

Georgia Workers' Compensation Frequent Statutes/Rules and Case "Cheat Sheet"

Medical Care

O.C.G.A. §34-9-200 and Board Rule 200

Employer/Insurer must provide all reasonable and necessary medical treatment to an injured Employee. The Employee has an obligation to cooperate with medical providers. Employee is permitted a "one time panel change," with any other change of physician by agreement of the parties or by order of the Board.

Panel of Physicians

O.C.G.A. §34-9-201 and Board Rule 201

A posted Panel shall consist of at least six physicians who are reasonably accessible to the Employees. The minimum Panel shall include an orthopedic physician, and at most two industrial clinics. It shall include one minority physician. Employees must be given a choice from and informed about the Panel.

Waiting Period

O.C.G.A. §34-9-220 and Board Rule 220

No compensation shall be allowed for the first 7 calendar days of incapacity unless and until the Claimant is incapacitated for 21 consecutive days.

Return to Work

O.C.G.A. §34-9-240 and Board Rule 240

Georgia's "Rule 240" permits compulsory return to work and suspension of indemnity benefits for unjustified refusal to attempt an approved and suitable job. The "240" procedure, when properly implemented, allows the employer/insurer to unilaterally suspend income benefits upon the employee's return to work or refusal to accept a properly offered suitable job.

TTD

O.C.G.A. §34-9-261 and Board Rule 261

TTD is equal to two-thirds of the employee's average weekly wage (AWW based on 13 weeks, or "similarly situated," or "contract of hire"), up to a cap (2015-2016) of \$550.00 per week. If the AWW is below \$50.00, the Employer shall pay a weekly benefit equal to the full average weekly wage. The weekly benefit shall be payable for a maximum 400 weeks, unless the claim is designated catastrophic (calendar weeks, not total benefit weeks).

TPD

O.C.G.A. §34-9-262 and Board Rule 262

TPD is equal to two-thirds of the difference between the average weekly wage before the injury and the average weekly wage the employee is able to earn thereafter, up to a cap (2015-2016) of \$367.00 per week. The weekly TPD benefit is payable for up to 350 weeks from the date of injury (calendar weeks, not total benefit weeks).

PPD

O.C.G.A. §34-9-263 and Board Rule 263

Once an Employee is no longer entitled to TTD/TPD, the Employer/Insurer shall have 30 days to request a PPD rating in writing, from the ATP. PPD must commence not later than 21 days after knowledge of the rating. The Employer/Insurer are presumed to have knowledge of the rating not later than 10 days after the date of the report establishing the rating.

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Georgia Electric Company v. Rycroft: "Rycroft" defense (Hiring Misrepresentation)

The Employer/Insurer may have a defense to a claim based on the Employee's misrepresentation. In order to effectively assert the "Rycroft defense", three elements must be satisfied:

- (1) Employee must have knowingly and willfully made a false representation as to his/her physical condition;
- (2) Employer must have relied upon the false representation, and thus this reliance must have been a substantial factor in the hiring of the Employee; and
- (3) There must have been a causal connection between the false representation and the injury.

Maloney v. Gordon County Farms: The "Maloney Burden" (Job Search burden)

The Employee in a change of condition case must prove that he/she "suffered a loss of earning power as a result of a compensable work-related injury; continues to suffer physical limitations attributable to that injury; and has made a **diligent, but unsuccessful effort to secure suitable employment following termination.**"

Waffle House, Inc. v. Padgett: "Padgett" or "Waffle House" (No Job Search burden)

An Employee who is on restricted duty due to a compensable injury and who is discharged because of those restrictions is not required to show he/she made a diligent effort to obtain employment in order to receive disability benefits

McRae v. Arby's Rest. Group: "McRae" or "Arby's" (Ex Parte Communication with Physicians)

An employer can seek relevant protected health information informally by communicating orally with the Employee's treating physician as a workers' compensation claimant has waived his/her privacy rights once a claim has been filed, or once medical or indemnity benefits have been paid. The Court did note that physicians may set conditions on such meetings, including the presence of the claimant or the claimant's attorney.

Martines v. Worley & Sons Construction: "Martines" (Undocumented Workers)

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An Employee who is receiving income benefits is precluded from asserting their illegal status as a basis for refusing suitable light-duty work under §34-9-240. Specifically, an Employee's refusal to accept suitable light-duty employment following a work-related injury must be based upon a physical inability and/or lack of skill to perform the proffered job, and not based upon a legal inability to perform the work.

Central State Hospital v. James: "Central State" or "James" ("New Accident" vs. "Change of Condition")

When an employee sustains a work injury, returns to work with his employer, and thereafter experiences a deterioration of his initial injury to the point he becomes disabled, the date of the "new accident" is the date the disability manifests.