

Wendy Wagner
2105 Manor Lane
Massapequa, NY 11758
908-456-2783
iwillnotwhisper@hotmail.com

March 18, 2024

Office of Appeals, NYS Workers' Compensation
328 State Street
Schenectady, NY 12305-3201

Re: WCB: 2770-9381. CC: 011250770993WAGNER. DOI: 3-10-77
Employer: BOBLEY Publishing Company.
Carrier: Federal Insurance. CHUBB Group of Insurance Companies
Virtual Hearing ID: 24256136240 . 7-18-23. Judge Arif Khan

DIAGNOSIS: Spinal Cord Injury. Intercostal Neuritis
Severe Autonomic Dysfunction Occipital Neuralgia
Cervical Myelopathy. Post Traumatic Neuropathy
Trigeminal Neuralgia. Ischemic Optic Neuropathy
Ophthalmic Migraine. Post Traumatic T7-10 Sclerosis
Costochondritis Cervical, Thoracic, L-S Radiculopathy

REASON FOR APPEAL: 1. **I RESPECTFULLY REQUEST A FULL BOARD REVIEW** to consider **the medical issues** that are the focus of my Hearing Request of 12-21-22 and my Appeal of 7-5-23 and 8-1-23. If I must take my case to the NYS Supreme Court, I must prove that I tried to **resolve the medical issues with CHUBB** through the Workers Compensation Board. I contacted many entities, and was told that Workers Compensation must rule on these issues, because, "it is NYS Workers Compensation legislation and **Workers Compensation monitors itself.**" The Labor Department told me, "**it is NYS Legislation that the Workers Compensation Board is supposed to INTERPRET.**"

The Decision of 3-19-24 states that the claimant raised three issues: >"Continuation of treatment by a non-Workers compensation neurologist." >"treatment for **autonomic fuction**" (**DYSFUNCTION**) "beyond the Medical Treatment Guidelines (MTGs)". >"Medication Formulary Portal not validating the claimants **special needs** from her **catastrophic injuries.**"

I need validation of and IMMEDIATE URGENT medical care when necessary, for the symptoms, special needs and severe autonomic exacerbations of a catastrophic causally related injury that affects every system in my body in critical and often life threatening ways, because CHUBB is blocking timely

medications, medical care and equipment replacement. **The critical nature of this injury is well documented.** (The autonomic dysfunction was first pinpointed in 1978 and reaffirmed in 1981 after two weeks of extensive testing and a Myelogram at Columbia Presbyterian Neurological Institute.) **I was adjudicated medical care for life for my causally related injuries.** According to the Decision of 3-18-24, **after 47 years, CHUBB has decided to challenge Autonomic Dysfunction and Catastrophic Injury,** using the MTG as their excuse.

2. To **correct specific inaccuracies** in the Decision of 3-19-24.

-The name of my employer is **BOBLEY** Publishing Company.

-The claim is established for injuries to the **HEAD,** Neck and Back.

-The name of my insurance company is Federal Insurance Company AND **CHUBB** Group of Insurance Companies.

The 3-19-24 Appeal Decision states that the three Law Judges are aware of three issues presented in my Hearing Request, but clearly states that they only considered one issue, as did Judge Khan: “The **narrow issue** before the Board panel is whether the **carrier** is **obligated** to pay for medical treatment rendered by a **provider** who is **not coded** by the Board.” The entire Decision focuses almost exclusively on this issue.

The Appeal Judges **Affirmed** Judge Khan’s determination that **they have no authority to compel CHUBB** to continue their Medical Agreement of 37 years with me if they will not voluntarily honor their commitment. While it is legal for CHUBB to continue, **CHUBB refuses to honor their word, saying I cannot prove the Agreement was written down.** Judge Khan refused to **subpoena** my entire CHUBB file to locate the document.

I request a Full Board Review because the **MEDICAL ISSUES** in my 12-21-22 Hearing request and in both of my Appeals **were not addressed** by the Appeal Judges. There is an **inherent bias** in the MTG and the Medication Formulary against my case **based on the severity of my injury, the nature of my diagnoses, and the degree that it disables me,** that CHUBB is using as an excuse to block my care. Mr. Gourley, CHUBB’s attorney, told me, “**I am not interested in the medical issues.**” **This Hearing was specifically requested for medical issues** because **I was told the issues could and must be resolved by a WCB Law judge, by the Governor, the Labor Department and the Medical Director’s office.**

To **answer** Judge Khan’s question if CHUBB would **reconsider** terminating their decades-long Medical Agreement to allow me to go to a non-Workers Compensation doctor for my Workers Compensation injury, Mr. Gourley introduced into the record a **year-old letter** written by Susan Clark (7-15-22) defending CHUBB. **There was no**

reconsideration by CHUBB! While I am being held to the letter of the law in this preceding, CHUBB, acting in bad faith, is accepted. **Mr. Gourley told me he did not reconfer with CHUBB.**

Chubb is repeatedly acting in bad faith, with a consistent pattern of misinformation and unwarranted denials. Chubb blocked my medical care since March 2021, by misrepresenting the facts. Under new ownership (ACE Insurance) and new management (John Jaronski), Tara Segro told me, "management " was, "**coming** down on your file and finding many discrepancies," and terminating the decades-long medical agreement without cause. Two supervisors, Laurie Saldutti and Susan Clark told me that **I must get a hearing and if the hearing judge said CHUBB must keep the Agreement, "CHUBB will comply."** I waited for the Hearing and Appeal outcomes. WCB Judges tell me CHUBB telling me the Judge must decide on the Agreements, is **untrue: and CHUBB knew it was untrue.** "It is voluntary. We have no power to force them." Christine Dilts' letter quoting Michele Lopa on CHUBB's **Affirmative Policy Decision** on the Agreement after the Executive Office assigned Ms. Lopa to Review it and remain on my case, and Nora Strobert's email on **causal reasoning** for CHUBB initiating the Agreement, were ignored by the Board (although they create **reasonable doubt** that formal arrangements did exist concerning my medical care).

By making the Medical Agreement in 1987 on a non-Workers Compensation doctor and in 2010 on the MTG, **CHUBB voluntarily guaranteed me a certain standard of care based on the medical information provided to them about the severity of my injury.** By terminating those Agreements after decades, eithfull medical knowledge and without cause, and blocking my pain medications each month, CHUBB demonstrates a wanton disregard for serious life threatening warnings, depraved indifference, and specific intent. Mr. Gourley declares that the MTG does not cover **Catastrophic Injuries** or **Autonomic Dysfunction**, while both Mr. Gourley and Judge Khan admitted in the June Hearing that this is a "significant injury."

Mr. Gourley says if I go to a non-Workers Comp doctor, "**all bills for medical treatment will be denied by the carrier.**" But he goes further, stating that my physician can request a variance, "But "the carrier would obtain an **Independent Medical Examination** to determine whether the variance is medically necessary." If the truth be told, **we all know how THAT goes! You wonder why people on Workers Compensation commit suicide!**

Requests by Dr. Feder and Dr. Mazurek to CHUBB to replace my Traction Bed lost in Hurricane Sandy (including charges for a technician to attach the Balcan frame to the new traction bed), are being ignored, I was provided with traction equipment and

services ever since my injury in 1977. **Pelvic traction provides optimal relief from intense spinal pressure.** Susan Clark's letter says they will replace it when they receive Medical Necessity. She received it months ago from Dr. Feder. Judge Khan told CHUBB to provide the wheelchair battery when they receive a written request. They did: no response.

Delaying resolution of the issues has caused **gross deterioration of my condition and escalating severe pain exacerbations,** because **CHUBB is deliberately blocking my three pain medications (Dilaudid, Baclofen and Lidoderm Patches) on a regular basis.** By the WCB Board **refusing** to address the medical aberrations of this case, **they are enabling CHUBB to continue recklessly denying critical medications, timely medical care and vital equipment replacement,** despite my WCB physicians complying with the law and documenting medical urgency. **I am in agony!!!**

After much back and forth with my physicians, the **Medical Director's Office** sent notification that they **authorized** the three pain medications that have been prescribed for my pain for decades **in Brand: Lidoderm Patches, Baclofen, and Dilaudid.** I received Lidoderm Patches and Baclofen on March 22. Dilaudid is on Backorder. The problem is that each time my doctors order pain medication, **CHUBB** consistently, maliciously, without cause **denies it** on Level 1 and 2, **even though these are the exact medications that CHUBB has authorized and paid for for 40 years.** The **only way** the medications are getting through the portal, is because they reach Level 3 and the **Medical Director approves it based on "medical necessity."** I have been without one or all pain medications for months on end. I received none of my three pain medications from November 15 to March 22. Thus, **I have had very severe pain attacks that left me with BRUTAL PERMANENT CONSEQUENCES!**

It takes 16 days for the medication to get to Level 3 and be approved by the Medical Director. **That is 16 days every month that I don't have medication, specifically because of CHUBB's actions and inaction.** CHUBB insisted I go to a Pain Management doctor: CHUBB blocks his prescriptions. The Medical Director's Office advised that the doctor should request multiple refills. In March, CHUBB required the Lidoderm Patches to be put through the portal twice. The second time CHUBB approved them, but only one, so that the multiple refill request would not escalate to Level 3. CHUBB is continually lying, saying my doctors are not complying. The Medical Director's office has repeatedly told me **it is CHUBB denying my medications** at Level 1 and 2. Mr. Gourley, CHUBB's attorney, specifically said at Hearing that **CHUBB is denying** my medication. So, while the Medical Director's office and the Portal are now validating my **Brand Pain Medications,** CHUBB is, every

month, blocking them. CHUBB is acting in bad faith, misrepresenting everyone else's actions, and causing me grievous harm, injury and duress.

The Appeal Judges Affirmed Judge Khan's entire Decision of July 2023. However, they state: "By Notice of Decision filed July 21 2023, the WCLJ authorized treatment and care, as necessary, to the established sites within the MTGs." That is **NOT specifically** what Judge Arif Khan's Decision said. He stated: "**Medical treatment and care, as necessary, for established sites of injury AND/OR CONDITIONS, is authorized. Treatment rendered to one of the body parts COVERED by the Medical Treatment Guidelines must be consistent with those Guidelines.**" These distinctions (specifying not just body parts, but **conditions** and specifying not just body parts but "**covered**" body parts) indicate that Judge Khan **validated that specific, unique aspects of my medical condition may not be covered by the Medical Treatment Guidelines. Autonomic Dysfunction is not a body part, it is a CONDITION, that impacts every system in my body.** The three-judge panel overlooked the distinction. By not addressing any of the medical specifics included in my Hearing Request and two Appeals, the judges put me at the mercy of a **barbarous CHUBB** Group of Insurance Companies every month denying my pain medications, **without cause.**

The text of the 3-19-24 Decision mentions that the **carrier is objecting to paying** specifically for the **Autonomic Dysfunction because it is not covered by the MTG**, and that they are **opposing** certain medications because the **Medication Formulary Portal does not accommodate special needs.** Mr. Gourley claims in Rebuttal that the MTG does not cover **Catastrophic Injuries. These issues must be addressed by the Full Workers Compensation Board. CHUBB** cannot, after 47 years of medical coverage, **Pick and Choose what they WANT to cover:** focus on the primary and most critical aspect of my causally related diagnosis and assert, "I don't want to pay for that anymore." (Workers Compensation cannot overlook CHUBB's outrageous behavior like they did when 3 Appeal Law Judges awarded me a 24-hour **nurse**, and Chubb management refused, even though WCB called them 3 times to comply.) And the Legislature cannot pass a Workers Compensation Law that closes out **atypical cases** and **special needs** without providing **alternative options**, like an **equitable** settlement. Susan Clark told me Chubb usually settles cases at 65 years.

I was determined to be **permanently disabled** and **awarded lifetime medical care and physical therapy for life** by the NYS Workers Compensation Board **for my causally related injuries: spinal cord injury** (at C2-3, T7-8, L5, S1), **severe autonomic dysfunction** [injury to the central, autonomic (sympathetic and parasympathetic), and peripheral nervous systems], 5th cranial nerve, brainstem and

corneas, comprising 12 diagnoses, from the slip and fall injury at Boble Publishing Company on March 10, 1977, with a blow to the back of my head on a steel file cabinet. **A CATASTROPHIC INJURY.**

My spinal cord was BLEEDING for 4 1/2 years because CHUBB continually denied me medical care for that long. **“THE EXTENT OF DYSFUNCTION IS DEPENDENT ON THE DEGREE OF AUTONOMIC DAMAGE or which pathways are involved...”** “The autonomic nervous system has cranio-sacral parasympathetic and thoraco-lumbar sympathetic pathways and **supplies every organ in the body** “(Janig and McLachlan, Autonomic Neurology, 2002) The autonomic dysfunction affects my heartbeat, breathing, blood pressure, circulation, thermoregulation, immune and lymph function, gastrointestinal and digestive function, level of consciousness, vision, hearing and mobility: **the function and response/reaction of every bodily system. It is horrific!** Dr. Mazurek noted, **“Exposure to practitioners unfamiliar with her condition and the medical consequences, or to medications incompatible with her sensitivities, is life threatening.”** 12-19-17.

Severe Autonomic Dysfunction is not covered by the Medical Treatment Guidelines Law **because it cannot be anticipated.** It **affects every system, reaction, vital, in my body in abnormal, erratic, atypical, unpredictable, and dangerous ways, and cannot be codified.** (I have been told that my case is one in a million.) It requires continuous monitoring and treatment, and ***urgent treatment on an episodic basis for severe exacerbations of multiple diagnoses*** It causes atypical reactions to medications and anesthesia: like entirely the **opposite response/reactions.** Dr. Mazurek repeatedly reported that **timely medical care is critical and that my condition is life threatening.**

*Autonomic hyperactivity is a syndrome characterized by excessive activation of the sympathetic system, either in isolation or in association with the parasympathetic system. This syndrome can be a prominent and life-threatening manifestation of a wide range of disorders affecting the central or peripheral nervous systems,” “Excessive parasympathetic activation may elicit bradyarrhythmia and syncope,” “Patients with autonomic hyperactivity should be managed in the intensive care unit, as they require continuous monitoring of cardiac rhythm, blood pressure, respiration and fluid balance. General principles of management include adequate hydration to maintain an euvolemic state, **effective treatment of pain,** exclusion of infection, and early recognition and elimination of the triggering stimuli.” (Autonomic Neurology, Eduardo E. Benarroch, 2014)

I AM BEING HELD TO A STANDARD by the Medical Treatment Guidelines Law and the Medication Formulary Portal **THAT IS INAPPROPRIATE FOR MY MEDICAL CONDITION** because of the **degree and extent of my catastrophic injury, the severity and multisystem nature of the Autonomic Dysfunction**, the extremely **atypical nature of my condition**, the **need for immediate urgent care**, and the fact that my **Autonomic Dysfunction cannot be codified**. The Medical Treatment Guidelines Law was designed for people who are **normal**, to implement procedures that expedite **fast recovery and return to work**. It **mandates improvement**. None of those conditions apply to my injury or my case.

I AM ASKING THAT THE NEUROLOGICAL DOCUMENTATION ON MY INJURY GUIDE THE WCB MEDICAL RESPONSES IN THIS CASE.

As discussed earlier, there is an inherent bias in the MTG law and the Medication Formulary Portal. But there is also an inherent bias in my medical condition, that Chubb is using against me by terminating the medical agreement they voluntarily initiated to rectify my inability to get a Workers Compensation doctor to treat me because of the **severity and nature** of my condition. The **complexity of my case triggers practitioner aversion, equaling denial of medical care**. This is what motivated Chubb to voluntarily permit me to go to a non-Workers Compensation neurologist for my Workers Compensation injury, **for cause**, for 37 years. No neurologist would treat my complex, **atypical** medical condition on Workers Compensation: because my medical condition is so severe, counter to medical protocols, because I pass out, a doctor cannot anticipate or predict how my body will react/respond to treatment/intervention/examination, doctors do not understand my condition, my case is complex and so requires time and expertise, because doctors tell me their ability to treat patients under Workers Comp is based on treating a high volume of patients who require limited time.

Every doctor I go to for my work related condition reacts the same way: **they refuse to treat me**. I am viewed initially through the lens of Workers Compensation, and then for my catastrophic medical condition. Doctors tell me I am a giant red flag. WCB responds: "No problem here lady: **Be normal!**" CHUBB says, "You are a throwaway: die!" **Shame on all of the officials who close their eyes to suffering, and refuse to believe that IN THE BLINK OF AN EYE, THIS COULD BE YOU!!!**

-The 3-19-24 Decision says that I **can** go to a neurologist and **pay** him/her. I have consistently been **told** by CHUBB and others that it is **illegal** for me to go to a physician for my Workers Compensation injury and pay him: **and it was illegal for him to take me**. NOTE, the **Workers Compensation website stipulates: "No. Patients cannot**

pay for medical treatment for workers compensation injuries or illnesses.” Also, supervisors at **CHUBB** have told me that I cannot submit the reports and that **CHUBB will not honor the neurologist’s prescriptions, medical requests for treatment, medical equipment or tests.** How is that having a doctor? How am I supposed to pay for my own neurological treatment, tests, etc. that was adjudicated for life by the Workers Compensation Board? **CHUBB says, “You are a throwaway: die!”**

- Judge Khan, Chubb’s attorney, and the Appeal Judges all advise me to, “**Get counsel.**” However, Judge Khan and Chubb’s attorney both very **clearly** told me repeatedly at both Hearings that, “In Workers Compensation the lawyer only gets paid if the claimant gets money. **No lawyer will take your case because it is so old. There is no money in this case, it is all about medical.**”

-Accommodations are validated and covered by statements on the **Workers Compensation Board’s own website** (**CHUBB** says in Susan Clark’s letter and Mr. Gourley says: **the Agreement** with me was “**an Accommodation, not a convenience.**”). referencing Emergency care and Conditions Not Yet Included in the MTG’s. I included these at the end of my 8-1-2024 Appeal under, “Quotes from the WCB Website FAQ Page which reference **special circumstances**”. **PLEASE READ.**

Respectfully yours,

Wendy Wagner

Note: PLEASE READ DR. MAZUREK’s MEDICAL REPORTS. (The WCB site says I am not allowed to resubmit documents.)

Notes for WCB Appeal Submitted on 4-18-24

“Inherent bias”

“The phrase “inherent bias” refers to the effect of underlying factors or assumptions that skew viewpoints of a subject under discussion.”

*Autonomic hyperactivity is a potentially life-threatening condition.”

“Excessive parasympathetic activation may elicit bradyarrhythmia and syncope.”

“Patients with autonomic hyperactivity should be managed in the intensive care unit, as they require continuous monitoring of cardiac rhythm, blood pressure, respiration and fluid balance.

General principles of management include adequate hydration to maintain an euvolemic state, effective treatment of pain, exclusion of infection, and early recognition and elimination of the triggering stimuli.” (Autonomic Neurology, Eduardo E. Benarroch, 2014)

depraved indifference- A person has a depraved indifference to human life when that person has an utter disregard for the value of human life - a willingness to act, not because he or she means to cause grievous harm (to the person who is injured), but because he or she simply does not care whether or not grievous harm will result.”
nycourts.gov>cji

“Skew- turn or slide violently or uncontrollably, in a particular direction”

Mr. Gourley told me, “I am not interested in the medical issues. I am only here to offer a settlement.”

Bigoted- “obstinately or unreasonably attached to a belief, opinion or faction, in particular prejudiced against or antagonistic toward a person or people on the basis of their membership of particular group.”

Dr. Mazurek repeatedly reported that timely medical care is critical and that my condition is life threatening.

An **inherent bias** in both the MTG and Medication Formulary Portal and **also in my diagnosis** Chubb is using it and also it causes discriminates against me

+++

Pertinent Quotes for reference from my Hearing letter and Appeals

I am being held to a standard that is inappropriate for my medical condition.

"Exposure to practitioners unfamiliar with her condition and the medical consequences, or to medications incompatible with her sensitivities, is life threatening." Alan Mazurek, M.D. 12-

Dr. Mazurek repeatedly reported that timely medical care is critical and that my condition is life threatening.

Injury at C2-3, T7-8, L5, S1

My primary diagnosis is **Spinal Cord Injury with Severe Autonomic Dysfunction**, a verifiable **Catastrophic Injury**. **My Severe Autonomic Dysfunction cannot be Codified. My symptoms, responses, reactions, vitals, are erratic, atypical, abnormal, adverse, unpredictable, contradictory, reverse, paradoxical, and complex.** In addition to requiring continuing treatment, **I require immediate, urgent treatment on an episodic basis for severe exacerbations of multiple diagnoses from the on-the-job injury.** I also go into Autonomic Dysreflexia, which is life threatening and must be treated on an urgent basis.

+++++

My **spinal cord** was **INJURED** in an on-the-job fall **at C2-3, T7-8 and L5, S1. It continued to Hemorrhage for 4 ½ years**, causing devastating damage to the **central, autonomic (parasympathetic and sympathetic) and peripheral nervous systems.** It affects my heartbeat, breathing, blood pressure, circulation, thermoregulation, immune and lymph function, gastrointestinal and digestive function, level of consciousness, vision and mobility: the function and response of every bodily system.

+++++

Due to autonomic dysfunction, I have atypical, exaggerated, often reverse, reaction to most medications, and anesthesia. I have been in anaphylactic shock three times.

I was told by physicians at Columbia Presbyterian Neurological Institute, Saint Francis Hospital, and Sloan Kettering Institute NYC, that **THE MOST IMPORTANT THING FOR MY CONDITION IS TO CONTROL THE PAIN.** The appropriate protocol for a condition like mine is **prevention**, and **treating the symptoms on an urgent basis** when exacerbations are triggered. My Neurological system must be kept **calm and stable** and not triggered or irritated, because the consequences are very dramatic and long term . Dr. Mazurek's reports document, "It is life threatening for a doctor who is not

familiar with her condition to treat her." Doctors readily admit **they don't know what to do for my condition and most refuse to treat me.**

++++++

My physicians know my condition and prescribe medications that are **effective for my conditions**, medications that I can tolerate: **medications that stabilized my neurological condition, and have kept it stable and optimized my ability to function for 37 years.**

Recent denials by the Workers Compensation Medication Portal contrary to medical documentation, unnecessary delays and lack of access to the Medication Portal, have limited and denied me medical care, severely intensified my pain and suffering, significantly deteriorated my medical condition, triggered severe exacerbations of my symptoms as well as injury, and caused me tremendous unnecessary hardship.

+++++

The extent of dysfunction is dependent on the degree of autonomic damage. My spinal cord was BLEEDING for 4 1/2 years. My every bodily system is impacted by the autonomic damage. "The autonomic nervous system has cranio-sacral parasympathetic and thoraco-lumbar sympathetic pathways and supplies every organ in the body (Janig and McLachlan, 2002)"

"Exposure to practitioners unfamiliar with her condition and the medical consequences, or to medications incompatible with her sensitivities, is life threatening." Alan Mazurek, M.D. 12-

The Medical Treatment Guidelines Law and Medication Formulary are **not appropriate** for my case because of the **degree and extent of my injury, the severity and multisystem** nature of the autonomic dysfunction, and the **need for immediate urgent care** and the fact that my **autonomic dysfunction cannot be codified. I am being held to a standard that is inappropriate for my medical condition.**

+++++

>Severe Autonomic Dysfunction is not covered by the Medical Treatment Guidelines Law. This condition is atypical, assaultive, unpredictable, and extremely complex, and **CANNOT BE CODIFIED.** It requires **URGENT** care and customized treatment for atypical and abnormal multi-system symptoms and exacerbations.

+++++

I AM BEING HELD TO A STANDARD by the Medical Treatment Guidelines Law and the Medication Formulary Portal **THAT IS INAPPROPRIATE FOR MY MEDICAL CONDITION**. These laws are for people who are **normal**, to implement procedures that expedite **fast recovery** and **return to work**. None of those conditions apply to my injury.

+++++

I have Spinal Cord Injury with severe autonomic dysfunction and 11 related diagnoses: a **catastrophic injury** with "grave consequences" that is the result of **my spinal cord BLEEDING for 41/2 years after a fall at work**, damaging **the central, autonomic (parasympathetic and sympathetic) and peripheral nervous systems, the 5th cranial nerve and brain stem and tearing my corneas**. I am in excruciating pain 24/7, with **atypical and critical autonomic symptoms, responses, reactions and vitals**. All I am asking is that **the documentation on my injury GUIDE the medical responses** in this case.

++++++

After the hearing I reviewed the **Medical Treatment Guidelines FAQ on the WCB website**. Judge Khan was mistaken that there are "No Exceptions." There are notations on the WCB website of individual differences and special circumstances: **Emergencies**, and **Urgent**, unforeseeable, un-covered **circumstances**, and ADA compliance in **Programs and Services**. These apply to my case. .

+++++

The following are quotes from the WCB Website FAQ Page which reference **special circumstances**:

>"Are the Medical Treatment Guidelines mandatory for all work-related injuries or illnesses?"

"Use of the guidelines is mandatory for treatment rendered **for conditions for which there is a final effective medical treatment guideline.**"

>"Do the guidelines apply if the patient needs emergency treatment?"

"The medical treatment guidelines outline the best standard of care but cannot anticipate every emergency clinical scenario. Therefore, **if care is needed on an emergency/urgent basis, and is not covered in the medical treatment guidelines**, then the assumption is that the **most appropriate clinical care** will be rendered."

>"What should a healthcare provider do if they believe the patient needs treatment that is not consistent with the guidelines?"

"It is recognized there are legitimate reasons for exceptions to the Medical Treatment Guidelines:

Extend duration of treatment when a patient is continuing to show objective functional improvement.

Individual circumstances, such as other medical conditions, may delay an individual response to treatment, or make certain treatment appropriate.

Actual treatment is **not addressed by the guidelines**.

Peer-reviewed studies may provide evidence supporting new alternative treatments.

In such cases, the treating healthcare provider may submit a **variance PAR.**"

>"If the medical treatment guidelines clearly indicate that a certain procedure is not recommended, is a request for a variance appropriate?"

"Yes. The regulations state, "**When a treating healthcare provider determines that medical care that varies from the Guidelines, such as when a treatment procedure or test is not recommended by the Medical Treatment Guidelines, is appropriate for the patient, he/ she shall request of variance from the insurance carrier or special fund.** The healthcare provider must meet the Burden of Proof when seeking a variance."

>"Can a patient pay a healthcare provider for medical treatment that is not recommended in medical treatment guidelines?" **No** patients cannot pay for medical treatment for workers, compensation, injuries, or illnesses."

>Orders of the Chair

"When an employer or its insurance carrier fails to timely approve or object to a request submitted by a claimant's treating health care provider for authorization for special medical services (including certain surgeries), or for treatment which varies from the Board's Medical Treatment Guidelines, the Board may issue an Order of the Chair approving the special services or variance. An Order of the Chair may not be appealed."

++++

WCB. Notes

Will not pay doctor, but Does not proscribe evidence

"... the statute at issue prevents payment to unregistered physicians. It does not erect an evidentiary barrier to exclude the testimony and records of such a physician"

Important quotes from Appeal Decision of 3-19-24

**"The claimant asserts the carrier should be directed to cover treatment for severe autonomic dysfunction, which is not covered by the MTGs, and that she has been diagnosed with 12 different conditions, treatment of which must be covered.

Additionally the carrier is denying requests for various medications, as the medication formulary portal does not consider the special needs of severe autonomic dysfunction.”

**“On the merits, the WCLJ properly ruled there is no jurisdiction to force the carrier to pay anything because the issue was not ripe and the provider is not coded. While there is no issue ripe for determination, the carrier notes that all treatment must be provided within the MTGs, the MTG variance process, and the Drug Formulary.”

“I was never offered a settlement, except in 1979 when CHUBB offered me \$40,000. In 2021 Laurie Saldutti offered me \$350,000, all of which was to go to Medicare. Susan Clark told me CHUBB usually settles out people at 65. And now Mr. Gourley offered me \$550,000, All but \$100,000 would return to CHUBB if I die, which he said would be at 84. According to him, I give up all of my rights for a catastrophic injury for life, and CHUBB gets a free accountant/secretary to manage my case, what’s left gets returned to CHUBB. The whole point of me taking a settlement would be: so that I can go to doctors qualified to treat my atypical diagnosis, who are willing to treat me; so that I can get treatments that have been proven to optimize my ability to function, be comfortable and improve; so that I can get that nurse I need or go into assisted living; any expenses paid for on my behalf by Medicare would be reimbursed by me, not by CHUBB limiting the useability of the settlement; and no monies would be returned to CHUBB on my death.”

Chubb is clearly acting in bad faith with a consistent pattern of misinforming and unwarranted denials. Chubb blocked my medical care since 3-2021 by misrepresenting the facts. Under new ownership (ACE Insurance) and management (John Jaronski), Tara Segro told me “management “ was, “?????? coming down on my file and finding many discrepancies,” and terminated the decades long medical agreement without cause.

Two supervisors, Laurie Saldutti and Susan Clark told me that I must get a hearing and if the hearing judge said CHUBB must keep the Agreement, “CHUBB will comply.” I waited for the Hearing and Appeal outcomes. WCB says what they told me was untrue. Christine Dilts’ letter quoting Michele Lopa on CHUBB’s Policy Decision on me and Nora Strobert's email on causal reasoning for CHUBB initiating the Agreement, were overlooked by the Board (although they create reasonable doubt that formal arrangements did exist concerning my medical care).

CHUBB is consistently, maliciously and without cause denying all 3 pain medications at Level 1 and 2 causing them to go to level 3 tone approved and delaying receipt of

medication every month by 16 days. ; when
CHUBB refused to replace the traction wheel chair battery, eventually received education. ??? fir tgemon from Dr. feder. And, Mr. Gourley says, Gourley says,

Chubb is acting in bad faith. They were acting in bad faith when they denied medical care for 4 1/2 years and my spinal cord was bleeding; when they claimed at Hearings for 8 years that I was a 15.8 but they left the proof in their office; when they refused to give me the 24 hour Nurse that 3 Law Judge's awarded in. ??? despite WCB calling them 3 times,

Gourley at hearing I can go to any provider I want but, **“all bills for medical treatment will be denied by the carrier”**

His entire rebuttal is faulted because his arguments are based on what I am saying is appropriate.

“Evidence-based science”. **“Science Based medicine”**

In addition Mr Gourley said at Hearing

He elaborates in his rebuttals. August 17, 2023:

“Claimant can choose provider she wishes. Treatment will be denied on form C-8.1B, “Allis can treat, payment will be disputed,” “The Claimant can choose **any provider** that she wishes...the **treatment** serving from these providers **will be denied** in the form of a Form C-8.1B,” **variance**, “the carrier would obtain an **Independent Medical Examination** To determine whether the variance is medically necessary.”

“The statute with regard to the **medical control of the claimant...**”

On laws he says

MTG must show **objective functional improvement**

Formulary **No exceptions**

Of the Formulary and. MTG- must demonstrate **“objective improvement”**

MTG- focus on body parts

Gourley said lidoderm and baclofen were granted so issue not ripe. The judge note one instance of each and determined it was ok. They were not granted on a regular basis so as to treat properly.

Mr. Gourley says “The MTG does not address **catastrophic** treatment.”

Mr. Gourley says in his Rebuttal of 9-15-23,

“On July 15, 2022, the carrier wrote a correspondence to the claimant pertaining to the next steps with regard to approved medical treatment in accordance with the Medical Treatment Guidelines and Formulary.” **THIS IS UNEQUIVOCABLY UNTRUE! I was NEVER EVER notified!** I was surprised verbally by Tara Segro and Laurie Sadutti when I sought medical care. If Gourley has written proof, it is fake. Also, there seems to be a notation that I filed for a Hearing on the MTG on 1-23. I filed on 12-2023.