



Type B attending physicians and delegating time loss in Oregon: Do I have to pay that?

By Nathan R. Goin ■ September 14, 2018

Escalating medical costs, increased specialization and a growing demand for medical care within the United States has given rise to the pseudo-doctor, a medical practitioner that lacks the exact medical training of a physician, but has the same approximate expertise for most routine issues that arise in an urgent care setting. Claims adjusters should understand the roles and limitations below for these providers.

The Oregon workers' compensation system broadly labels these medical professionals "type B attending physicians." This list includes physician assistants, nurse practitioners, chiropractors and naturopaths.¹

In most instances, medical care for a workers' compensation claimant begins with a "type B attending physician." The regulatory framework provides that any type B provider can direct medical care for the first 60 days of treatment or for a total of 18 visits, whichever comes first.²

Although a "type B physician" is statutorily authorized to act as an attending physician for a period of up to 60 days, their ability to prescribe time loss is limited to a total of 30 days from the date of the worker's first evaluation.³

In most cases a worker is discharged from care without receiving time loss. Even when disability benefits are authorized, the claim will typically wind down before the 30 day window is reached. Some workers, however, receive an ongoing authorization. In those instances, referral is typically made at the end of the 60 day period to a licensed medical doctor for ongoing care and management. The new attending physician will then generally rely upon their physician assistant to perform routine evaluations over the course of care, with periodic examinations by the "managing physician" until the worker is discharged from treatment.

This "treat and transfer" paradigm has proven to be fertile ground for litigation. Workers are often surprised and shocked to find out their chiropractor or other "type B attending physician" can treat for 60 days, but may only authorize time loss for 30 days. The worker's ensuing frustration usually manifests via a Request for Hearing by their newly retained attorney.

A less common scenario arises when time loss is being prescribed by a "type B attending physician" under the direction of a medical doctor. The

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Type B attending physicians in Oregon (continued)

Board has consistently held that a medical doctor acting as an attending physician may not delegate time loss authority.⁴ In essence, the Board states a “type B attending physician” cannot authorize time loss after the initial 30 day period has lapsed even if the authorization is being provided on behalf of the attending physician or at the attending physician’s direction because the statutory framework surrounding this issue does not explicitly provide for a delegation of authority.⁵

Keep in mind the case law could be a double edged sword. This is important because “type B attending physicians” cannot prescribe time loss after the initial 30 day period or approve modified duty job offers made after the 30 day period has lapsed. In the event a modified duty job offer is being made it should always be forwarded to the attending physician for approval. A new copy should be requested in the event the physician assistant approves the modification instead.⁶

Given the case law surrounding this subject, can time loss be automatically denied if authorized by a physician’s assistant? In a word, no. Other extenuating circumstances may exist that entitle the worker to benefits; however, this issue does create an opportunity to terminate temporary disability if appropriate based upon the claim’s specific factual circumstances. Given the complexity of this issue, we always recommend seeking legal advice before discontinuing time loss because the authorization was provided by a “type B attending physician.”

The attorneys at Reinisch Wilson Weier are nothing but type A litigators who can help with your sticky claim resolutions. ■

¹ ORS 656.005(12).

² ORS 656.005(12)(b)(B).

³ ORS 656.245(2)(b)(B).

⁴ Karl C. Meink, 53 Van Natta 942, 943-944 (2001).

⁵ Karl C. Meink, 53 Van Natta at 943; see also Harry B. Issel, 56 Van Natta 1133, 1134 (2004); Gerald A. Keipinger, 47 Van Natta 1509 (1995); Francisco J. Delacerda, 46 Van Natta 1021 (1994); Antonio Chavez, 62 Van Natta 2368 (2010).

⁶ Francisco J. Delacerda, 46 Van Natta 1021 (1994).

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