



Significant Washington Board decisions refresher: Proper and necessary medical treatment

By Mary Hannon ■ October 29, 2021

Welcome to our Significant Board of Industrial Insurance Appeals Decisions Refresher series, which focuses on Board decisions that form the fundamentals of claims processing in Washington. The following is one of twelve blogs that will break down some of the most impactful Board significant decisions. Each blog will include key takeaways from referenced Board decisions that affect Washington workers' compensation rules and laws, and ultimately affect how you process your claims.

This week's refresher concerns significant Board decisions related to **medical treatment**. An injured worker shall receive "proper and necessary medical and surgical services." (RCW 51.36.010). Proper and necessary medical treatment is treatment that is reflective of accepted standards of good practice and curative or rehabilitative, as further explained in WAC 296-20-01002. Below, find out what the Board has to say on proper and necessary medical treatment.

Significant Decision #1: *In re Lyle Rilling*, BIIA Dec., 88 4865 (1990)

- Legal Issue: Is further physical therapy proper and necessary medical treatment if a worker argues that physical therapy improves pain and functioning?
- Key Point: No, not in this case, where the facts showed that the worker's condition was not temporary or transient (i.e., it was permanent) and that physical therapy would not provide fundamental or marked change.

Significant Decision #2: *In re Susan Pleas*, BIIA Dec., 96 7931 (1998)

- Legal Issue: Are palliative and rehabilitative medical treatments mutually exclusive?
- Key Point: No, palliative and rehabilitative are not mutually exclusive terms. Medical treatment that is palliative may be approved so long as it is also rehabilitative [or curative]. Treatment may be authorized if the treatment is rehabilitative and reflective of accepted standards of good practice,

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Refresher: Proper and necessary medical treatment (continued)

thereby satisfying the requirements that it be “medically necessary” treatment within the meaning of WAC 296-20-01002 and “proper and necessary medical and surgical services” within the meaning of RCW 51.36.010.

Significant Decision #3: *In re Ladonia Skinner*, BIIA Dec., 14 10594 (2015)

- Legal Issue: If a worker relies on the advice of his or her doctor and receives treatment recommended by the doctor, are the consequences from treatment covered under the claim?
- Key Point: Yes. If a worker reasonably relies on the advice of his or her doctor the consequences of treatment are compensable, even if the treatment later turns out to be ill-advised or not necessitated by a condition covered under the claim—unless the worker has been placed on notice that the treatment he or she wishes to pursue has been denied.

Significant Decision #4: *In re Paul Fish*, BIIA Dec., 10 18494 (2011)

- Legal Issue: What impact do Department treatment guidelines have when determining whether a proposed treatment is proper and necessary?
- Key Point: Department guidelines in and of themselves do not provide a legal basis for the Board to conclude if treatment is proper and necessary. Rather, the Board is required to make this determination based on medical testimony.

Significant Decision #5: *In re Zbigniew Krawiec*, BIIA Dec., 90 2281 (1991)

- Legal Issue: If a worker proceeds with an administratively-denied surgery and the surgery is successful, can the Board later consider the surgical results when determining if the administratively-denied surgery was properly denied?
- Key Point: Yes. The Board can consider a worker’s post-surgical status to retroactively determine whether an administratively-denied surgery was properly denied.

Reach out to the attorneys at Reinisch Wilson Weier if you have any questions on the above significant decisions, on what constitutes an occupational disease, or on any workers’ compensation matter. ■

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