WCJ reasoned that EDI had been in place for approximately ten years and that the adjuster should have received better training and/or sought advice from a senior adjuster before taking the action that she did which resulted in acceptance of the claim. Hence, the Review Petition was denied.

The employer appealed to the Workers' Compensation Appeal Board (WCAB). The WCAB affirmed the WCJ. The WCAB explained that the claimant provided no incorrect information, and the employer had completed its investigation in full. That is to say that acceptance of the claim was not based on erroneous information; rather, the adjuster was undertrained and mistakenly accepted a claim.

The employer appealed to the Commonwealth Court, arguing that the WCJ committed legal error in not setting aside the NCP. Section 413(a) of the Workers' Compensation Act (act) provides that a WCJ "may, at any time, review and modify or set aside a notice of compensation payable ...if it be proved that such notice of compensation payable...was in any material respect incorrect." The court reviewed the WCJ's and WCAB's legal analysis and determined that the caselaw relied upon at the lower levels involved an employer seeking to review its initial recognition of an injury for which the accepted disability later appeared to be not work-related. The court reasoned that this matter is distinguishable because the employer's intention to deny the claim was clear, but the adjuster accepted the claim by mistake. The court then engaged in a detailed statutory analysis of the act and Section 413(a) to determine whether the WCJ must set aside an NCP when mistakenly issued. Ultimately, the court reasoned that Section 413(a) indicates that a WCJ *may* set aside an NCP that is incorrect, but the WCJ is not required to do so. The court reasoned that the ambiguous nature of the word "may" in Section 413(a) meant that the legislature conferred discretion to the WCJ as to whether an incorrect NCP should be set aside.

In sum, the Commonwealth Court held that even though the WCJ found that the NCP was issued by mistake, it was within the WCJ's discretion conferred by Section 413(a) to refuse to set the NCP aside.

Del Val Home Improvements v. Gaw (WCAB), 334 A.3d 73 (Pa. Cmwlth. 2025)

In *Del Val Home Improvements v. Gaw (WCAB)*, 334 A.3d 73 (Pa. Cmwlth. 2025), the Commonwealth Court held that the WCJ's rejection of an Impairment Rating Evaluation (IRE) that considered bodily impairments not described in the Notice of Compensation Payable (NCP) was an error of law warranting a remand for reevaluation of the evidence. In this case, the claimant suffered a work-related injury in 2002 when he fell off a roof, fracturing his back, both ankles, both heels, pelvis, and coccyx. Employer issued an NCP describing the injuries as "lumbar, ankle, heels, pelvis, and coccyx fractures." The claimant subsequently underwent multiple surgeries, including an ankle fusion and hip replacement.

In 2020, the employer filed a Modification Petition seeking to change the claimant's impairment status to partial disability based upon an IRE performed by Dr. Lerman, who assigned a whole-person impairment of 30 percent. In so doing, Dr. Lerman rated the ankle fusion, lumbar spine compression fracture, and hip replacement, but did not rate the heel and coccyx fractures because he considered them to be healed. The claimant defended with his own IRE performed by Dr. Murphy, who assigned a whole-person impairment of 41 percent. For his part, Dr. Murphy rated the lumbar spine compression fracture, cervical strain with aggravation of cervical degenerative joint and disc disease, ankle fusion, left calcaneal fracture, left sacral wing fracture, and hip replacement. The WCJ granted the Employer's Modification Petition, accepting Dr. Lerman's opinions over those of Dr. Murphy, specifically finding Dr. Murphy's 41 percent whole-person impairment not credible because he rated body parts not contained on the NCP.

The claimant appealed to the WCAB, which reversed the grant of the Modification Petition with citation to *Duffey v. WCAB (Trola-Dyne, Inc.)*, 152 A.3d 984 (Pa. 2017) and *Sicilia v. API Roofers (WCAB)*, 318 A.3d 803 (Pa. 2024). The board concluded that rejecting an IRE physician's testimony simply because he

A VIEW FROM THE BENCH (CONT'D.)

considered impairments that were not previously denoted as compensable was legal error.

The employer appealed to the Commonwealth Court, essentially arguing that the board impermissibly usurped the WCJ's credibility determinations. The Commonwealth Court reviewed the Supreme Court's opinions in *Duffey* and *Sicilia*, which essentially held that an IRE physician is not constrained to consider only the formally recognized injuries. Instead, the evaluator could also consider additional impairments that arise from those injuries. The court also discussed its more recent case of *City of Philadelphia v. Turner (WCAB)*, 326 A.3d 475 (Pa. Cmwlth 2024), wherein it concluded the WCJ properly rejected the IRE doctor's rating because the doctor evaluated only the work injuries set forth in the NCP, and failed to account for additional impairments he acknowledged could be related to the work injury. The Court found the holdings in these cases controlling, stating, "For a physician-evaluator to misapprehend the discretion afforded to him in the IRE process and consequently exclude impairments due to the claimant's work-related injury, although not described in the NCP or consider an otherwise accepted injury, is an error of law.

Further, a WCJ cannot insulate this error of law from a reviewing agency or court's standard of review under the guise of a simple credibility determination – nor may the WCJ instigate such an error of law by discrediting a physician-evaluator's otherwise lawful rating of any impairment fairly attributable to the claimant's work-related injury." The court rejected the employer's argument that the WCJ's decision was based upon mere credibility determinations; here, the WCJ's rejection Dr. Murphy's IRE was an error of law, and not a mere credibility determination. The court remanded the matter to the WCJ to reassess the evidence within the proper legal framework.

Pioneer Construction Co. v. Insight Pharmaceuticals, LLC (No. 867 C.D. 2022; 2025 WL 1362753)

In a 2-to-1 decision issued on May 12, 2025, the Commonwealth Court in *Pioneer Construction Co. v. Insight Pharmaceuticals, LLC* (No. 867 C.D. 2022; 2025 WL 1362753) held that a Lancaster County trial court improperly denied a pharmacy's Petition to Open Judgment by Default that had been entered

by the Insurer in an effort to recoup over \$30,000 mistakenly paid the pharmacy for compound cream bills previously determined by a utilization review ("UR") to be neither reasonable nor necessary for the treatment of a claimant's work-related injury. The pharmacy did not appeal the UR determination.

Subsequent to the UR determination, the insurer filed a Petition to Review Medical Treatment and/or Billing ("Billing Review Petition") with a workers' compensation judge (WCJ), joining the pharmacy as an additional defendant. The insurer's theory was that the pharmacy was bound by the UR determination and that a WCJ has equitable powers under the Workers' Compensation Act (act) to compel the pharmacy to reimburse the insurer for its mistaken payment.

The WCJ granted the Billing Review Petition and Joinder Petition and ordered the pharmacy to reimburse the insurer. The pharmacy did not appeal the WCJ's decision.

In finding that the insurer could not enforce a default judgment against the pharmacy issued by the trial court, the majority of the court first noted that the pharmacy's failure to appeal the WCJ's decision did not preclude it from challenging the WCJ's subject matter jurisdiction before the trial court, as the propriety of a tribunal's subject matter jurisdiction can be raised at any time. Secondly, the pharmacy should not have been joined in the Billing Review Petition in the first instance, as it is neither an insurer nor an employer as required under the applicable WCJ's joinder rule. Thirdly, Section 428 of the Act only allows employees or their dependents, not insurers, to compel a default judgment. Finally, the WCJ erred in believing an equitable remedy could be crafted to disgorge money from the pharmacy. In support, the majority cites the court's rejection of an insurer's attempt to recoup overpayment from a medical provider in the fee review process in *Philadelphia Surgery Center v. Excalibur Insurance Management Services, LLC (Bureau of Workers' Comp. Fee Review Hearing Office)*, 289 A.3d 157 (Pa. Cmwlth 2023).

In her high-spirited dissent, President Judge Cohn Jubelirer noted that there is a WCJ's order here that requires judicial enforcement. Additionally, she cites the Superior Court's decision in *United Parcel Service v. Hohider*, 954 A.2d 13 (Pa. Super. 2008), where the court permitted the entry of a default judgment

A VIEW FROM THE BENCH (CONT'D.)

in a court of common pleas against a claimant who refused to comply with a WCJ's order to disgorge monies to satisfy an employer's subrogation lien under Section 319 of the Act. Like the Superior Court in *Hohider*, the President Judge reasoned it is a waste of time for the parties and the judicial system to require the insurer to file yet another lawsuit to "establish something that already has been established" by the WCJ.

Schmidt v. Schmidt, Kirifides & Rassias, PC (WCAB), 2025 WL 864223 (Pa. 2025)

By way of background, the claimant, a workers' compensation attorney, sustained a work-related injury to his back. The claimant continued to work, but his back injury worsened. He wanted to exhaust all non-surgical options before undergoing surgery due to the inherent risks associated with surgery, including a prolonged recovery time. Accordingly, the claimant was taking pain medication multiple times per day as prescribed by his treating physician. To manage the aggravating pain, the claimant's treating physician opposed an increase in the pain medication dosages, as the same would impact the claimant's ability to think, focus, and adequately represent his clients. After trying other non-surgical interventions, including aqua therapy and injections, his treating physician prescribed CBD oil instead of increasing the pain medications, including OxyContin and Oxycodone. The claimant purchased the prescribed CBD topical lotion and CBD oil over the counter from a specialty natural remedy store, as opposed to a pharmacy. He used the lotion and oil following the directions, which was successful in managing his symptoms.

The claimant provided the employer with his CBD oil prescription and the receipts of his purchases. The employer, however, refused to reimburse the claimant for his out-of-pocket CBD oil costs on the basis that this was not a pharmaceutical drug. Accordingly, the claimant filed a Penalty Petition, alleging the employer violated the act by failing to reimburse him for his out-of-pocket costs for medical treatment, i.e., the costs associated with his use of the CBD oil.

The WCJ granted the claimant's penalty petition and ordered the employer to pay the costs associated with the claimant's use of the CBD oil. The WCJ did not assess any monetary penalties against the employer.

The WCJ concluded that the CBD oil was a "supply" under Section 306(f.1)(i) of the Act and the claimant was not a healthcare provider. Because he did not acquire the CBD oil from a healthcare provider, the cost containment regulations did not apply. Thus, the employer was responsible for the full cost.

The employer appealed to the WCAB, which reversed the WCJ's decision and concluded that, regardless of "whether CBD [o]il constitutes medical 'supplies' under Section 306(f.1)(i) of the [WCA]," the employer's failure to reimburse the claimant for the costs associated with his use thereof did not constitute a violation of the act because the claimant did not follow the rules triggering the employer's obligation to pay. Even if these rules were followed, the CBD oil could not be a "supply" as defined under the act as the FDA concluded CBD oil has not been proven safe or effective.

After appealing to the Commonwealth Court, an *en banc* panel reversed the board's order. The court found that the board erred and violated its standard of review by disregarding the factual findings of the WCJ that were supported by substantial evidence, and further erred by expressly declining to address the central issue presented in this matter, i.e., whether CBD oil is a medicine or supply within the meaning of Section 306(f.1) of the Act. The claimant was not a provider and thus, only needed to show that the CBD oil was a medicine or supply, not that the necessary bills and records were submitted for payment as required of medical providers under the act. The Commonwealth Court found that CBD oil is both a medicine and supply under Section 306(f.1)(1)(i), reasoning that the claimant's treating physician prescribed the CBD oil to the claimant to treat his pain from the work injury. The court noted that FDA approval of a treatment was not a requirement under the act. Lastly, the board erred by finding that the claimant was required to submit the type of billing forms and medical reports required of treatment providers to obtain reimbursement of costs of medicine and supplies. Relying on Section 306(f.1)(5) of the Act and Sections 127.201 and 127.202(a) of the Pennsylvania Department of Labor & Industry's (department) regulations, the court explained that statutory and regulatory language mandates providers, not employees, to submit bills on specified forms for a billed treatment to be paid. The claimant

A VIEW FROM THE BENCH (CONT'D.)

only had to submit his doctor's prescription for CBD oil to treat the pain caused by his work injury and his receipts to demonstrate his out-of-pocket costs.

The Pennsylvania Supreme Court granted discretionary review to consider three issues: (1) Do the terms "medical services" and "medicines and supplies" as used under the act include CBD oil as well as dietary supplements and products that may be purchased without a prescription from a health care provider?; (2) Do the cost containment regulations under the act apply to CBD oil?; and (3) Does the act require employers/insurers to reimburse claimants directly for out of pocket costs for "medical services" and "medicine and supplies", and if so, are claimant's obligated to submit supporting documentation such as HCFA forms before they may receive such reimbursement?

The Pennsylvania Supreme Court affirmed the Commonwealth Court's order, holding, "that any item that is part of a healthcare provider's treatment plan for a claimant's work-related injury falls within the purview of the broad-encompassing phrase 'medicines and supplies' as provided in Section 306(f.1 (1)(i)." The court further held "that, in such circumstances, the cost containment provisions of the WCA and the attendant department regulations, both of which apply to a healthcare provider, do not apply to a claimant." The claimant is not a provider as defined under the act.

Stewart v. City of Philadelphia (WCAB), No. 490 C.D. 2024, 2025 WL 1107515 (Pa. Cmwlth. Ct. Apr. 15, 2025)

In *Stewart v. City of Philadelphia (WCAB)*, the Commonwealth Court affirmed the WCAB's opinion affirming the WCJ's decision denying the claimant's Reinstatement and Penalty Petitions, finding the employer's payment of "E-time" for the claimant's COVID-related absence did not constitute payments made "in lieu of compensation."

On March 3, 2022, the claimant filed Reinstatement and Penalty Petitions asserting that the employer accepted his claim as a matter of law when it paid him wages instead of workers' compensation, and then the employer violated the act by unilaterally stopping those payments. The claimant testified that he believed he contracted COVID at work in October

2022. He testified that he told a supervisor in January 2021 that he contracted COVID while working at protests. The claimant was paid his full salary while he was out of work, designated by the employer as excused time, or "E-time." He received E-time benefits through January 2022. The employer's risk manager and deputy finance director testified that E-time was a timekeeping tool used in the early months of the COVID-19 pandemic that enabled employees to continue to receive their salary when they could not work for whatever reason. Payment of E-time was not an acknowledgement that the employee contracted COVID at work. The employer also presented testimony that the employer's policy was to designate E-time payment status for officers out with COVID regardless of the asserted cause.

On April 7, 2023, the WCJ issued a decision and order denying the claimant's petitions. On April 5, 2024, the WCAB issued an opinion affirming the WCJ's determinations. The claimant appealed to the Commonwealth Court.

On appeal, the claimant argues that the employer's use of E-time constituted payments instead of benefits that amounted to an acknowledgement that the claimant's COVID was work-related and an acceptance of the workers' compensation claim.

The Commonwealth Court first addressed the issue of notice. Since the claimant sought reinstatement of benefits on the basis that the employer's payment of E-time constituted wages in lieu of compensation, the claimant was required to prove notice. The court cited to its recent opinion in *Brown v. City of Philadelphia (WCAB)*, 330 A.3d 12, 18-19 (Pa. Cmwlth. 2025), finding that the employer cannot be charged with notice that an injury was work-related when the nexus between the injury and its causal relationship with work is not clear. Here, the WCJ expressly rejected the claimant's testimony as to the extent he may have identified any specific source or cause of exposure to COVID. The WCJ's credibility determination in this regard was upheld.

The court next addressed the claimant's reliance upon *Mosgo v. WCAB (Tri-Area Beverage, Inc.)*, 480 A.2d 1285 (Pa. Cmwlth. 1984) and *Kelly v. WCAB (DePalma Roofing)*, 669 A.2d 1023 (Pa. Cmwlth. 1995) in arguing that the employer made wage payments in lieu of compensation. The court

A VIEW FROM THE BENCH (CONT'D.)

cited to its recent decisions in *Brown, Clarke v. City of Philadelphia* (WCAB), No. 508 C.D. 2004, 2025 WL 228448 (Pa. Cmwlth. Ct. Jan. 17, 2025), and *Bolds v. City of Philadelphia* (WCAB), No. 488 C.D. 2024, 2025 WL 595736 (Pa. Cmwlth. Ct. Feb. 25, 2025), finding the facts here distinguishable from *Mosgo* and *Kelly* as the employer's E-time payments were not intended to be made in lieu of workers' compensation benefits because the payments were made to other employees with COVID regardless of work-relatedness. Similar to *Brown, Clarke* and *Bolds*, here, the WCJ found the testimony of the employer's witnesses credible in determining that the payment of E-time to employees like the claimant was not intended to serve as an acknowledgement that their COVID diagnosis was work-related or as payment in lieu of workers' compensation benefits. The court went on to state that even if the employer's failure to issue a bureau document and the E-time payments made to the claimant had given rise to a presumption of compensability, and even if the claimant's notice to the employer was deemed sufficient to convey his

belief that his COVID was work-related, the record contains sufficient evidence to support the conclusion that the employer rebutted the presumption. The record supports the WCJ's finding that the employer never admitted liability or work-relatedness as to the claimant's COVID condition and that payment of E-time was not intended to be wages in lieu of workers' compensation benefits. Therefore, the WCJ did not err in denying the claimant's Reinstatement Petition.

As to the claimant's Penalty Petition, the court once again referenced its similar holdings in *Brown, Clarke* and *Bolds*, finding that the claimant's failure to show that the WCJ erred in denying his Reinstatement Petition resulted in corresponding failure to show that the employer's failure to issue a timely bureau document and that subsequent stoppage of its E-time payments to the claimant violated the act. Accordingly, the WCJ did not err in denying the claimant's Penalty Petition.

News & Notes is a quarterly publication issued to the workers’ compensation community by the Bureau of Workers’ Compensation (BWC, the Workers’ Compensation Office of Adjudication (WCOA, and the Workers’ Compensation Appeal Board (WCAB. The publication includes articles about the status of affairs in the workers’ compensation community as well as legal updates on significant cases from the Commonwealth Court. Featured is the outstanding article entitled “A View from the Bench,” in which judges from the Pennsylvania Workers’ Compensation Judges Professional Association summarize recent key decisions from the Commonwealth Court that are of interest to the workers’ compensation community.

We trust that stakeholders in the workers’ compensation system will find this publication interesting and informative. We invite your input regarding suggested topics for inclusion in future publications. Suggestions may be submitted to RA-LIBWC-News@pa.gov.

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