

IN THE SUPREME COURT OF THE STATE OF NEVADA

Case Nos. 73971

CITY OF RENO,

Appellant.

vs.

JODY YTURBIDE,

Respondent.

Electronically Filed
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Elizabeth A. Brown
Clerk of Supreme Court

JOINT APPENDIX, VOLUME II of IV

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Case Appeal	09/07/17	Vol. IV	JA416

IN THE SUPREME COURT OF THE STATE OF NEVADA

AFFIRMATION

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, **JOINT APPENDIX VOLUME II** filed in **Case No. 73971** does not contain the social security number of any person.

Date: April 24, 2018.

/s/ Lisa Wiltshire Alstead

Lisa Wiltshire Alstead

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of McDonald Carano, LLP and that on April 24, 2018, JOINT APPENDIX VOLUME II was electronically filed with the Clerk of the Court for the Nevada Supreme Court by using the Nevada Supreme Court's E-Filing system (E-Flex). Pursuant to NRAP 30(f)(2), all Participants in the case will be served and provided an electronic copy via U.S. mail as follows:

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ORIGINAL

BEFORE THE
DEPARTMENT OF ADMINISTRATION

In the Matter of the
Contested Industrial
Insurance Claim of,

of

JODY YTURBIDE,

Claimant.

Claim No.: 14853E248257

Appeal No.: 1700698-LLW

TRANSCRIPT OF PROCEEDINGS

BEFORE LORNA WARD

APPEALS OFFICER

November 21, 2016

3:28 p.m.

1050 East William, Suite 450

Carson City, Nevada 89701

Ordered by: Department of Administration
1050 East William, Suite 450
Carson City, Nevada 89701

Kelly Paulson CCR #628

1

070

JA104

A P P E A R A N C E S

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Attorney at Law
100 West Liberty Street, 10th Floor
Reno, Nevada 89505

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1	I N D E X			
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3	EXAMINATION	DIRECT	CROSS	REDIRECT RECROSS
4				
5		(No witnesses)		
6				
7				
8				
9				
10	EXHIBITS	IDENTIFIED	IN EVIDENCE	
11				
12	EXHIBIT 1	6	6	
13	EXHIBIT 2	6	6	
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1 P R O C E E D I N G S

2

3 APPEALS OFFICER WARD: On the record. The
4 date today is November 21st, 2016. This is the time
5 set for hearing in the matter of the industrial
6 insurance claim of Jody Yturbide?

7 MR. GUINASSO: Yturbide.

8 APPEALS OFFICER WARD: Yturbide. I'm going to
9 spell that for the record. That's Y-T-U-R-B-I-D-E.
10 The Claimant is -- well, the hearing number is 1700698.
11 The Claimant is not present, but she is represented by
12 Jason Guinasso. And the Employer, City of Reno, and
13 their third party administrator, CCMSI, are represented
14 by Lisa Alstead.

15 This is the Employer's appeal of the
16 August 11, 2016, Hearing Officer decision which
17 reversed the limited lump sum PPD. The Insurer awarded
18 a 33 percent PPD in this claim, however, found that the
19 Claimant could only take 18 percent in a lump sum and
20 that the remaining 15 percent would have to be in
21 installments because of two prior PPDs totaling seven
22 percent. And those were both taken in a lump sum, and
23 those were for two other injuries to different body
24 parts. The first one was to a right wrist, five
25 percent, and the second one was a left elbow, two

1 percent. And so this one is 33 percent for the
2 cervical spine. I think I have that right.
3 Okay. I have -- and in this case the Insurer
4 believes that the Claimant may take lump sums totaling
5 25 percent only, even in the separate claims. I
6 believe that's your position.
7 MS. ALSTEAD: So 25 percent total whole person
8 impairment.
9 APPEALS OFFICER WARD: Right.
10 MS. ALSTEAD: Yeah, correct.
11 APPEALS OFFICER WARD: Right.
12 MR. GUINASSO: So you're saying that my client
13 can take 25 percent lump sum?
14 MS. ALSTEAD: No. So I'm saying --
15 APPEALS OFFICER WARD: Total.
16 MS. ALSTEAD: -- just total. So you have to
17 add all prior --
18 MR. GUINASSO: All right. Gotcha.
19 MS. ALSTEAD: -- awards into the current one.
20 APPEALS OFFICER WARD: Right.
21 MR. GUINASSO: Gotcha.
22 APPEALS OFFICER WARD: So that's how you come
23 up with the 18 percent.
24 MS. ALSTEAD: Yeah.
25 APPEALS OFFICER WARD: Okay. All right. So I

1 think we're clear there, and I do believe this is
2 clearly a legal issue. That's why the Claimant's not
3 here to testify. They couldn't add anything to this.
4 So there's no dispute, I don't think, about those facts
5 regarding the PPDs and the body parts and the claims.
6 All right. I have two exhibits. The first
7 one is from the Insurer. It's 77 pages.
8 Is there any objection to this?
9 MR. GUINASSO: No, your Honor.
10 APPEALS OFFICER WARD: It's marked and
11 admitted as Exhibit No. 2 -- excuse me -- No. 1.
12 Sorry.
13 MR. GUINASSO: That's okay.
14 APPEALS OFFICER WARD: And then the second one
15 is the Claimant's exhibit and it's 34 pages.
16 Is there any objection to this?
17 MS. ALSTEAD: No objection.
18 APPEALS OFFICER WARD: It's marked and
19 admitted as Exhibit No. 2.
20 Okay. And because we don't have any
21 witnesses, I'm just going to ask you to go straight to
22 argument. Mr. Guinasso.
23 MR. GUINASSO: Perfect. Thank you, Appeal
24 Officer.
25 APPEALS OFFICER WARD: Yes.

1 MR. GUINASSO: It's a pretty straightforward
2 case in our view. We believe that the PPD that was
3 arrived at by the rating physician, Dr. Welborn, for
4 33 percent was valid and appropriate. I don't think
5 there's any dispute over the validity of the PPD
6 itself.

7 Our dispute is over what Ms. Yturbide is
8 entitled to receive, and it's position that she's
9 entitled to take 25 percent in lump sum as well as the
10 remaining eight percent in installments in accordance
11 with the statute.

12 The reason why we have arrived at that
13 conclusion, if you first go to Page 5 of our evidence
14 packet, you'll find the PPD of Dr. Welborn for the
15 cervical condition at issue. And in this case at
16 Page 10 of Exhibit 2, you'll see that the diagnosis for
17 which this rating was provided is a post-anterior
18 cervical microdiscectomy with foraminal (inaudible) at
19 the C5/C6 and C7 -- or C6/C7, arthrodesis at C5/C6 and
20 C6/C7 with a Cornerstone allograft and internal
21 fixation at segment C5 through C7 with atlas plate and
22 then subsequent right-sided posterior C5/C6
23 laminectomy.

24 That condition, that specific injury, was
25 rated at 33 percent. And if you'll look at Page 11 of

1 Exhibit 2, you'll find that the examining physician,
2 the rating physician, said that in accordance with
3 NAC 616C.490 this patient has no prior history of
4 injury to the examined area. Therefore, there is no
5 basis for apportionment.

6 I provided a copy of NAC 616C.490 which is at
7 Page 31 of Exhibit 2, and if you go to Subsection 3 it
8 says a precise apportionment must be completed if a
9 prior evaluation of the percentage of impairment is
10 available and recorded for the preexisting impairment.
11 The condition, organ, or anatomical structure of the
12 preexisting impairment must be identical with that of
13 the subject current evaluation.

14 This is repeated again in Subsection 4 where
15 it says if a rating evaluation was completed in this
16 state for the previous industrial injury or
17 occupational disease involving a condition, organ, or
18 anatomical structure that is identical to the
19 condition, organ, or anatomical structure being
20 evaluated for a present industrial injury or
21 occupational disease, an apportionment must be
22 determined by subtracting the percentage of impairment
23 established for the previous industrial injury or
24 occupational disease.

25 So the operative words in this regulation are

1 "must be identical." So that is, if apportionment is
2 going to be applied to the PPD in question, then
3 apportionment must be for the same exact anatomical
4 structural preexisting impairment, and in this case the
5 Insurer improperly applied apportionment to different
6 body parts.

7 APPEALS OFFICER WARD: But they didn't really
8 apportion it, did they?

9 MR. GUINASSO: They did. They took off the --
10 they took off the seven percent from --

11 APPEALS OFFICER WARD: But only from the lump
12 sum. They didn't take it away completely. They said
13 you can get 18 percent in a lump sum and the remaining
14 18 percent in installments. So normally with
15 apportionment it's just gone.

16 MR. GUINASSO: Right. That's true.

17 APPEALS OFFICER WARD: So . . .

18 MR. GUINASSO: That's true.

19 APPEALS OFFICER WARD: Okay.

20 MR. GUINASSO: And so, but there's no --
21 there's no statutory or regulatory basis to tell a
22 claimant that -- well, first of all, apportionment, the
23 way it works is that if you're going to apportion, that
24 is, you're going to bring down the entire rating. So
25 first and foremost, the way that they've applied

1 apportionment is not supported by the statute or
2 regulation.

3 But secondly, you know, with regard to the
4 body parts at issue, we have a five percent rating that
5 was provided for the right wrist and we have -- then
6 that's at Page -- oh, gosh, Pages 52 through 57 of
7 Exhibit 1. That's the Insurer's exhibit. And then we
8 have a two percent rating for the left elbow, which is
9 at Pages 65 to 69.

10 And so what they have -- what the Insurer has
11 done is taken the rating for the right wrist and taken
12 the rating for the elbow and subtracted it from what
13 Ms. Yturbide can claim or take in lump sum from her
14 rating for her cervical spine.

15 And it's our position based on NAC 616C.490
16 that that was inappropriate; that my client was
17 entitled to take 25 percent in lump sum and the
18 remaining portion, the remaining eight percent, in
19 installments in accordance with the statute. So with
20 that, I will submit the case to you.

21 APPEALS OFFICER WARD: Okay. Ms. Alstead.

22 MS. ALSTEAD: Thank you, your Honor. Just
23 briefly, I know we all agree that the evidence is not
24 in dispute, but just for the record, the evidence, the
25 main evidence, that supports our position, as was

1 discussed by Claimant's counsel, is the current PPD
2 evaluation and the award of 33 percent which is located
3 on Page 39.

4 And as was previously identified by Claimant's
5 counsel, there were two prior awards, one for five
6 percent, and that's identified at Exhibit 1, Page 57.
7 And then there was a second prior award, and that's
8 identified at Page 69 of Exhibit 1, and that was two
9 percent.

10 It's the Insurer and Employer's position that
11 the Hearing Officer's decision dated August 11, 2016,
12 violates both NRS 616C.495 and NAC 616C.498.
13 Claimant's counsel argued as to NAC 616C.490, but I'd
14 submit that this isn't an issue as to apportionment,
15 but more it's the calculation of the lump sum and the
16 total amount that can be paid out. The Claimant is
17 receiving 33 percent of the award. It's just whether
18 it's a 25 percent lump sum award or less.

19 I'd submit that the Hearing Officer's decision
20 violated the two statutes I cited by failing to take
21 into account the two prior PPD awards. That evidence
22 was in the record at the hearing level, and the hearing
23 decision does not make any reference to those two prior
24 awards.

25 As I mentioned, NRS 616C.495(1)(d) is

1 applicable here and applies to any injury after
2 July 1995, and it says that a claimant may elect to
3 receive a lump sum payment in accordance with adopted
4 regulations. So from there we have to go to the
5 Administrative Code, and NAC 616C.498 which applies to
6 any injury after July 1995 says a claimant can receive
7 up to 25 percent of a PPD award in a lump sum and then
8 the rest must be in installments.

9 There have been some changes recently under
10 SB 232, but that amendment has not been put in place as
11 to claims post 1995. So I know that's in the process
12 but not there yet. So we're at 25 percent.

13 There's limited case law in Nevada, but the
14 Eads versus State Industrial Insurance System, which is
15 cited at 109 Nevada 733, makes clear that the Nevada
16 Supreme Court interprets the two statutes I cited to
17 allow no more than 25 percent of a whole person
18 impairment payment in lump sum.

19 Claimant's counsel has taken the position --
20 well, there's some discussion of apportionment, and in
21 their prehearing statement there was some discussion
22 that it's really limited to one claim or one injury or
23 one body part. And I'd submit while that's the fact
24 pattern of the Eads case, the holding of that case does
25 not limit the cap on 25 percent.

1 The Eads case concludes that the statute's cap
2 25 percent of the lump sum payment applies to the
3 combined disability allowance and limits any lump sum
4 payment to a total of 25 percent. Now, the cap on a
5 25 percent lump sum payment, it makes sense. One, the
6 purpose is to protect somebody that's seriously
7 injured.

8 So if you're getting up to the 25 percent
9 whole person impairment, we don't want you going out
10 and spending your money on a Ferrari. We want you to
11 start getting installment payments over time so you
12 have something guaranteed to keep you so you're able to
13 pay your bills if you're in a position where you're so
14 impaired that you're not able to either perform the
15 work you were previously performing or work at all. So
16 I'd say the purpose of the statute supports that the
17 25 percent applies to all claims, not just per
18 individual claim or body part.

19 Second, the rating is done by a whole person
20 impairment evaluation. So again, we're looking at
21 whole person impairment. We're not looking at each
22 claim, which seemed to be the analysis in the Hearing
23 Officer's decision as well. It just looked at the one
24 claim and not the prior awards.

25 To the extent there's any question that the

1 calculation or cap at 25 percent lump sum applies to
2 whole person impairment across the board, all claims
3 and not just one specific claim, I think that the
4 recent amendment to NRS 616C.495 under SB 232 confirms
5 how the statute is supposed to be interpreted.

6 Under SB 232, NRS 616C.495, Subsection 1(e),
7 added some new language to the statute, and that
8 statute or that section says you need to look at all
9 previous PPD awards. It doesn't specify the same
10 injury or same claim. And to the extent they exceed
11 100 percent, you need to cap it at 100 percent.

12 So that section shows us the purpose and
13 intent of the statute is that you look at all previous
14 PPD awards. I'd submit that Subsection D needs to be
15 read in accordance with this newly added Subsection E
16 that says look at all prior awards. There's no
17 limitation as to one claim or one body part. If that
18 was the intent of the legislature, they would have
19 included that language and it's not included.

20 So in conclusion, I'd submit that the Hearing
21 Officer's decision should be reversed and the July 1st,
22 2016, determination letter affirmed. The proper
23 calculation for this award should take the total
24 33 percent. And then as far as calculating the lump
25 sum, you need to take the maximum 25 percent cap,

1 subtract the seven percent that has already been
2 awarded, and that gives you -- that leaves you with an
3 18 percent lump sum payment available, and then the
4 remaining 15 percent should be paid in installments.

5 And again, I'd submit that this is consistent
6 with the statute language and the Eads case which all
7 say it's a 25 percent cap total and not specific to one
8 claim, one injury, or one body part. And with that,
9 I'm happy to answer any questions that you have.

10 APPEALS OFFICER WARD: Thank you.
11 Mr. Guinasso.

12 MR. GUINASSO: Thank you, Appeal Officer. The
13 statutory language, as you can read for yourself,
14 doesn't support the Insurer's position at all, and the
15 Eads case does not do anything to deal with the very
16 explicit language of the regulation with regard to
17 apportionment.

18 In fact, the Eads case, you know, deals with
19 identical body parts. In this case we're dealing with
20 body parts that are not identical, and the regulatory
21 language contemplates situations where you have
22 multiple body parts being rated over, you know, a
23 period of time. And it specifically prohibits ratings
24 for body parts that are not identical to be apportioned
25 from a PPD award.

1 But nevertheless, the Insurer has ignored that
2 language and has unilaterally determined that my client
3 is only entitled to an 18 percent, you know, lump sum
4 award without any statutory, regulatory, or case law
5 support for that position. SB 232 has nothing to do
6 with the apportionment issue that's before you today.

7 APPEALS OFFICER WARD: I guess I'm just having
8 a hard time with you using the word "apportionment"
9 because that is reserved in the regulation for actually
10 removing a certain percentage of a PPD award, taking it
11 away entirely, whereas what we're dealing with -- you
12 know, and the problem is, is that none of the statutes
13 really address this head on.

14 And so I can see maybe using the apportionment
15 statute possibly to argue what you're arguing.
16 However, they're not apportioning it. They're just
17 simply indicating you've already -- you can receive up
18 to a max of 25 percent in a lump sum, and the rest has
19 to be in installments and it's really another statute
20 that applies.

21 MR. GUINASSO: Right.

22 APPEALS OFFICER WARD: And another regulation.
23 So, you know, I don't see how -- I don't see how 490
24 applies, apportionment of impairments, because it's
25 gone. When you apportion it, it's gone. So, you know,

1 I get that there's a problem here because none of the
2 statutes really address this --

3 MR. GUINASSO: Well, then I would argue it --

4 APPEALS OFFICER WARD: -- situation.

5 MR. GUINASSO: I guess then, Appeal Officer,
6 I'd argue it backwards then, and I would just say that
7 there's no statutory support to prohibit a claimant
8 with regard to this claim number from receiving the
9 25 percent lump sum when they've been awarded a
10 33 percent rating.

11 APPEALS OFFICER WARD: I think that's a better
12 argument. You know, I don't -- I don't think you can
13 win on the apportionment argument. I don't know which
14 side is going to win this. I need to go and really
15 look at this and read the Eads case and look at the
16 statutes, but I don't think apportionment -- the
17 apportionment NAC is a good argument for your claimant.

18 MR. GUINASSO: Well, we only adopted that
19 position relative to that regulation because that's in
20 the Insurer's determination.

21 APPEALS OFFICER WARD: Oh, okay.

22 MR. GUINASSO: That's what they said they were
23 doing. They said they were apportioning, you know,
24 the --

25 APPEALS OFFICER WARD: Oh, okay. I understand

1 what you're saying.

2 MR. GUINASSO: So if they're saying that --

3 APPEALS OFFICER WARD: But that's not what
4 they're doing.

5 MR. GUINASSO: If they're saying that they're
6 apportioning it --

7 APPEALS OFFICER WARD: Yeah.

8 MR. GUINASSO: -- and the apportionment
9 statute and regulation doesn't support what they're
10 doing, then you have to reverse what they're doing.
11 That's ultimately what the Hearing Officer below found
12 was that what the Insurer had done was something novel
13 and wasn't supported by the statute or reg.

14 And so what we're saying is call it -- call it
15 apportionment, call it subtraction, arbitrary
16 subtraction, but no matter what you call it, there's no
17 statutory or regulatory or case law support for what
18 they've done.

19 APPEALS OFFICER WARD: Okay. See, and I don't
20 see that they used that on Page 9, and maybe there's
21 something else where they've done that.

22 MR. GUINASSO: Yeah. Let's --

23 APPEALS OFFICER WARD: But this is -- they're
24 looking at NRS 616C.495. So, I mean, there may be --
25 it may be in something else, but this looks like

1 they're arguing that there was a limit on the amount of
2 the lump sum. I think it's on Page 9 of Exhibit 1.
3 MR. GUINASSO: Page 9 of the Insurer's packet?
4 APPEALS OFFICER WARD: Yeah, I think that's --
5 I mean, it's possible they may have indicated that to
6 you in some other manner but --
7 MR. GUINASSO: Yeah. Let me just grab that
8 because I just marked that earlier.
9 APPEALS OFFICER WARD: Sure.
10 MR. GUINASSO: I guess what I would say is I
11 would agree with you that the language -- using the
12 language "apportionment" is not the right language, but
13 what we see here -- the bottom line of what we see
14 here, Appeal Officer, is that there is a 33 percent PPD
15 award for a cervical spine condition. That
16 33 percent -- the Claimant is only entitled under the
17 statute to take 25 percent of that total lump sum.
18 APPEALS OFFICER WARD: Yes, I understand this
19 argument.
20 MR. GUINASSO: Yes.
21 APPEALS OFFICER WARD: Yeah, so . . .
22 MR. GUINASSO: And there's no legal basis to
23 then subtract an additional seven percent from what the
24 Claimant's entitled to take by a lump sum. So, you
25 know, look at the statutes that were cited by the

1 Insurer. Look at the regulations. Look at the case
2 law. There's no justification for taking the seven
3 percent of what they're entitled to take in a
4 particular claim via lump sum and subtract it by seven
5 percent as they've done in this case. This is --
6 APPEALS OFFICER WARD: This is just a tough
7 one.
8 MR. GUINASSO: Yeah.
9 APPEALS OFFICER WARD: You know, and I get
10 both your arguments, and they're both good arguments.
11 I'm not going to look at the apportionment argument
12 because I think that really messes this up, and I think
13 anything -- any decision made on that would be reversed
14 because it doesn't really -- it only addresses actually
15 taking away percentages --
16 MR. GUINASSO: Right, right.
17 APPEALS OFFICER WARD: -- of an impairment.
18 MR. GUINASSO: Now, if we do look at the
19 apportionment regulation, we maybe look at it for the
20 purpose that -- Insurer's counsel wanted you to look at
21 SB 232.
22 APPEALS OFFICER WARD: Oh, and I understand
23 that.
24 MR. GUINASSO: And that is to look at the
25 intent.

1 APPEALS OFFICER WARD: Right.

2 MR. GUINASSO: You know, what's the intent,
3 you know, behind the statutory and regulatory framework
4 with regard to accepting lump sum awards, and what
5 you'll find, you know, is that the regulatory body had
6 no intent in allowing for reductions of lump sum
7 awards, you know, in opposite PPDs for different body
8 parts.

9 APPEALS OFFICER WARD: Right.

10 MR. GUINASSO: And so when you look at the
11 totality of what's before you, there's no statutory,
12 regulatory, or case law basis to have done what the
13 Insurer's done. This is really the first case I've
14 ever had where an insurer has taken that position,
15 which seems odd on a number of levels, especially when
16 you --

17 APPEALS OFFICER WARD: Well, I think this is
18 an interesting case because this is a case where you
19 have the same insurer and the same employer, and I
20 think sometimes in other cases I've seen where you've
21 had other employers and other insurers, they may not
22 know about other lump sum PPDs. So I know that's
23 happened, and then I've had cases that have resolved
24 with this issue.

25 But it is an interesting case, and certainly

1 it would be nice if we could get this clarified. And,
2 you know, you've both made great arguments. So it's a
3 tough case.

4 MR. GUINASSO: Sure.

5 APPEALS OFFICER WARD: And I'll look at this
6 and --

7 MS. ALSTEAD: Your Honor, may I reply to his
8 argument.

9 APPEALS OFFICER WARD: Oh, yes, absolutely.

10 MS. ALSTEAD: Thank you. Just briefly, I
11 think you clarified everything on the record, but I
12 just want to make clear that at Page 9, the Insurer's
13 letter does only cite to NRS 616C.495.

14 It looks like Claimant's counsel may have
15 taken the apportionment position in their
16 correspondence, and that might be where the confusion
17 was, but there's no reducing the 33 percent or
18 apportioning it. It's just the calculation of the lump
19 sum.

20 And I'd submit that the statute and the
21 Administrative Code section that I cited support
22 reducing the prior awards because both the statute and
23 the code, neither of them include within the language a
24 limitation. So if you adopt Claimant's counsel's
25 position, they're asking you to adopt a limitation per

1 claim or body part to cap the 25 percent, and that
2 language is simply not there.

3 I'd further submit you need to look at the
4 statute as a whole, and when you look at NRS 616C.495
5 as a whole, we have that new subsection 1(e) that is
6 very clear that when you're looking at a PPD rating,
7 you have to combine with any previous PPD ratings that
8 the Claimant has to determine the total benefits and
9 make sure it doesn't exceed 100 percent.

10 So I think that's telling us if we look at
11 this statute section as a whole, Subsection E is saying
12 you have to look at all prior claims to make a
13 determination as to rating and a PPD award. You likely
14 have to do the same thing with Subsection 1(d) or
15 they'd be inconsistent.

16 Finally, I just want to point out I know
17 there's very limited case law, but the Eads case does
18 come to the conclusion that you cannot give more than
19 25 percent total for combined disability allowance in a
20 lump sum payment.

21 So I know it's not fact specific to the issue
22 we have here, but there is some case law on this point.
23 I'd submit that that supports the calculation that was
24 done by the Insurer originally, and I'm happy to answer
25 any questions that you have.

1 APPEALS OFFICER WARD: Okay. As I said, I
2 think you've both made good arguments, and I'm going to
3 have to look at all of this very carefully. And I
4 thank you both for coming today.

5 Tough case. It's too bad they didn't -- while
6 they were messing around with the statute, too bad they
7 didn't do a little more.

8 MS. ALSTEAD: Right.

9 APPEALS OFFICER WARD: And make it clearer.

10 MS. ALSTEAD: They fixed the 100 percent.

11 APPEALS OFFICER WARD: Yeah.

12 MS. ALSTEAD: You know, so you can't get an
13 award more than 100 percent, but then didn't fix this
14 so . . .

15 APPEALS OFFICER WARD: Yes. All right. So
16 thank you both very much.

17 MR. GUINASSO: All right. Thank you.

18 APPEALS OFFICER WARD: And we can go off the
19 record.

20 MS. ALSTEAD: Thank you.

21 (Proceedings concluded at 3:57 p.m.)

22

23 * * *

24

25

C E R T I F I C A T I O N

TITLE: JODY YTURBIDE

DATE: November 21, 2016

LOCATION: Carson City, Nevada

The below signature certifies that the
proceedings and evidence are contained fully and
accurately in the tapes and notes as reported at the
proceedings in the above referenced matter before the
Department of Administration, Appeals Office.

Kelly Paulson

01/26/2017

KELLY PAULSON

DATE

CERTIFIED COURT REPORTER #628

Kelly Paulson CCR #628

104 *

25

JA128

Signature Certificate

Document Reference: ERNEKNIT7J4IBHG6ICLSP6

RightSignature

Easy Online Document Signing



Kelly Paulson

Party ID: 63K4WV/935546NSPHDCY6Y

IP Address: 68.7.171.222

VERIFIED EMAIL: kellypaulson@gmail.com

Kelly Paulson

Veri-Factor
Digital Fingerprint Checksum

3aaa2f0045da526748d6fdfe80ca8a0db8cab21...



Timestamp

2017-01-26 21:44:05 -0800

2017-01-26 21:44:06 -0800

2017-01-26 21:43:43 -0800

2017-01-26 21:43:43 -0800

Audit

All parties have signed document. Signed copies sent to: Kelly Paulson.

Document signed by Kelly Paulson (kellypaulson@gmail.com) with drawn signature. - 68.7.171.222

Document viewed by Kelly Paulson (kellypaulson@gmail.com). - 68.7.171.222

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This signature page provides a record of the online activity executing this contract.

Page 1 of 1

105

NEVADA DEPARTMENT OF ADMINISTRATION
BEFORE THE APPEALS OFFICER

In the Matter of the Contested
Industrial Insurance Claim of:

Claim No.: 14853E248257

Hearing No.: 1700074-JL

Jody Yturbide,

Appeal No: _____

Claimant.

INSURER'S DOCUMENTARY EVIDENCE

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15	5/23/14 Michael R. Panicari, M.D.....	11
16	6/13/14 Insurer Correspondence (Claim Acceptance).....	16
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24	7/1/16 Insurer Correspondence w/enclosures (Appealed).....	41
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}

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McDONALD-CARANO-WILSON;
103 WEST LIBERTY STREET, 10TH FLOOR • RENO, NEVADA 89301
PO BOX 1670 • RENO, NEVADA 89505-2670
PHONE 775-786-2000 • FAX 775-786-2020

Prior Industrial Claims

Claim No. 08853A368316

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4/15/13 Insurer Correspondence (PPD for 2013 injury) 69

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding **INSURER'S DOCUMENTARY EVIDENCE**, filed in Nevada Department of Administration Hearing No. 1700074-JL does not contain the social security numbers of any person.


LISA WILTSHIRE ALSTEAD, ESQ.
Attorneys for Insurer/Employer

9/8/16
Date

✓ AUG 15 2016

McDonald Garano Wilson LLP

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
HEARINGS DIVISION

In the matter of the Contested
Industrial Insurance Claim of:

Hearing Number: 1700074-JL
Claim Number: 14853E248257

JODY YTURBIDE
9732 PYRAMID WAY #368
SPARKS, NV 89441

CITY OF RENO
ATTN: KELLY LEERMAN
1 EAST FIRST ST 9th FLOOR
RENO, NV 89501

BEFORE THE HEARING OFFICER

The Claimant's request for Hearing was filed on July 8, 2016 and a Hearing was scheduled for August 3, 2016. The Hearing was held on August 3, 2016, in accordance with Chapters 616 and 617 of the Nevada Revised Statutes.

The Claimant was represented by her attorney, Jason Guinasso, by telephone conference call. The Employer was not present. The Insurer was represented by Lisa Wiltshire Alstead, Esquire, by telephone conference call. Claimant appealed the Insurer's determination dated July 1, 2016. The issue before the Hearing Officer is 33% permanent partial disability (PPD) award. At today's hearing, the Claimant's counsel clarified that they were not contesting the 33% PPD award, only the 18% lump sum offering.

DECISION AND ORDER

The determination of the Insurer is hereby **REVERSED AND REMANDED**.

On July 1, 2016, the Insurer offered the Claimant a 33% PPD award. The Claimant was further advised that he was entitled to a one time lump sum payment of 18%, and the remaining 15% in monthly installments, the instant appeal. Having reviewed the submitted evidence and in consideration of the representations made at today's hearing, the Hearing Officer finds the Insurer erred in its 18% one time lump sum offering. As such, the Hearing Officer finds the Claimant is entitled to a one time lump sum offering of 25%, with the remaining 8% to be paid in monthly installments, pursuant to NAC 616C.498. Therefore, the Insurer shall recalculate the 33% PPD award based on a lump sum offering of 25%, and upon completion, render a new determination with appeal rights accordingly.

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①

In the Matter of the Contested
Industrial Insurance Claim of
Hearing Number:
Page two

JODY YTURBIDE
1700074-JL

NAC 616C.490(3)(4) provides that a precise apportionment must be completed if a prior evaluation of the percentage of impairment is available and recorded for the preexisting impairment. The condition, organ or anatomical structure of the preexisting impairment must be identical with that subject to current evaluation. If a rating evaluation was completed in this State for a previous industrial injury or occupational disease involving a condition, organ or anatomical structure that is identical to the condition, organ or anatomical structure being evaluated for the present industrial injury or occupational disease, an apportionment must be determined by subtracting the percentage of impairment established for the previous industrial injury or occupational disease from the percentage of impairment established for the present industrial injury or occupational disease, regardless of the edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment* used to determine the percentage of impairment for the previous industrial injury or occupational disease.

NRS 616C.495(1)(a)(c) provides authority for lump sum payments of Permanent Partial Disability awards. If the injury was incurred on or after July 1, 1981, and before July 1, 1995, the injured employee may elect to receive compensation in a lump sum equal to a present value of an award of 30 percent disability. If the injury was incurred after July 1, 1973, and prior to July 1, 1981, the maximum limit for lump sum compensation shall not exceed 12 percent disability. That portion of the award amount in excess of these limits shall be paid in installments.

NAC 616C.498 provides that an employee injured on or after July 1, 1995, who incurs a permanent partial disability that does not exceed 25 percent may elect to receive compensation in a lump sum. If it exceeds 25 percent, the injured employee may elect to receive compensation in a lump sum equal to the present value of an award for a disability of 25 percent. If the injured employee elects to receive compensation in a lump sum pursuant to this subsection, the insurer shall pay in installments to the injured employee that portion of the injured employee's disability in excess of 25 percent.

APPEAL RIGHTS

Pursuant to NRS 616C.345(1), should any party desire to appeal this final Decision and Order of the Hearing Officer, a request for appeal must be filed with the Appeals Officer within thirty (30) days of the date of the decision by the Hearing Officer.

IT IS SO ORDERED this 11th day of August, 2016.



Jason Luis, Hearing Officer

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CERTIFICATE OF MAILING

The undersigned, an employee of the State of Nevada, Department of Administration, Hearings Division, does hereby certify that on the date shown below, a true and correct copy of the foregoing **DECISION AND ORDER** was deposited into the State of Nevada Interdepartmental mail system, **OR** with the State of Nevada mail system for mailing via United States Postal Service, **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 1050 E. Williams Street, Suite 400, Carson City, Nevada, to the following:

JODY YTURBIDE
9732 PYRAMID WAY #368
SPARKS, NV 89441

JASON GUINASSO, ESQ
REESE KINTZ GUINASSO, LLC
190 WEST HUFFAKER SUITE 402
RENO NV 89511

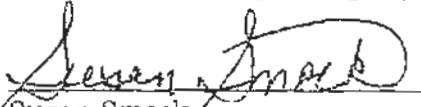
CITY OF RENO
ATTN: KELLY LEERMAN
1 EAST FIRST ST 9th FLOOR
RENO, NV 89501

LISA M WILTSHIRE ALSTEAD ESQ
MCDONALD CARANO WILSON
100 W LIBERTY ST 10TH FLOOR
RENO NV 89501

CCMSI
PO BOX 20068
RENO, NV 89515-0068

DIR
WORKERS COMP SECTION
INTERDEPARTMENTAL MAIL
400 W KING ST
CARSON CITY NV

Dated this 11th day of August, 2016.



Susan Smock
Employee of the State of Nevada

110

3

JA134

///

EMPLOYEE'S CLAIM FOR COMPENSATION/REPORT OF INITIAL TREATMENT
FORM C-4

PLEASE TYPE OR PRINT

EMPLOYEE'S CLAIM - PROVIDE ALL INFORMATION REQUESTED							
First Name Arday	Last Name Ythode	Birthdate 02-27-71	Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F	Claim Number (insurer's Use Only)			
Address 1200 Pyramid Way #250	City Sparks	State NV	Zip 89411	Telephone 775-820-5707			
Employer's Name Const	Third-Party Administrator City of Reno Emergency	Employer's Occupational Disease Occurred Public Safety					
Employer's Name (if different)	City of Reno Emergency	Employer's Address 515 Spectrum Blvd Reno, NV 89521					
Date of Injury 5/23/14	Hours Injury (if applicable) 22:15	Date Employer Notified 5/23/14	Last Day of Work After Injury or Occupational Disease 5/23/14	Signature to Whom Injury Reported Dominica Ythode			
Address of Location of Accident (if applicable) 515 Spectrum Blvd Reno, NV 89521							
What were you doing at the time of the accident? (if applicable) typing answering phone							
How did the injury or occupational disease occur? (be specific and answer in detail. Use medical terms if necessary) overuse typing non stop - answering phones							
If you believe that you have an occupational disease, when did you first have knowledge of the disability and its relationship to your employment? this has been recurring for weeks, sore over a couple weeks							
Name of Injury or Occupational Disease musculoskeletal							
Part(s) of Body Injured or Affected neck, shoulder, wrist, fingers, hand, lower back, pain							
I certify that the above is true and correct to the best of my knowledge and that I have provided the information in order to obtain the benefits of my insurance. I hereby authorize any physician, chiropractor, surgeon, practitioner, or other person, including any hospital, physician, or other person, to release to the insurer any and all information, including but not limited to, medical records, X-ray films, and other information, that may be necessary for the insurer to process my claim. I understand that the insurer may use this information for any purpose, including but not limited to, determining the amount of my benefits, and I agree to release this information to the insurer. I understand that the insurer may use this information for any purpose, including but not limited to, determining the amount of my benefits, and I agree to release this information to the insurer.							
Date 5/23/14	Place Sparks	Employee's Signature [Signature]					
THIS REPORT MUST BE COMPLETED AND MAILED WITHIN 3 WORKING DAYS OF TREATMENT							
Place Sparks	Name of Facility CONCRETE SPARKS						
Date 5/23/14	Treatment and Description of Injury or Occupational Disease (R) CT5 + (R) arm/shoulder			Is there evidence that the injured employee was under the influence of alcohol or other controlled substance at the time of the accident? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (if yes, please explain)			
Hour 22:15	Treatment Recommend wearing of (R) UE claim at a clinic			Have you advised the patient to refrain from work with the date of onset? <input type="checkbox"/> Yes (indicate dates from _____ to _____) <input checked="" type="checkbox"/> No (if no, is the injured employee capable of performing his/her regular duty? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (if modified duty, specify any limitations/restrictions) off rest of shift			
X-Ray Findings: not done today							
From information given by the employee, together with medical evidence, can you directly connect this injury or occupational disease to job insured? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No							
Is additional medical care by a physician indicated? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No							
Do you know of any previous injury or disease contributing to this condition or occupational disease? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (specify if yes)							
Date 5/23/14	Print Doctor's Name Panican			I certify that the employer's copy of this form was placed in the company file on:			
Address 263 ORENDALE ST, SUITE 12	City Sparks	State NV	Zip 89434	Provider's Tax ID Number 775-508-4551	Telephone 775-508-4551	INSURER'S USE ONLY Received MAY 27 2014 CCMS/ARNO	

ORIGINAL - TREATING PHYSICIAN OR CHIROPRACTOR

PAGE 2 - INSURANCE

PAGE 3 - EMPLOYER

PAGE 4 - EMPLOYEE

Form C-4 (rev. 10/97)

This communication is confidential. It is intended for the person named above. No other recipient is authorized to receive this information. If received in error, call 800-819-5577.

4

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Faxed 5/28/14

To avoid penalty, this report must be completed and mailed to the insurer within 6 working days of receipt of the claim.		Please Type or Print		EMPLOYER'S REPORT OF INDUSTRIAL INJURY OR OCCUPATIONAL DISEASE	
EMPLOYER	Employer's Name CITY OF RENO	Nature of Business (Ind., etc.) Corporation	FEIN 886000201	OSHA Type 14853R248257	
	Address (Not Applicable) 1 EAST FIRST STREET	Location (If different from mailing address) 5195 Spectrum Bl. Reno, NV 89512	Telephone 775-326-6637		
	City RENO	State NV	Zip 89505	Insurer INSURANT	Insurance Company COMM-FAMILY ASSURANCE CO. (CCMS), Inc.
EMPLOYEE	First Name Jody	Last Name L. Yarbide	SSN 02/17/97	Age 43	Primary Language Spoken English
	Home Address (Not Applicable) 9732 Pyramid Wy #368	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Marital Status <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed		
	City Sparks	State NV	Zip 89441	Was the employee paid for the day of injury? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
ACCIDENT OR DISEASE	In which state was employee hired? Nevada	Employer's occupation (Job title) when hired or disabled MUNICIPAL EMPLOYEES, NOC	Department in which employee employed COMMUNICATIONS & TECHNOLOGY		
	Telephone 775-830-5707	Is the employee a subcontractor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is the employee a seasonal worker? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Was employee in your employ when injured or disabled by occupational disease (OSD)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	Date of injury or onset of disease 05/22/2014	Date of injury or onset of disease (if different from above) 05/22/2014	Supervisor's address (if not on file) Yarbide, Dominick		
	Date of onset of disease (if applicable) (Also provide day, month, year) (If applicable) 05/22/2014			Accident or employee's previous work status <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
	What was the employee doing when the accident occurred (including time, making lunch break, etc.) (If applicable) Severe pain and numbness fingers, forearm, elbow.				
INJURY OR DISEASE	How did the injury or occupational disease occur? (Include time employee began work, the specific and nature of defect, the equipment used, etc.) Employee experiencing severe pain in right fingers, forearm, elbow, and up into shoulder. Severe tingling and numbness and burning pain - losing sensation in 2-3 fingers.				
	Specify machine, tool, substance, or object most closely connected with the accident (If applicable) UNKNOWN		Witness Witness		Was there more than one person injured in this accident? (If applicable) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Part of body injured or affected UPPER EXTREMITIES - FINGER(S)		Witness Witness		
	Nature of injury or occupational disease (scratch, cut, bruise, burn, etc.) SPECIFIC INJURY - ALL OTHER INJURIES NOC		Witness Witness		Did employee return to work following this accident? (If applicable) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	If validity of claim is doubtful, state reason Concussion		Location of initial treatment Concussion Sparks, 255 Glendale #17, Sparks, NV		Emergency Room: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
IMPORTANT LOST TIME INFO	How many days per week did employee work? 4		From 17:00 To 03:00		Emergency wage paid amount \$22/14
	Scheduled days off 11/14/1995		Last day of work prior to injury or disability 05/22/2014		
	Was the employee paid for lost time? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		If not, for how many hours a week was the employee hired? 1		Did the employee receive unemployment compensation only 5-6 weeks during the last 12 months? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	For the purpose of calculation of the average weekly wage, include the employee's gross earnings by pay period for 12 weeks prior to the date of injury or disability. If the injured employee is expected to be off work 6 days or more, attach wage verification form (20-9). Gross earnings will include overtime, bonuses, and other remuneration, but will not include reimbursement for expenses. If the employee was employed by you for less than 12 weeks, provide gross earnings from the date of hire to the date of injury or disability.				
	Has payed <input type="checkbox"/> ALN <input type="checkbox"/> TVE <input type="checkbox"/> THRU <input type="checkbox"/> PAY <input type="checkbox"/> MON <input type="checkbox"/> WED <input type="checkbox"/> FRI		Employee <input type="checkbox"/> WEEKLY <input type="checkbox"/> MONTHLY <input type="checkbox"/> QUARTERLY <input type="checkbox"/> ANNUALLY <input type="checkbox"/> OTHER		On the date of injury or disability the employee's wage was: \$ 11.97 per <input type="checkbox"/> Hr <input type="checkbox"/> Day <input type="checkbox"/> Wk <input type="checkbox"/> Mo
For assistance with Workers' Compensation Issues you may contact the Office of the Governor's Consumer Health Assistance Toll Free: 1-888-333-1597 Web site: http://govcha.state.nv.us E-mail: eha@govcha.state.nv.us					
* Insurer's Copy	Date of injury or onset of disease 05/22/2014		Insurer's Signature and Title [Signature]		Date 5/28/14
	Claim is: <input type="checkbox"/> Accepted <input type="checkbox"/> Denied <input type="checkbox"/> Pending <input type="checkbox"/> Partly		Account No. 14853R248257		Date Recd Received

Form C-3 (rev. 11/88)

ORIGINAL - EMPLOYER

PAGE 3 - INSURER/ITA

PAGE 3 - EMPLOYER
CCMSI-Reno

2014

582444258

RENO ECON

12:51

113

JA137

"NOTICE OF INJURY OR OCCUPATIONAL DISEASE"

(Incident Report)

Pursuant to NRS 616C.015

Name of Employer: City of Reno Emergency Communications

Name of Employee <u>Sally L. Hurbace</u>		Social Security Number <u>---</u>	Telephone Number <u>775-820-5701</u>
Date of Accident (If applicable) <u>5/22/14</u>	Time of Accident (If applicable) <u>2:15</u>	Place where accident occurred (if applicable) <u>RENO</u>	
What is the nature of the injury or occupational disease? <u>overhead consistent lifting</u>		List any body parts involved: <u>Right elbow, wrist, and fingers</u>	
Briefly describe the incident or circumstances of occupational disease: (If you are reporting an occupational disease, indicate the date on which employee first became aware of condition between condition and employment) <u>severe pain in right fingers, wrist, elbow + up into shoulder - severe tingling numbness + burning pain - losing sensation in 3-5 fingers</u>			
Name of witnesses: <u></u>			
Did the employee leave work because of the injury or occupational disease? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	If yes, when (date and time)? <u>5/22/14 4:30 PM</u>	Did the employee return to work? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	If yes, when (date and time)? <u>5/22/14 6:00 PM</u>
Was first aid provided? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	If yes, by whom? <u></u>	Name and address of treating physician, hospital or clinic: <u></u>	
Did the accident happen in the normal course of work? (if applicable) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
Was anyone else involved? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Names of others involved: <u></u>		

MY EMPLOYER/INSURER MAY HAVE MADE ARRANGEMENTS TO DIRECT ME TO A HEALTH CARE PROVIDER FOR MEDICAL TREATMENT OF MY INDUSTRIAL INJURY OR OCCUPATIONAL DISEASE. I HAVE BEEN NOTIFIED OF THESE ARRANGEMENTS.

Dominica Hurbace 5/22/14
Supervisor's Signature Date

Sally L. Hurbace
Signature of Injured or Disabled Employee Date

TO FILE A CLAIM FOR COMPENSATION, SEE REVERSE SIDE, SECTION ENTITLED, CLAIM FOR COMPENSATION (FORM C-4).

For assistance with Workers' Compensation Issues you may contact the Office of the Governor Consumer Health Assistance Toll Free 1-888-333-1597 Web site: <http://govcha.state.nv.us> E-mail: cha@govcha.state.nv.us

Employee should sign, date and retain a copy.
Original to Employer, Copy to Employee



O.E./Risk Management – Workers' Compensation

1 East First Street – P.O. Box 1900

Reno, Nevada 89505

(775) 326-6637 Fax (775) 321-8324

SUPERVISOR'S REPORT OF ACCIDENT INVESTIGATION

(To be completed by the employee(s) immediate supervisor and submitted within 5 business days after accident)

1. NAME OF INJURED PERSON: Yfurbide, Jody
2. ACCIDENT LOCATION & ADDRESS: 5195 Spectrum Blvd Reno, NV
3. DEPARTMENT/DIVISION: Reno Emergency Communications
4. OCCUPATION WHEN INJURED: Public Safety Dispatcher
5. DESCRIPTION OF ACCIDENT:
N/A
6. NATURE AND EXTENT OF INJURY:
pain in elbow up through shoulder + hand. Several fingers
going numb as well

<input type="checkbox"/> BITE	<input type="checkbox"/> CONTRACTED	<input type="checkbox"/> OUT	<input type="checkbox"/> FALL-FELL	<input type="checkbox"/> FALL-TO OBJECT	<input type="checkbox"/> FOREIGN OBJECT	<input checked="" type="checkbox"/> GENERAL WORK	<input type="checkbox"/> JUMP	<input type="checkbox"/> LIFT	<input type="checkbox"/> MOVING/DRIVING	<input checked="" type="checkbox"/> OVERUSE	<input type="checkbox"/> PAL	<input type="checkbox"/> PUNCTURED	<input type="checkbox"/> PUSH	<input type="checkbox"/> SLIP-FALL	<input type="checkbox"/> STEP DOWN	<input type="checkbox"/> STRUCK	<input type="checkbox"/> TWISTED	<input type="checkbox"/> UNKNOWN
<input type="checkbox"/> ANKLE	<input type="checkbox"/> ANKLE(S)	<input type="checkbox"/> BACK	<input type="checkbox"/> CHEST	<input type="checkbox"/> FOOT	<input checked="" type="checkbox"/> ELBOW(S)	<input checked="" type="checkbox"/> EYE(S)	<input type="checkbox"/> FACE	<input type="checkbox"/> FINGER(S)	<input checked="" type="checkbox"/> FOREARM	<input checked="" type="checkbox"/> HAND(S)	<input type="checkbox"/> HEAD	<input type="checkbox"/> LEG	<input checked="" type="checkbox"/> WRIST	<input type="checkbox"/> NECK	<input type="checkbox"/> RIBS	<input checked="" type="checkbox"/> SHOULDER	<input type="checkbox"/> SKIN	

7. DATE AND TIME OF ACCIDENT: 5/22/14
8. ESTIMATE OF DAYS LOST: 2 days
9. What PPE/Safety devices were in place?
N/A

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10. CONTRIBUTING CONDITIONS (refer to mechanical/environmental hazards):

N/A

11. CONTRIBUTING BEHAVIORIAL CONDITIONS (refers to violation of safe practices):

N/A

12. WHAT HAVE I DONE TO CORRECT THE SITUATION:

N/A

13. WHAT I SUGGEST TO PREVENT A SIMILAR ACCIDENT:

N/A

14. SIGNATURE OF SUPERVISOR:

Dominica Yturbe Date 5/22/14

15. COMMENTS:

16. SIGNATURE OF EMPLOYEE:

Jose P. Hinojosa

Date 5/22/14

17. EMPLOYEE COMMENTS:

18. Do investigative conclusions support report of accident? yes ___ no ___ N/A

19. WITNESS STATEMENT (place on additional pages(s) as attachment) N/A

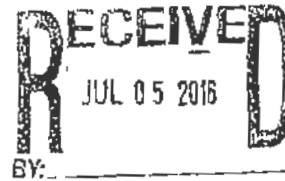
20. TIME STARTED WORK: 1700 hrs (am/pm) (day of injury)

21. NUMBER OF DAYS SCHEDULED TO WORK: 4 days

22. SCHEDULED DAYS OFF: (S) M T W Th F (S)

23. USUAL SCHEDULE: 1700 (am/pm) - 0300 (am/pm)

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July 1, 2016

Jody L Yturbe
9732 Pyramid Wy #368
Sparks, NV 89441

RE: Claim #: 14853E248257
Date of Injury: 5/22/2014
Employer: City of Reno
Body Part: cervical

Dear Ms. Yturbe:

We are enclosing a copy of the Permanent Partial Disability rating report from Katharina Welborn, D.C. Based on your permanent impairment as a result of this industrial injury, you have been awarded thirty three (33%) percent disability of the whole man as a direct result of this industrial injury to your listed body parts as described above.

Pursuant to NRS 616C.495 since prior PPDs have resulted in a total whole person impairment of 7%, you are only entitled to a 18% lump sum on this claim and the remaining 15% in installments

Based on the 33% percent of disability, you are entitled to receive all monthly installments of \$1,047.56 until you reach the age of seventy (70) for a total installment of \$311,710.46; or you are entitled to a one time lump sum payment of eighteen (18%) percent in the amount of approximately \$85,788.21 and the remaining 15% in monthly installments of \$476.16 until you reach the age of seventy (70) for a total monthly installments of \$140,717.44.

Enclosed is the Election of Method of Payment of Compensation form and the Reaffirmation/retraction of Lump Sum Request form. If you choose to accept the award, please sign, date and return the Election of Method of Payment of Compensation form. Three (3) days later, if you still choose to accept the award, please sign, date and return the Reaffirmation/Retraction of Lump Sum Request form. Both forms must have a witness to your signature.

Please note, if a response is not received in this office within 30 days from the date of this letter, it will be necessary to initiate installment payments.

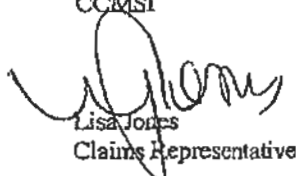
RECEIVED
JUL 15 2016
CCMSI - RENO

Your claim was closed for any further medical treatment effective 6/19/2016, the date you were rated for a permanent partial disability.

Pursuant to NRS 616C495 (2), acceptance of payment for a permanent partial disability lump sum terminates all benefits for compensation and constitutes a final settlement of all factual and legal issues in the case. By so accepting the lump sum, you waive all rights regarding the claim, including the right to appeal the closure of this case or the percentage of disability, except for Vocational Rehabilitation Services. You will have lifetime reopening rights, which are explained in the enclosed form D-13, "Injured Workers Right to Reopen a Claim".

If you disagree with this determination, you may appeal by filing the enclosed "REQUEST FOR HEARING" form within seventy (70) days of the date of this notice by contacting the Hearing Division at the address applicable to the jurisdiction.

Sincerely,
CCMSI



Lisa Jones
Claims Representative

Cc: file
City of Reno
Jason Guinasso, Esq.

RECEIVED

JUL 15 2016

CCMSI - RENO

119

10

JA143

Concentra Medical Centers
255 Glendale Ave Suite 12 Sparks, NV 89431
Phone: (775) 358-8101 Fax: (775) 358-8100

Transcription

Patient:	Yturbide, Jordy I	Service Date:	5/23/2014
Soc. Sec. #:		Injury Date:	5/22/2014
Date of Birth:	2/17/1971 Age: 43	Employer:	City of Reno INJURY
Service Location:	CMC - Reno Sparks	Dictated By:	Michael R Panicali, MD
Service ID #:	561431203	Diagnosis:	727.09 Other Synovitis And Tenosynovitis

Notes:**CHIEF COMPLAINT:**

Patient is a 43 year old female employee of City of Reno INJURY who complains about her Arm which was injured on 5/22/2014.

PATIENT STATEMENT:

Patient states "Over use - typing nonstop - answering phones."

Vital Signs: BP: 108/64 P: 60. R: 16. T: 96.9 degrees F orally. The patient weighs 188 lbs (85.5 kgs). The patients height is 5 ft. 5 in. (165.1 cm)

Allergies: No known allergies.. Current Medications:

Naproxen sodium

Unknown pills for pain Time:11:52 AM by: K L.

HISTORY OF PRESENT ILLNESS:

She presents with increasing pain in the right elbow area which keeps her from using the RUE very much or sleeping thru the night. This has been increasing since her shift changed. She is a fire/police dispatcher and has worked for the COR for 19 years. She is righthanded. She has had several industrial claims for the arms and has had bilateral endoscopic carpal tunnel releases in 2008 by DR. Huene. She subsequently had ongoing discomfort and an EMG by Dr. Berry revealed a problem in the right elbow and Dr. Huene performed an injection there which made the pain go away. It has now returned. She has no hx of RA or DM. She has tried icing, which only helps temporarily. She presented at Specialty Health for reopening of the right elbow claim and was told to come here for this. She would like to be referred to Dr. Bob Berry for FU

SOCIAL HISTORY: Noncontributory based upon review of comprehensive questionnaire.

FAMILY HISTORY: Noncontributory based upon review of comprehensive questionnaire

PAST MEDICAL HISTORY:

PMH: Noncontributory.

RECEIVED

By SHMCO at 4:57 pm, Jun 05, 2014

ROS: GENERAL: No chills, fever, sick feeling, night sweats, weight loss/gain or

Dictated By: Michael R Panicali, MD

Dictated On: 5/23/2014 12:50 PM

Last Update: 05/23/2014 12:50:01
Transcription Page 1 of 3

Last Updated By: panicali
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Transcription Printed Date: 05/04/2014
Print Revision Date: 11/17/2009

11

121

Concentra Medical Centers
 105 Glendon Ave Suite 12 Sparks, NV 89431
 (Phone) (775) 356-4111 Fax (775) 356-4112

Transcription

Patient:	Yturbe, Jody L.	Service Date:	5/23/2014
Soc. Sec. #:		Injury Date:	5/22/2014
Date of Birth:	2/17/1971 Age: 43	Employer:	City of Reno INJURY
Service Location:	CMC - Reno Sparks	Dictated By:	Michael R Panicali, MD
Service ID #:	561431203	Diagnosis:	727.09 Other Synovitis And Tenosynovitis

Notes:

Insomnia

SKIN: No rash, growths, cancer or lacerations

HEENT: No blurred vision, nosebleed, ear drainage, decreased vision, headache, light sensitivity, eye pain, sinus pain, eye drainage or hearing loss
 sore throat, ringing in ears, voice changes or double vision

CARDIORESPIRATORY: No cough, SOB, chest pain, coughing up blood, pleurisy, leg swelling, high BP, TB exposure, difficulty sleeping while lying flat, palpitations, wheezing, fluid retention or heart disease

GASTROINTESTINAL: No abdominal pain, indigestion, nausea, constipation, vomiting blood, recurrent vomiting, decreased appetite, black bowel movement, diarrhea, problems swallowing, rectal bleeding, heartburn or ulcer

ENDOCRINE: No excessive thirst, excessive urination, intolerance of heat or cold or diabetes

GENTOURINARY: No burning on urination, hernias, frequent urination, drainage from genitals, pain in genital region, blood in urine or problems with fertility

HEMATOLOGIC: No anemia, easy bruising, excessive bleeding or unexplained skin discoloration

PERIPHERAL VASCULAR: No cramps with leg exercise, blood clots or varicose veins or cold feet or hands

MUSCULOSKELETAL: No arthritis, back pain, gout, night pain, joint pain, joint stiffness, fractures or limited motion

NEUROLOGIC/PSYCHIATRIC: No uncoordination, loss of body strength, memory loss, numbness, fainting, lightheadedness, dizziness, loss of consciousness, seizures, tingling, tremor, mood swings, depression or stress

PE:

MUSCULOSKELETAL:

Right Elbow:

- Patient is in moderate distress
- Gross examination of the elbow demonstrates no abnormalities.
- ROM of the elbow is normal in all planes with pain
- Grip is decreased on the right. Pt. is right hand dominant
- Normal distal pulses with good capillary refill.
- Sensory testing reveals no deficit
- There is positive pain to palpate the olecranon and lateral humeral condyles on the right
- Normal shoulder ROM noted in all planes without pain
- Wrist ROM is normal to all planes with pain
- Opposite side unremarkable

Dictated By: Michael R Panicali, MD

Dictated On: 5/23/2014 12:50 PM

Last Update: 05/23/2014 12:50:01
 Transcription Page 2 of 3

Last Updated By: panicali
 Transcription Printed Date: 06/04/2014
 © 1995-2014 Concentra Operating Corporation All Rights Reserved Form Revision Date: 11/17/2009

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122

Concentra Medical Centers
250 Glendale Ave Suite 12 Sparks, NV 89401
Phone: (775) 431-1161 Fax: (775) 431-1101

Transcription

Patient:	Yurbide, Jody L.	Service Date:	5/23/2014
Soc. Sec. #:		Injury Date:	5/22/2014
Date of Birth:	2/17/1971 Age: 43	Employer:	City of Reno INJURY
Service Location:	CMC - Reno Sparks	Dictated By:	Michael R Panicali, MD
Service ID #:	561431203	Diagnosis:	727.09 Other Synovitis And Tenosynovitis

Notes:

Right Wrist:

- Patient is in moderate distress
- Gross exam of the wrist demonstrates no deformity, edema, redness, ecchymosis, or other abnormality.
- Wrist ROM is normal to all planes with pain
- Grip is decreased on the right. Pt is right hand dominant
- Normal distal pulses with good capillary refill.
- Sensory testing demonstrates no deficit
- Palpation of the wrist is positive for tenderness anteriorly
- Tinel's positive at the wrist on the right
- Opposite side is unremarkable.

ASSESSMENT:

Recurrent right elbow tenosynovitis

S/P bilateral arthroscopic carpal tunnel releases

PLAN:

Rx written for ketoprofen gel 10% with capsaicin 0.0375% (30gm) sig: use of affected areas bid and Celebrex 200mg (#20) sig: 1 bid x3d, then 1 qd (instead of ASA, naproxen or ibuprofen)

ACTIVITY STATUS:

Modified activity

- Off work rest of shift with limited activity as follows:
limited use right hand until 5.27.14 when she can return to full duty.

I would recommend reopening of the right elbow tenosynovitis claim with subsequent referral to Dr. Bob Berry with permission to do RUE EMG/NCS if he feels this is necessary.

Diagnosis, treatment plan and expectations were discussed with the patient.

Dictated By: Michael R Panicali, MD

Dictated On: 5/23/2014 12:50 PM

Last Update: 05/23/2014 12:50:01
Transcription Page 3 of 3

Last Updated By: panicali
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Transcription Printed Date: 06/04/2014
Form Revision Date: 1/1

123

JA147

Fax Server

6/4/2014 6:07:01 PM PAGE 2/005

Fax Server

Claim Number: 14853E248237

Concentra Medical Centers

255 Glendale Ave Suite 12 SPARKS, NV 89431
Phone: (775) 356-0181 Fax: (775) 332-8280

Service Date: 05/23/2014

Case Date: 05/22/2014

Physician Work Activity Status Report

Patient: Yurube, Jody L.

SSN:

Address: 9132 Pyramid Way #388
SPARKS, NV 89441

Home: (775) 830-5707

Work: (775) 334-2121 Ext.

Employer Location: City of Reno INJURY

Address: PO Box 1900, ATTN Rene F Role: Primary Contact

Reno, NV 895051900

Auth. by: Dominika Yurodo

Contact: Cara Bowling

Phone: (775) 334-2222 Ext.:

Fax: (775) 334-2045

This Visit: Time In: 11:00 am

Time Out: 12:33 pm

Recordable: N/A

Visit Type: New

Treating Provider: Michael R. Panicali, MD

Medications:

Diagnosis: 727.09 Other Synovitis And Tenosynovitis
354.0 Carpal Tunnel Syndrome

☐ Dispensed Prescription Medication to Patient

☐ Dispensed Over-The-Counter Prescription

☒ Written Prescription given to Patient

Patient Status:

Modified Activity - Transferred Care

Restricted Activity (In effect until next physician visit):

Return to work on 05/24/2014 with the following restrictions

Off work rest of shift with limited activity as follows:

Remarks: Limited use of right arm til 5/27 when can return to regular duty.

Employer Notice: The prescribed activity recommendations are suggested guidelines to assist in the patient's treatment and rehabilitation. Your employer has been informed that the activity prescription is expected to be followed at work and away from work.

Anticipated Date of Maximum Medical Improvement:

Actual Date of Maximum Medical Improvement:

Next Visit(s):

Patient Notice: It is essential to your recovery that you keep your scheduled appointments, but should you need to reschedule or cancel your appointment, please contact the clinic. Thank you for your cooperation.

RECEIVED

By SHMCO at 4:57 pm, Jun 05, 2014

124

Concentra Medical Centers
 455 S. Carson Ave. Suite 112, Sparks, NV 89410
 Phone: (775) 330-3161 Fax: (775) 330-4600

Service Date: 05/23/2014

Patient Referral

Patient Information:

Patient:	Yurkide, Jodie L.	Home Phone:	(775) 830-5707
SSN:	-----	Work Phone:	(775) 834-2121 Ext:
Address:	9732 Pyramid Way #358	DOI:	05/22/2014
	SPARKS, NV 89411	DOB:	02/17/1971

Provider Referral Information:

Referral Status: Pending
 Evaluation: Referral for Treatment
 Priority: Urgent

REFERRAL PRESCRIPTION

Recommended Provider:

Provider Type: Specialist
 Specialty: Physiatrist

Referral Purpose:

Referral Focus: Hemisphere
 Upper Arm: Right

Diagnosis:

Code	Description
727.09	Other Synovitis And Tenosynovitis

Additional Notes:

Denial claim is closed. 5-27-14

Date: 5/23/2014

Referring Provider: Michael Panican, MD

*** Provider Signature on File ***

Received
 MAY 23 2014
 CCMSI-Reno

****NOTE TO THE ABOVE FACILITY OR PHYSICIAN:**

Please send a copy of all reports on this patient to the payer and the center.

15

125



CCMSI

TO Jody Yturbe
9732 Pyramid Way #368
Sparks, NV 89441

Re: Claim No: 14853E248257
Employer: City of Reno
Insurer: City of Reno
IPA: CCMSI
Date of Injury: 06/22/2014
Date of Notice: 06/13/2014
Accepted Body Part: Right Wrist/Elbow Strain
Denied Body Part:

NOTICE OF CLAIM ACCEPTANCE
(Pursuant to NRS 616C.065)

Dear Ms. Yturbe:

The above referenced claim has been accepted on your behalf by CCMSI for the following body parts: right wrist/elbow strain. Please check the information contained in this notice. If you find any of the information to be incorrect, please promptly notify this office.

If you disagree with the above determination you do have the right to appeal by requesting a hearing before a hearing officer by completing the bottom portion of this notice and sending it to the State of Nevada, Department of Administration, Hearings Division. Your appeal must be filed within seventy (70) days after the date on which the notice of this determination was mailed.

Department of Administration
Hearing Division
1050 E. William Street, Ste. 400
Carson City, NV 89710
(775) 687-5966

OR Department of Administration
Hearings Division
2200 S. Rancho Drive, Suite 210
Las Vegas, NV 89102
(702) 488-2525

Very truly yours,

Lisa Jones
Lisa Jones
Claims Representative

REASON FOR APPEAL:

Signature

Date

Retain a copy for your records.
Cc: File, City of Reno, Specialty Health

D-30 (rev. 8/10)

CANNON COCHRAN MANAGEMENT SERVICES, INC. - P.O. Box 20068 - Reno, NV 89515-0068
(775) 324-3301 Fax: (775) 324-9893 www.ccmsi.com

16

12/10

JA150

STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
HEARINGS DIVISION

RE
OCT 15 2014

McDonald Carano Wilson LLP

In the matter of the Contested
Industrial Insurance Claim of:

Hearing Number: 49607-SA
Claim Number: 14853E248257

JODY YTURBIDE
9732 PYRAMID WAY #368
SPARKS, NV 89441

CITY OF RENO
ATTN CARA BOWLING
PO BOX 1900
RENO, NV 89505

BEFORE THE HEARING OFFICER

The Claimant's request for Hearing was filed on August 14, 2014 and a Hearing was scheduled for September 9, 2014 and continued to October 8, 2014. The Hearing was held on October 8, 2014 in accordance with Chapters 616 and 617 of the Nevada Revised Statutes.

The Claimant was present. The Employer/Insurer was represented by Connie Wharton by telephone conference call.

ISSUE

The Claimant appealed from the Insurer's determination dated June 13, 2014. The issue before the Hearing Officer is claim acceptance for the right wrist/elbow strain.

DECISION AND ORDER

The determination of the Insurer is hereby **AFFIRMED AS MODIFIED HEREIN.**

Having reviewed the submitted evidence and in consideration of Dr. Reyher's medical opinion with regard to the causation of the Claimant's current cervical conditions, the Hearing Officer finds claim acceptance is proper; however, the Hearing Officer further finds the Claimant's cervical conditions, as provided for by Dr. Reyher, are compensable under this claim and the Insurer's determination is modified accordingly.

17

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In the Matter of the Contested
Industrial Insurance Claim of
Hearing Number:
Page 2

JODY YTURBIDE
49607-SA

APPEAL RIGHTS

Pursuant to NRS 616C.345(1), should any party desire to appeal this final Decision and Order of the Hearing Officer, a request for appeal must be filed with the Appeals Officer within thirty (30) days of the date of the decision by the Hearing Officer.

IT IS SO ORDERED this 14th day of October, 2014.


Sondra L Amodel, Hearing Officer

(18)

128

CERTIFICATE OF MAILING

The undersigned, an employee of the State of Nevada, Department of Administration, Hearings Division, does hereby certify that on the date shown below, a true and correct copy of the foregoing DECISION AND ORDER was deposited into the State of Nevada Interdepartmental mail system. **OR** with the State of Nevada mail system for mailing via United States Postal Service, **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 1050 E. Williams Street, Suite 400, Carson City, Nevada, to the following:


JODY YTURBIDE
9732 PYRAMID WAY #368
SPARKS, NV 89441

CITY OF RENO
ATTN CARA BOWLING
PO BOX 1900
RENO, NV 89505

CCMSI
PO BOX 20068
RENO, NV 89515-0068

TIMOTHY ROWE, ESQ
PO BOX 2670
RENO NV 89505

Dated this 14th day of October, 2014.



Karen Dyer
Employee of the State of Nevada

19

129



CCMSI

TO: Jody Yturbide
9732 Pyramid Way #368
Sparks, NV 89441

Re: Claim No: 14853E248257
Employer: City of Reno
Insurer: City of Reno
TPA: CCMSI
Date of Injury: 5/22/2014
Date of Notice: 2/3/2015
Accepted Body Part: right wrist strain, right elbow strain,
Cervical strain

UPDATED NOTICE OF CLAIM ACCEPTANCE
(Pursuant to NRS 816C.065)

Dear Ms. Yturbide:

The above referenced claim has been accepted on your behalf by CCMSI. Please check the information contained in this notice. If you find any of the information to be incorrect, please promptly notify this office.

If you disagree with the above determination you do have the right to appeal by requesting a hearing before a hearing officer by completing the bottom portion of this notice and sending it to the State of Nevada, Department of Administration, Hearings Division. Your appeal must be filed within seventy (70) days after the date on which the notice of this determination was mailed.

Department of Administration
Hearing Division
1050 E. William Street, Ste. 400
Carson City, NV 89710
(775) 687-5966

OR Department of Administration
Hearings Division
2200 S. Rancho Drive, Suite 210
Las Vegas, NV 89102
(702) 486-2525

Very truly yours,


Lisa Jones
Claim Representative

REASON FOR APPEAL:

Signature

Date

Retain a copy for your records

Cc: File, COR, SHC, Dr. Reythor Jason Guinasso, Esq. Tim Rowe, Esq.
D-30 (rev. 5/10)

CANNON COCHRAN MANAGEMENT SERVICES, INC. - P.O. Box 20068 - Reno, NV 89515-0068
(775) 324-3301 Fax: (775) 324-9893 www.ccmsi.com

13D

30

JA154

07/23/2015 10:54

17 9715

GENEXREND

PAGE 01/02

14853E248257



July 22, 2015

Sierra Neurosurgery Group
Attn: Dr. Fleming
Fax# 775-325-2346

Re: Claimant: Jody Yturbe
DOI: 5/22/2014
Claim No: 14853E248257
Employer: City of Reno

Dear Dr. Fleming:

I am writing in regards to Ms. Yturbe, per your last medical report dated July 6, 2015, you state Ms. Yturbe is released with restrictions of unable to work overtime, she cannot cradle a hand set except in an emergency situation, however can use multiple headsets without restriction. Patient is restricted in her first week of dispatcher duties to work no more than 6 hours in her 10 hour shift. Patient in her second week of dispatcher duties can increase to working no more than 8 hours in her 10 hour shift (increase to be assessed by patient and employer, as tolerated). In the patients third week of returning to her dispatch duties, if tolerated, patient is able to return to her normal four-ten hours a week work schedule with the continued restrictions of no overtime, patient cannot cradle a handset except in an emergency situation, however is able to use multiple headsets with no restrictions.

Please advise if the restrictions of no overtime, and unable to cradle a handset except in an emergency situation are permanent restrictions?

Yes Yes No

If no, is Ms. Yturbe released to full duty?

Yes No Yes

Doctor's signature [Signature]

Date 7/23/15

If you have questions or wish to discuss this case further, please contact me at the number noted below at extension 1029.

Sincerely,
Lisa Jones
Claiming Representative
CCMSI Reno, Nevada

cc: SLC, City of Reno

*Recommend
neurology consult.
Needs FCE*

Received

JUL 23 2015

CCMSI-Reno

CANNON COCHRAN MANAGEMENT SERVICES, INC. - P.O. Box 20068 - Reno, NV 89515-0068
(775) 324-3301 Fax (775) 324-3893 www.ccmad.com

131

21

JA155

Jul. 27. 2015 10:12AM

14853 E240257 No. 2746



**SIERRA
NEUROSURGERY
GROUP**

Neurosurgeons
J. David Whitely, MD
Joseph A. Whitely, MD
Dennis P. Weiss, MD
Lili Bekdash, MD, PhD
Deyan Khatke, MD
Jay M. Morgan, MD
David C. Leppin, MD
Hilari L. Fleming, MD, PhD
Christopher P. Demers, MD
John S. Davis, MD
Michael S. Schwartz, MD

775.323.2580, 888.323.2580

Interventional Pain Specialists
Kevin Lutzke, MD
Jacob L. Bickel, MD
Alicia Velazquez-Rodriguez, PhD-C
Nancy L. Smith, PhD-C
Kathleen M. Ward, APRN
Jennifer Smith, APRN
Greg Garcia, PhD-C
Curt E. Johnson, PhD-C
Christina Cameron-Peterson, APRN
Wren B. Bickel, PhD, APRN
Jennifer Smith, APRN

775.323.2580

5590 Kietzke Lane
Reno, NV 89511

75 Pyramid Way, Suite 2007
Reno, NV 89509

844 West Mc Lane, Carson
City, NV, 89708
All patients are welcome
English / Spanish / Vietnamese
Interpretation / Etc
Czech Republic / Slovakia
www.sierraneurosurgery.com

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Patient:	Jody Yturbide		
DOB:	Feb 17, 1971	Address:	8732 Pyramid Way #388
Sex:	F		Sparks, NV 89441
MRN:	K155242	Phone:	
Seen By:	Hilari Fleming MD	Location:	Sierra Neurosurgery Grp Kietzke
Visit Date/Time:	Jul 23, 2015 10:00 AM	Address:	5590 Kietzke Lane
Referred By:	Catherine McNamara APN,		Reno, NV 89511-3019
		Phone:	(775) 323-2080
		Fax:	(775) 325-2348

Chief Complaint:

R arm tingling

History of Present Illness:

R arm tingling: Jodi returns to clinic today because she is not tolerating her work. We had given her a graduated return to work schedule. We started her in six hours a day with a plan to increase her schedule every couple of weeks. She tells me she is barely tolerating six hours a day. She gets pain in her neck, along her shoulder blade, and tingling and numbness down her right arm and involving her entire right hand. This seems to be aggravated by reaching her arm forward. She gets some relief by stretching her shoulder backwards. She also finds that driving increases her symptoms. She is most comfortable reclining. She attempted to use double headsets at work and found that it did not work out. Despite raising her computer screen she still find herself looking down a lot which aggravates her symptoms.

Medical History:

CARDIOVASCULAR: Peripheral Vascular Disease

Surgery/Hospitalization History:

Received

JUL 27 2015

CCMS-Reno

Encounter Note Page # 1 - Yturbide, Jody (Feb 17, 1971)

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JA156

c section surgery from Renown on 01-01-2006
c section surgery from St. Mary's on 06-14-2006
gallbladder surgery from - on 02-02-2001
carpel tunnel both wrists surgery from Surgery center on 02-02-2001
gastric bypass surgery from Surgery center on 02-02-2007
body lift surgery from Surgery center on 02-02-2009

Family History:

Family History: Cancer (Other, Other), Diabetes (Other, Other)

Pt did not note family member on paperwork

Social History:

Smoking Status: Former smoker (3)

Alcohol Status: Currently drinks

Drug Status: Does not take drugs

Injury Type: Work, on 5/22/2014

Injury Details: fingers of right hand started getting numb and tingled all the way up my arm into shoulder. Burning and pain. Now worse. have daily headaches-drop things, writing, typing, tilting head turning fast all bother me

Allergies:

ZINC

Augmentin

Hydrocodone (Severe)

Review of Systems:**Vitals and Body measurements:**

Ht: 5'4"

Wt: 178.0 lbs

BMI: 30.6

Pulse: 65

RR: 12

BP: 107/74

Assessment:

CERVICAL SPONDYLOSIS WITH MYELOPATHY (721.1)

Received

JUL 27 2015

CCMS/Reno

Impression / Plan:

Assessment: Jodi is finding it impossible at this time to return to work full time. The accommodations we suggested are not giving her adequate relief of her symptoms. A repeat MRI imaging did not give a cause for her ongoing arm symptoms. At this point I think we need to do two things; first have a neurology evaluation with EMGs and nerve conduction velocities performed to see if we can isolate why she is getting arm and hand tingling and numbness. Second I think she needs a functional capacity evaluation to help determine if her work environment can be modified in a way that will allow her to perform her duties. Today's visit was 25 minutes of counseling and consultation.

Jul. 27. 2015 10:12AM

No. 2746

Electronically signed by: Fleming, Hilari MD @ 12:00 PM on 7/23/2015:

Received

JUL 27 2015

CCMSI-Reno

Encounter Note Page # 3 - Yturbe, Jody (Feb 17, 1971)

134

24

JA158



Neurosurgeon
 I. David Wilson, MD
 Joseph R. Wilson, MD
 Dennis F. Wilson, MD
 L. M. Wilson, MD, PhD
 David C. Wilson, MD
 David C. Wilson, MD
 David C. Wilson, MD
 David C. Wilson, MD
 David C. Wilson, MD
 David C. Wilson, MD

775.325.2000 FAX 775.325.2000

Interneural and Pain Services
 Kevin L. Lutz, MD
 Jacob L. Lutz, MD
 Andrew T. Lutz, MD
 Andrew T. Lutz, MD
 Andrew T. Lutz, MD
 Andrew T. Lutz, MD
 Andrew T. Lutz, MD
 Andrew T. Lutz, MD
 Andrew T. Lutz, MD
 Andrew T. Lutz, MD

775.325.6216

5590 Kietake Loop
 Reno, Nevada 89511

75 Pringle Way, Suite 2007
 Reno NV 89501

844 West Hyatt Lane, Carson
 City, NV, 89706

Additional locations and
 services include:
 Wholesome Food
 Wholesale Food
 Wholesale Food

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PHYSICAL LIMITATIONS / WORK RESTRICTIONS REPORT

PATIENT NAME: Yturbe, Jody

THIRD PARTY ADMINISTRATOR: Context Primary Insurance Group No

PROVIDER: Dr. Hilari Fleming

PATIENT STATUS:

Patient can work 6 hours in a 10 hour shift, until FCE and neuro eval is completed.

SIGNATURE:

DATE: 23-Jul-2015

Hilari Fleming

Received

JUL 28 2015

CCMSI-Reno

Yturbe, Jody (Feb 17, 1971)

135

JA159



**SIERRA
NEUROSURGERY
GROUP**

30 Years of Excellence

Neurosurgeons:
J. Dawn Waters, MD
Joseph R. Walker, MD
Dante F. Vacca, MD
Lali Seizova, MD, PhD
Deven Khosla, MD
Jay K. Morgan, MD
David C. Lippa, MD
Hilari L. Fleming, MD, PhD
Christopher P. Demers, MD
John S. Davis, MD
Michael S. Edwards, MD

☎ 775.323.2080, 888.323.2080

Interventional Pain Specialist
Kevin Laika, MD
Jacob L. Blake, MD
Ashlie Tehalra-Smith, FNP-C
Amber Sands, PA-C
Jennifer Winard, APRN
Jennifer Keller, APRN
Greg Grawos, PA-C
Curt Erickson, PA-C
Christine Canner-Peterson, APRN
Wren Ballard, MSN, APRN
Jennifer Sanders, APRN

☎ 775.323.8216

5590 Kietzke Lane
Reno, Nevada 89511

35 Pringle Way, Suite 1007
Reno NV 89502

845 West Myo Lane, Carson
City, NV, 89706

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14853E248257

Expert care for spine and brain

Patient:	Jody Yturbide		
DOB:	Feb 17, 1971	Address:	9732 Pyramid Way Apt 368
Sex:	F		Sparks, NV 89441
MRN:	K165242	Phone:	(775) 830-5707
Seen By:	Hilari Fleming MD	Location:	Sierra Neurosurgery Grp Kietzke
Visit Date/Time:	Apr 22, 2016 09:30 AM	Address:	5590 Kietzke Lane
Referred By:	Catherine McNamara APN,		Reno, NV 89511-3019
		Phone:	(775) 323-2080
		Fax:	(775) 325-2346

Chief Complaint:

Follow-up cervical radiculopathy

History of Present Illness:

Follow-up cervical radiculopathy: Jody returns today to follow up on her cervical radiculopathy. She has had both anterior and posterior surgeries. She has been to physical therapy since I last saw her. She finds that some of the exercises they want her to do cause significant pain, particularly along her shoulder blade. Overall however she is tolerating the PT. She is getting some new sensations in the thumb that had been numb. She is doing more activities at home. At this point she is interested in proceeding with vocational rehab.

Medical History:

CARDIOVASCULAR: Peripheral Vascular Disease

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Surgery/Hospitalization History:

c section surgery from Renown on 01-01-2006 ()
c section surgery from St. Mary's on 05-14-2006 ()
gallbladder surgery from - on 02-02-2001 ()
carpel tunnel both wrists surgery from Surgery center on 02-02-2001 ()
gastric bypass surgery from Surgery center on 02-02-2007 ()
body lift surgery from Surgery center on 02-02-2009 ()

Family History:

Family History: Cancer (Other, Other), Diabetes (Other, Other)
Notes: Pt did not note family member on paperwork

Social History:

Smoking Status: Former smoker (3)
Alcohol Status: Currently drinks
Drug Status: Does not take drugs
Injury Type: Work, on 5/22/2014
Injury Details: fingers of right hand started getting numb and itngled all the way up my arm into shoulder. Burning and pain. Now worse. have daily headaches-drop things, writing, typing, tilting head turning fast all bother me

Allergies:

ZINC
Augmentin
Hydrocodone (Severe)

Vitals and Body measurements:

Ht: 5'4"	Wt: 178.0 lbs	BMI: 30.6	Pulse: 69
RR: 12	BP: 110/70	Pain: 5	

Physical Examinations:

Neurological -

Gait - Normal (normal gait and station)

Deep Tendon Reflexes - Normal (2/4 triceps), Left Brachioradialis (3/4 - brisk), Right Brachioradialis (2/4), Right Biceps (1/4 - trace), Left Biceps (2/4)

MUSCLE STRENGTH ARMS - Normal (Distal Upper Extremities, Proximal Upper Extremities)

Skin/Hair -

Post op Incision - Normal (Incision clean and dry and healing well)

Assessment:

Active:

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CERVICAL SPONDYLOSIS WITH MYELOPATHY (ICD9:721.1)

Radiculopathy, cervical region (ICD9:723.4, ICD10:M54.12)

Other spondylosis with radiculopathy, cervical region (ICD9:721.0, ICD10:M47.22)

Impression / Plan:

Assessment: Jody is progressing as expected. I've told her she is likely to always have some degree of pain by your shoulder blade. Because of her fusion she does have long-term risk of problems at adjacent cervical levels. We have talked about activities, and weight limitations. At this point she has reached MMI, and is ready to resume vocational rehab activities. I have told her I would like to review job she is considering. I think she cannot do a stationary desk job, she will need to move around. While she can occasionally lift weights, up to 30 pounds were slightly higher, she cannot do repetitive lifting. Again I will review potential job descriptions to assist her with her rehabilitation. I will be happy to see her back on a PRN basis.

Electronically signed by: Fleming, Hilari MD @ 10:41 AM on 4/22/2016

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14853 E248257



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PHYSICAL LIMITATIONS / WORK RESTRICTIONS REPORT

PATIENT NAME: Ylurbida, Jody
 THIRD PARTY ADMINISTRATOR:
 SURGERY:
 PROVIDER: Dr. Hilari Fleming
 TREATMENT PLAN
 PATIENT STATUS:

PHYSICAL RESTRICTIONS
 BENDING AT WAIST:
 WALKING:
 LIFTING:
 LIFTING OVERHEAD:
 CARRYING:
 PUSHING:
 PULLING:

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OTHER: Patient is MMI & SNR Resume Voc rehab with previous limits

Hilari Fleming MD

SIGNATURE:

DATE: 22-Apr-2016

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May 16, 2016

Jody Yturbide
5732 Pyramid Way #368
Sparks, NV 89441

Re: Claim No.: 14853E248257
D.O.I.: 05/22/2014
Employer: City of Reno
Body part: Neck-Cervical

Dear Ms. Yturbide:

Based on recent medical reporting from your treating physician, you have reached maximum medical improvement for your injuries. As it appears you may have a permanent impairment, you have been scheduled for a Permanent Partial Disability evaluation with Dr. Wellborn on 6/9/2016 at 3:00 p.m. Please check in at least 15 minutes early to your appointment. The physician's office is located at Sierra Chiropractic at 3670 Grant Dr., Suite 101, Reno, NV 89509. Please call the physician's office at (877) 796-8601 to confirm this appointment.

If your injury involves your back or a lower extremity (i.e. knee, ankle, leg), please wear comfortable clothing and bring gym shorts or cut offs for your evaluation.

One of the necessary factors in computing a monetary award is the injured worker's age. Please bring a copy of your driver's license, birth certificate, or other official record that documents your exact age with you to the evaluation, or send a copy to CCMSI at the address below.

You are asked to hand carry any diagnostic films to this appointment, including, but not limited to ALL MRI films taken for your injury. If you do not bring films to the evaluation the rating physician may not perform the evaluation.

As of the date of your scheduled evaluation, whether or not you are present, your claim will close for all benefits, except the right to request reopening and any ongoing rehabilitation programs.

Also, as of the date of this letter, CCMSI will not authorize payment of any further medical treatment. However, payments will be honored for any treatments and/or prescriptions authorized prior to the date of this letter up through the date of this evaluation.

Cannon Cochran Management Services, Inc.
PO Box 20058 • Reno, NV 89515
866-601-6165 • 775-324-3301 • Fax: 775-324-9893 • www.ccmsi.com

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JA164



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Page 2
Re: Jody Yturbide
May 16, 2016

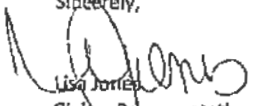
It is very important that you keep this appointment and cooperate fully with the physician. NRS 616C.140 (5) states: "If the employee refuses to submit to an examination ordered or requested pursuant to subsection 1 or 2 or obstructs the examination, his right to compensation is suspended until the examination has taken place, and no compensation is payable during or for the period of suspension."

If you are a no call / no show for this appointment, or if you fail to cancel at least 24 hours prior to the examination, you will be responsible for any associated charges (NRS 616C.230).

If you disagree with this determination, you have the right to request a hearing by completing the bottom portion of the enclosed Request for Hearing form, and sending it to the State of Nevada, Department of Administration, Hearings Division, Carson City address, within seventy (70) days from the date of this letter.

If you have questions regarding this letter, you may contact me at (775) 324-9891.

Sincerely,


Lisa Jones
Claims Representative
CCMSI - Reno, Nevada

cc: file
City of Reno
Dr. Welborn
Jason Guinasso, Esq.

Cannon Cochran Management Services, Inc.
PO Box 20068 • Reno, NV 89515
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REQUEST FOR HEARING - CONTESTED CLAIM

(Pursuant to NAC 616C.274)

REPLY TO:

Department of Administration
Hearings Division
1050 E. William Street, Ste. 400
Carson City, NV 89701
(775) 687-8440

OR

Department of Administration
Hearings Division
2200 S. Rancho Drive, Suite 210
Las Vegas, NV 89102
(702) 486-2525

Employee Information	
Employee's Name and Address Jody Ylurbide 9732 Pyramid Wy #368 Sparks, NV 89441	
Employee's Telephone Number 775-830-6707	Claim No. 14853E246257 Date of Injury 05/22/2014
Insurer Information	
Insurer's Name and Address	
Insurer's Telephone Number	

Employer Information	
Employer's Name and Address CITY OF RENO 1 EAST FIRST STREET, 8TH FLOOR RENO, NV 89505	
Employer's Telephone Number 775-328-6637	
Third-Party Administrator Information	
Third-Party Administrator's Name and Address CCMSI PO Box 20068 Reno, NV 89515	
Third-Party Administrator's Telephone Number 775-324-3301	

Do Not Complete or Mail This Form Unless You Disagree With the Insurer's Determination.

YOU MUST INCLUDE A COPY OF THE DETERMINATION LETTER OR A HEARING WILL NOT BE SCHEDULED PURSUANT TO NRS 616C.315.

Briefly explain the basis for this appeal:

The Injured Employee

This request for hearing is filed by, or on behalf of: The Employer

and is dated this _____ day of _____, 20____

Signature of Injured Employee/Employer

Injured Employee's/Employer's Rep. (Advisor)

D-12a (Rev. 12/07)

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JA166

Jody Yturbide

Katharina C. Welborn, DC
404 Shannon Way
Roseville, CA 95678
Ph: (530) 401-6512
Fax: (916) 285-9355

SCANNED

Date: June 19, 2016

Company: CCMSI

Attention: Lisa Jones

Permanent Partial Disability Rating

Claimant: Jody Yturbide
Claim #: 14853E248257
DOI: 05/22/14
Employer: City of Reno
Evaluation Date: 06/09/16

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Body Part(s): Cervical spine

The following permanent impairment evaluation was performed according to the methodologies and criteria of the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, 6th edition, Second Printing February 2002, (herein referred to as "Guides").

Identity was confirmed with Nevada Driver License #0900930905.

HISTORY and RECORDS REVIEW:

On 5/22/14 while working as a public safety dispatcher for the City of Reno, Jody Yturbide reported the onset of severe pain in her right fingers, forearm, elbow, and her shoulder. Her job entailed non-stop typing and answering phones.

On 5/23/14, Ms. Yturbide went to Concentra Medical Center where Michael Panicari, MD examined her for right arm pain. The assessment was recurrent right elbow tenosynovitis and status post bilateral arthroscopic carpal tunnel release. Dr. Panicari prescribed ketoprofen gel and Celebrex. Ms. Yturbide was released to light-duty work with limited use of her right hand.

On 5/27/14, Ms. Yturbide went to Specialty Health where Scott Hall, MD examined her for complaints of right wrist, fingers, elbow and shoulder pain. Ms.

Jody Yturbide

Yturbide was taken off work for two days to let her symptoms calm down. She was given a trial of Lyrica.

On 6/9/14, Ms. Yturbide went to Sierra Regional Spine Institute for a Pain Management Evaluation. John Reyher, DO examined the claimant. Past treatments included bilateral carpal tunnel release 5-6 years prior, chiropractic treatment that was not helpful, physical therapy, and bilateral epicondylar injections. Electrodiagnostic and nerve conduction studies of the claimant's bilateral upper extremities showed mild sensory median nerve slowing across the carpal tunnel and no evidence of cervical radiculopathy or brachial plexopathy. The assessment was chronic right upper extremity neuropathic pain secondary to an industrial injury. History and physical were consistent with mild right carpal tunnel syndrome, possible subclinical cervical radiculopathy, status post gastric bypass surgery, and bilateral right greater than left lateral epicondylitis. Ms. Yturbide was advised to continue physical therapy. Dr. Reyher requested cervical radiographs.

On 6/23/14, Dr. Hall noted that the claimant had been to a chiropractor the week prior and had no improvement. Ms. Yturbide had severe right arm pain and tingling. A trial of Medrol was prescribed and the claimant was transferred to physiatry.

On 6/26/14, right shoulder radiographs were taken at Reno Diagnostic Centers and read as normal. Cervical spine radiographs showed spondylosis that was most pronounced at C5-6 and to a lesser extent at C6-7. No instability with flexion/extension views was noted.

On 7/7/14, Dr. Reyher ordered a cervical MRI study and prescribed amitriptyline. Ms. Yturbide was placed on light-duty work with no lifting more than 10 pounds.

On 7/23/14, Ms. Yturbide underwent a cervical MRI study without contrast at Reno Diagnostic Centers that showed apparent foreshortening of the lateral masses that resulted in an element of congenital spinal canal narrowing with superimposed degenerative changes that caused severe canal stenosis at C5-6 and moderate to severe canal stenosis at C6-7 without abnormal signal intensity in the cord to suggest cord edema or myelomalacia at the time.

On 7/29/14, Dr. Reyher reviewed the MRI study. He requested a C7-T1 epidural steroid injection for the claimant. Ms. Yturbide remained on light-duty work.

On 9/24/14, the assessment was chronic cervicalgia and right upper extremity pain. Dr. Reyher recommended ongoing physical therapy.

On 11/19/14, physical therapy, Voltaren gel, and light-duty work continued.

On 12/2/14, Ms. Yturbide went to Sierra Neurosurgery Group where Hilari Fleming, MD examined her. The impression was severe cervical stenosis with

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Jody Yturbide

quite significant cord flattening at C5-6 into a lesser extent at C6-7, and multi-level foraminal narrowing on the right most significant at C5-6, but also involving C6-7. Surgical intervention was recommended.

On 12/17/14, Dr. Reyher prescribed Cymbalta and Flexeril.

On 1/29/15, Dr. Reyher transferred the claimant's care to Dr. Fleming.

On 2/13/15, Dr. Fleming performed surgery at St. Mary's Regional Medical Center that was described as anterior cervical microdiscectomy with foraminotomies at C5-6 and C6-7, arthrodesis C5-6 and C6-7 with Cornerstone allograft, and internal fixation segmental C5 through C7 with Atlantis plate.

On 5/26/15, Ms. Yturbide had some discomfort in her right shoulder and slight numbness in her thumb and index finger. The assessment was cervical spondylosis with myelopathy. A new MRI was recommended.

On 6/16/15, a cervical MRI study without contrast was performed at Reno Diagnostic Centers that showed foreshortened lateral masses that resulted in an element of congenital central spinal canal narrowing, interval ACDF C5-7 without evidence of complication or myelomalacia of the cord, no significant central canal stenosis from C5 to C7 with mild central canal stenosis noted at the C3-4 level, uncovertebral arthropathy most pronounced at the C5-6 level with moderate bilateral neural foraminal narrowing, similar compared to prior studies.

On 6/23/15, the assessment was congenital spinal stenosis with some superimposed degenerative changes, fusion at C5-6 and C6-7, no new problems. The claimant's upper cervical levels had some degenerative changes, but nothing that required intervention. Dr. Fleming released the claimant to full-duty work with the necessity of a headset for the majority of her work.

On 7/23/15, Ms. Yturbide was having trouble even working six hours per day. The assessment was cervical spondylosis with myelopathy. The accommodations recommended did not give the claimant adequate relief of her symptoms. Dr. Fleming recommended a neurology evaluation.

On 8/27/15, Robert G. Berry Jr., MD performed an initial physiatry consultation at Sierra Regional Spine Institute. The assessment was electrodiagnostic evidence of a very mild median neuropathy condition in the right upper extremity that was consistent with residual carpal tunnel syndrome. Dr. Berry felt that, from a clinical standpoint, the claimant had a C6 sensory radiculitis condition and that a nerve root block at C6 in the right upper extremity would be helpful for diagnostic and therapeutic purposes.

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Jody Yturbide

On 10/27/15, Ms. Yturbide underwent a Functional Capacity Evaluation (FCE) at Advanced Testing, Ltd that placed her in the "light" work category.

On 10/29/15, Dr. Fleming agreed that a nerve root block may be informative and provide some long-term benefit.

On 12/9/15, Jacob Blake, MD administered a right C6 cervical selective nerve root block.

On 1/5/16, Ms. Yturbide reported that the nerve block gave her good relief, but only lasted for one week. The plan was for a right-sided C5-C6 laminoforaminotomy.

On 1/26/16, Dr. Fleming performed surgery at Renown described as right-sided posterior C6-6 laminoforaminotomy.

On 2/8/16, Ms. Yturbide's right arm pain was much better than prior to surgery. Dr. Fleming referred the claimant to physical therapy.

On 3/8/16, Ms. Yturbide had some numbness in her right index finger and felt that her right arm was not as strong as her left. Overall, she felt she had some significant improvement. The impression was that the claimant was doing well following posterior decompression. Her radiculopathy was markedly better. She was ready to begin physical therapy.

On 4/22/16, Ms. Yturbide was tolerating the physical therapy. She was getting some new sensations in the thumb that had been numb. Dr. Fleming felt that the claimant was progressing as expected. Dr. Fleming deemed the claimant to be at maximum medical improvement for her neck injury and wanted Ms. Yturbide to resume her vocational rehabilitation activities.

PAST MEDICAL HISTORY:

Jody Yturbide denied previous injury to the affected cervical spine. She also denied previous worker's compensation claim.

WORK STATUS:

Jody was no longer able to perform her job duties as a dispatcher, even at a decreased duty. Her injury forced early retirement. She had a FCE which placed her in the light category; they are attempting to find vocational rehabilitation for her.

FUNCTIONAL STATUS and ACTIVITIES OF DAILY LIVING ASSESSMENT:

Jody continues to have difficulties with her daily activities as well as self care. She notices fatigue and pain in her right arm when she puts her arm up over shoulder height as well as a burning sensation when she tries to do small movements, such as curling her hair or buttoning a shirt. She is having a hard

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Jody Yturbide

time reading for longer periods because of difficulty with looking down. She has a pins and needles sensation between her shoulder blades when she is writing and her fatigues and eventually has increased pain and cramping from the right hand all the way to her shoulder. Sitting for longer periods increases discomfort. She is able to stand and walk without increased pain. Carrying, lifting and pulling are all pain inducing, especially if it is over 30 pounds. Her thumb and first finger of her right hand are usually numb which makes it difficult to grasp things for her, including her fork to eat. She notices that she has a difficulty with swallowing sometimes, or feels like her food will get stuck. She was told this is most likely due to the plate and scar tissue in her neck. Numbness is continually present in the first two fingers of the right hand a swell as between the shoulder blades. She has difficulty travelling if it is over 25 minutes. Sleep is extremely problematic for and she states she has the worst sleep of her life. She tosses and turns due to numbness and tingling in the upper extremity as well as pain in her neck. She has not been as social or participating in recreational activities as she used to due to pain. She is also suffering severe headaches almost daily. She is not using pain medications, she is relying on her TENS unit as well as ice for pain control.

CHIEF COMPLAINTS:

Jody continues to have pain and difficulties in her day to day life. She has severe headaches several time per week. She has numbness in her first two finger on the right hand as well as a burning sensation between her shoulders at the surgical site. Her entire neck will feel like pins and needles and burning with certain activities or movements and she is having a very difficult time sleeping.

EXAMINATION:

Jody Yturbide is a friendly and cooperative woman who appears her stated age of 45. She presents for evaluation of her cervical spine today, which she states is worse on the right and involves the entire right upper extremity. Visualization of the skin on her neck shows a 2" posterior mid line scar as well as a 1 3/4" anterior scar which is to the right of midline. Dermatome evaluation shows decreased sensation in the right C6 and C7 distribution. Grip strength shows 65 pounds bilaterally when tested with JAMAR dynamometer, though it got progressively more painful for her with repeat testing. She has visual as well as palpable spasm at the cervicothoracic junction bilaterally; this is where she points to as the location of her burning sensation. When testing cervical muscle strength against examiner resistance, she noticed pain on flexion, left lateral flexion hurt on the right side, and rotation was painful bilaterally. Rotation was the most uncomfortable for her. She did not have an increase in pain with extension or right lateral flexion. Cervical compression increased pain and she was not able to complete SotoHati due to pain and inability to flex forward. Range of motion is very limited due to her arthrodesis. Warm up movements were completed and motion she was able to do is tabulated below:

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Jody Yturbide

Cervical spine	Flexion	Extension	Impairment %	Table
Angle	15	10		15-12
Impairment %	4	5	9	page 418
	Right lat flex	Left lat flex	Impairment %	Table
Angle	20	20		15-13
Impairment %	2	2	4	page 420
	Right rotate	Left rotate	Impairment %	Table
Angle	30	40		15-14
Impairment %	3	2	5	page 421

Impairment due to range of motion difficulty is 18% whole person.

DIAGNOSIS:

Status post anterior cervical microdiscectomy with foraminotomies at C5-6 and C6-7, arthrodesis C5-6 and C6-7 with Cornerstone allograft, and internal fixation segmental C5 through C7 with Atlantis plate and then subsequent right-sided posterior C5-6 laminoforaminotomy.

PERMANENT PARTIAL DISABILITY SUMMARY:

From reviewing the records and from examining Jody Yturbide today, it is my opinion that she has reached a point of being stable and ratable.

Mrs. Yturbide had an injury and subsequent fusion to multiple spinal levels C5-C7 which means that for her the most appropriate rating method is the ROM method, as shown on page 380 Figure 15-4.

1. Diagnosis: Table 15-7 page 404 category IV.E
She had multiple levels operated on with residual pain and symptoms. This gives her 10% for single level fusion and another 1% for the second level. She also had a second operation for another 2%. Overall whole person impairment from diagnosis method is 13%.
2. Range of motion: Table 15-12, 13, 14 page 418-21
As tabulated above her range of motion impairment is 18% whole person.
3. Neurological Deficit: Table 15-15 and 15-17 page 424
Maximum % loss of function due to sensory deficit at C6 is 8%. This is multiplied by her Sensory loss grade of 2 with 75% deficit to give her 6% sensory deficit.

All three of the above categories (13%, 18%, 6%) are then combined using the Combined Values Chart on page 604 for a total of 33% whole person impairment.

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JA172

Jody Yturbe

I recommend closure of claim number 14853E248257 with 33 percent whole person impairment.

Though this is a high number, I do believe it reflects her level of impairment. Even if the DRE method were to be used for a similar single-level injury, she would have been placed in category IV due to fusion and radiculopathy, which wasn't even necessary to be present for the category IV placement. This would have already given her 28% impairment for the single level. She has had multiple surgeries over multiple levels with residual radicular involvement. In my medical opinion, the 33% is easily justified in her case.

APPORTIONMENT:

In accordance with NAC 616C.490 this patient has no prior history of injury to the examined area. Therefore, there is no basis for apportionment in this case.

I do not believe there is inconsistency between the history of the accident and the physical examination findings in this case.

This examination was performed in accordance with the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, Second printing. All extremity ranges of motion and measure active range of motion measurements were performed utilizing a goniometer. All spinal ranges of motion were performed using inclinometers and measured during active range of motion.

Respectfully submitted,

Katharina C. Welborn, DC

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JA173



July 1, 2016

Jody L Yturbide
9732 Pyramid Wy #368
Sparks, NV 89441

RE: Claim #: 14853E248257
Date of Injury: 5/22/2014
Employer: City of Reno
Body Part: cervical

Dear Ms. Yturbide:

We are enclosing a copy of the Permanent Partial Disability rating report from Katharina Welborn, D.C. Based on your permanent impairment as a result of this industrial injury, you have been awarded thirty three (33%) percent disability of the whole man as a direct result of this industrial injury to your listed body parts as described above.

Pursuant to NRS 616C.495 since prior PPDs have resulted in a total whole person impairment of 7%, you are only entitled to a 18% lump sum on this claim and the remaining 15% in installments

Based on the 33% percent of disability, you are entitled to receive all monthly installments of \$1,047.56 until you reach the age of seventy (70) for a total installment of \$311,710.46; or you are entitled to a one time lump sum payment of eighteen (18%) percent in the amount of approximately \$85,788.21 and the remaining 15% in monthly installments of \$476.16 until you reach the age of seventy (70) for a total monthly installments of \$140,717.44.

Enclosed is the Election of Method of Payment of Compensation form and the Reaffirmation/retraction of Lump Sum Request form. If you choose to accept the award, please sign, date and return the Election of Method of Payment of Compensation form. Three (3) days later, if you still choose to accept the award, please sign, date and return the Reaffirmation/Retraction of Lump Sum Request form. Both forms must have a witness to your signature.

Please note, if a response is not received in this office within 30 days from the date of this letter, it will be necessary to initiate installment payments.

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Your claim was closed for any further medical treatment effective 6/19/2016, the date you were rated for a permanent partial disability.

Pursuant to NRS 616C495 (2), acceptance of payment for a permanent partial disability lump sum terminates all benefits for compensation and constitutes a final settlement of all factual and legal issues in the case. By so accepting the lump sum, you waive all rights regarding the claim, including the right to appeal the closure of this case or the percentage of disability, except for Vocational Rehabilitation Services. You will have lifetime reopening rights, which are explained in the enclosed form D-13, "Injured Workers Right to Reopen a Claim".

If you disagree with this determination, you may appeal by filing the enclosed "REQUEST FOR HEARING" form within seventy (70) days of the date of this notice by contacting the Hearing Division at the address applicable to the jurisdiction.

Sincerely,
CCMSI



Lisa Jones
Claims Representative

Cc: file
City of Reno
Jason Guinasso, Esq.

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JA175

Injured Employee: Jody Yturbe Date: 7/1/2016
Claim No.: 14853E248257 Date of Injury: 5/22/2014
Employer: City of Reno Insurer: City of Reno

ELECTION OF METHOD OF PAYMENT OF COMPENSATION
(Pursuant to NRS 616C.495)

I, Jody Yturbe, have been advised that I may elect to receive my permanent partial disability compensation on an installment basis or, if eligible, and I so elect, on a lump sum basis.

Should I elect to receive my compensation on an installment basis, payments will begin on 7/1/2016 and terminate on 2/16/2041 and will be paid at the monthly rate of \$1,047.56 or a total installment payment of \$311,710.46.

If I elect to receive my entitlement on a lump sum basis I will receive approximately \$85,788.21 and additional monthly installments of \$476.16 until you reach the age of seventy (70) for a total annual installments of \$140,717.44. This will vary depending on the date I elect to receive my lump sum payment. According to NRS 616C.495, if I elect to receive my payment for permanent partial disability in a lump sum, all of my benefits for compensation terminate.

My acceptance of the lump sum payment constitutes a final settlement of all factual and legal issues regarding this claim. By so accepting, I waive all of my rights regarding the claim, including the right to appeal from the closure of the case or the percentage of my disability, except:

- (a) My right to request reopening in accordance with the provisions of NRS 616C.390; and
- (b) Any services for counseling, training or other rehabilitation services provided by the insurer.

Further, I realize that I have twenty (20) days after the mailing or personal delivery of this notice within which to retract or reaffirm my request for a lump sum. I also realize that I will not be paid a lump sum until I have reaffirmed this election in writing.

Check one to indicate method of payment desired and sign below.

- 1. ☐ On an installment basis as provided by NRS 616C.490.
- 2. ☐ A lump sum of approximately \$85,788.21 and additional monthly installments of \$476.16 until you reach the age of seventy (70) for total annual installments of \$140,717.44. According to NRS calculated pursuant to NRS 616C.495.

DATE: _____ INJURED EMPLOYEE: _____

DATE: _____ WITNESS: _____

Insurer: Designate whether monthly or annual rate.

**Amount depends on actual effective date (date elected) D-10a (Rev. 2/98)

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(43)

Claimant: Jody Yurbide
Social Security No:
Claim No: 14853E748257
Employer: City of Reno
Date of Injury: 5/22/2014

REAFFIRMATION OF LUMP SUM REQUEST
(Pursuant to NRS 616C.495(2))

NRS 616C.495 requires:

2. If the injured employee elects to receive his payment for a permanent partial disability in a lump sum, all of his benefits for compensation terminate. His acceptance of that payment constitutes a final settlement of all factual and legal issues in the case. By so accepting he waives all of his rights regarding the claim, including the right to appeal from the closure of the case or the percentage of his disability, except:
- (a) His right to reopen his claim according to the provisions of NRS 616C.390; and
 - (b) Any services for counseling, training or other rehabilitation services provided by the insurer.
- The injured employee must be advised in writing of the provisions of this subsection when he demands his payment in a lump sum, and has 20 days after the mailing or personal delivery of this notice within which to retract or reaffirm his demand before his election becomes final.

Pursuant to this statute, if you still choose to accept the lump sum amount, please reaffirm your decision in the space provided below.

Failure to return this form or not checking one of the boxes may result in a delay in the processing of your award.

- ☐ I reaffirm the request for my lump sum payment and required installment payments for PPD over 25%
☐ I do not reaffirm the request for my lump sum payment and required installment payments for PPD over 25%.

Signature of Injured Employee

Date

Witness

Date

D-11 (rev. 2/98)

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(44)

JA177

**INJURED EMPLOYEE'S RIGHT
TO REOPEN A CLAIM WHICH HAS BEEN CLOSED**

Nevada Revised Statutes 616C.390 defines your right to reopen your worker's compensation claim after it has been determined that all benefits have been paid and your claim has been closed.

An application to reopen a claim must be in writing and accompanied by a certificate from a physician or chiropractor showing a change in medical condition.

If you did not lose time from work as a result of your industrial injury and you did not receive a permanent partial disability award, reopening of your claim must be requested within one (1) year after the date on which your claim was closed.

Except as otherwise provided in NRS 616C.390(4), if the request for reopening is denied, the injured employee shall not reapply to reopen the claim until at least one (1) year after the date on which the final determination of an insurer is issued.

Reopening of a claim is not effective before an application for reopening is made unless good cause is shown (NRS 616C.390(8)).

PPD OFFSET

Nevada Revised Statutes (NRS) 616C.405 prohibits an injured employee from receiving a permanent partial disability (PPD) benefit at the same time he/she is receiving temporary total disability (TTD), temporary partial disability (TPD), or permanent total disability (PTD).

This means that if you have received a PPD on a claim and you were paid the award in a lump sum, future TTD, TPD, or PTD you receive on that claim must be reduced by a portion of the PPD lump sum; or, if you are receiving installment payments for PPD, those payments will be suspended while TTD, TPD, or PTD is being paid.

Your PPD lump sum was computed through the day before your 70th* birthday. In other words, the lump sum represents permanent partial disability payments due you from the effective date of your initial PPD payment until you turn 70* years old (unless otherwise entitled to the minimum lump sum). Although you received just one lump sum payment(s), in essence you received your future PPD payments as well.

The rate at which the PPD offset is deducted is based on the daily/monthly rate of the PPD award. Except for minimum lump sum awards, for each day/month you receive TTD, TPD, or PTD on the claim, the daily/monthly PPD rate is deducted for the time period used to calculate the lump sum PPD award. (See NRS 616C.440 for specific information regarding offsets to PTD)

*PPD awards are calculated using the maximum age established by law and, depending on the date of the injury, may be less than 70 years of age.

NOTE: This form is to be used by the Claims Agent when sending out permanent partial disability awards or whenever applicable.

D-13 (Rev. 2/98)

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JA178

PERMANENT PARTIAL DISABILITY AWARD CALCULATION WORK SHEET

PERMANENT PARTIAL DISABILITY AWARD CALCULATION WORK SHEET

Injured Employee: Jody Yarbide DOB: 2/17/1971 Sex: Female
 SS#: 148536248257 D.O.I.: 3/22/2014 Claim #: 6/19/2016
 * Average Monthly Wage: \$5,820.76 * State Average Wage: \$5,290.70 Date of Rating: 6/19/2016
 Date Award Offered: 6/29/2016 Date Evaluation Report Received: 6/21/2016

Body Injury Verification

Description: cervical 33.00 %
% Total: 33.00 % BB

Installment Calculation

*A. \$5,290.70 0.0060 33.00 %BB = \$ 1,047.56 Year of Birth 1971 Last TTD
 Monthly Wage Monthly Rate TPD, or DOI
 B. \$1,047.56 x 12 = \$ 12,570.72 1971 2016
 Monthly Rate Annual Rate + 70 + 5
 C. \$12,570.72 / 365.25 = \$ 34.42 2011 2021
 Annual Rate Daily Rate

Installment Calculation

(1) Last Date TTD or TPD paid: 4/29/2016 First Payment Date: 7/1/2016
 (2) Time Covered by First Payment: (a) 4/30/2016 through (b) 6/30/2016
 ***** DOI/date of claim reopening or day after last TTD/TPD
 (3) First Payment: \$34.42 + \$2,025.12 + \$0.00 = \$2,129.54
1 Day(s) 2 Month(s) 0 Year(s)
 (4) Time Covered by Annual Payments: 7/1/2016 through 6/30/2040 = \$301,697.28
 (5) Time Covered by Final Payment: 7/1/2040 through 2/16/2041 = 24 Years
 (6) Final Payment: \$7,332.92 + \$550.72 = \$7,883.64
7 Month(s) 16 Day(s)
 ***** Monthly X Annual Total of Installment Payments: \$311,710.46

Minimum Lump Sum Calculation

.5 % X 18.00 % BB X \$5,290.70 Monthly Wage from (A) above: \$47,616.38
 Minimum Lump Sum Amount

Lump Sum Calculation of Disability Up To and Including 25%
 (Use form D-9a for disability greater 25%)

(7) Effective Date of Award (year, month following 2b) Per NAC 616C.502
 (8) Date of Birth (year, month)
 (9) Injured Employee Age at Award Effective Date = (7) minus (8) (years, months)
 (10) Monthly Rate From (8)
 (11) Factor from Table for Present Value X =
 (12) Insert Sum of (3). Add to sum of (11) only.
 (13) Subtotal of (11) plus (12):
 (14) Greater of (13) full Lump Sum or Minimum Lump Sum:
 (15) Minus any applicable award payments previously paid:
 (16) Net Amount Payable:

* Use the Average Monthly Wage or the State Average Wage, whichever is lower. If the average monthly wage (AMW) for TTD on this claim is subject to the frozen 1993 rate, recalculate the AMW for PPD purposes.

** Use .005 for injuries sustained before 07/01/81. Use .006 for injuries sustained after 07/01/81, through 06/17/93. Use .0054 for injuries sustained on or after 06/18/93. Use .006 for injuries sustained on or after 1/1/00.

*** Per NRS 616C.490(7), age at which entitlement ceases.

**** This must reflect the end of the month prior to election of the lump sum payment. Reselection may be required to bring the award to present day value. If (2)(b) is December date, use caution on line (4) to ensure correct number of years. (If subtracting dates, add one year)

***** Must pay monthly installments if monthly entitlement is \$100 or more. May pay annual installment if monthly entitlement is less than \$100.

***** Use date of claim reopening if TTD/TPD benefits were not paid after the claim was reopened (2)(a).

PREPARED BY:
 CHECKED BY:

[Signature]
[Signature]
[Signature]

Date: 6/30/16
 Date: 6/29/16
6/30/16

D-9a (rev 1/12)

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JA179

**PERMANENT PARTIAL DISABILITY AWARD CALCULATION WORKSHEET
FOR DISABILITY OVER 15% BODY BASIS**

see NRS 616C.490(1)(e)

Injured Employee: Andy Yarbide DOB: 2/17/1971 Sex: Female
 SS #: 1-850242257
 * Average Monthly Wage: \$5,290.70 * State Average Wage: \$5,290.70 Date of Injury: 6/29/2016
 Date Award Offered: 6/29/2016 Date Evaluation Report Received: 6/29/2016

Description: Latent 33.46 94 Total: 33.00 % DB
94
 * 25% Lump Sum 15 %
 * 15% Lump Sum

Initial Calculation

* A. \$5,290.70 0.0060 = \$ 276.16 Year of Birth 1971 Last TTD 2016
 Monthly Wage \$476.16 * 12 = \$ 5,713.92 Monthly Rate 1971 TTD, or DC? 2016
 Monthly Rate \$5,713.92 / 365.25 = \$ 15.64 Annual Rate 70 + \$
 Annual Rate \$15.64 Daily Rate 2011 + 2021

Installment Calculation

Transfer (1) through (3) from Item D-9a to (1) through (3) on Item D-9b
 (1) Last Date TTD or TPD paid: 6/29/2016 First Payment Date: 7/1/2016
 (2) Time Covered by First Payment (a) 6/29/2016 through (b) 6/29/2016
 (3) First Payment: \$ 34.42 + \$ 2,095.12 = \$ 2,129.54 (from Item D-9b)
 (4) Time Covered by Annual Payment: 7/1/2016 through 6/30/2016 = 31 Days
 (5) Time Covered by Final Payment: 7/1/2016 through 6/30/2016 = 31 Days
 (6) Final Payment: \$ 34.42 + \$ 2,095.12 = \$ 2,129.54
 * * * * * Monthly \$ 68.37 (16 Days) Total of Installment Payments \$ 2,129.54

Minimum Lump Sum Calculation

(Payable only if greater than total of installment on Item D-9a)
 .5% X 1800 9600 X = \$ 5,290.70 Monthly Wage from (A) Above
 (Use Total Percent of Disability) Minimum Lump Sum Award \$47,616.30
 D. \$5,290.70 X .005 X 18 % DB = \$571.40 Monthly Rate
 Average Monthly Wage (from A above)
 (7) Effective Date of Award (year, month following 3b) 2016 7
 (8) Date of Birth (year, month) 1971 2
 (9) Injured Employee Age at Award Effective Date (1) minus (8) (years, months) 45 5
 (10) Monthly Rate from (9) \$571.40
 (11) Factor from Table for Present Value X 148.41 = \$84,638.67
 (12) Insert Sum of (11) + \$2,129.54
 (13) Subtotal of (11) plus (12): \$86,768.21
 (14) Minus any applicable award payments previously paid: \$0.00
 (15) Net Amount Payable: \$86,768.21

* Use the Average Monthly Wage or the State Average Wage, whichever is lower. If the average monthly wage (AMW) for TTD on this claim is subject to the Oregon 1993 rate, recalculate the AMW for TPD purposes.

** Use .005 for injuries sustained before 07/01/81. Use .006 for injuries sustained after 07/01/81, through 06/30/93. Use .004 for injuries sustained on or after 06/30/93. Use .006 for injuries sustained on or after 1/1/00.

*** Per NRS 616C.490(7), age at which entitlement ceases.

**** This may reflect the end of the month prior to election of the lump sum payment. Recalculation may be required to bring the award to present day value. If (C)(8) is December date, use caution on line (4) to assure correct number of years. (If subtracting dates, add one year)

***** Must pay monthly installments if monthly entitlement is \$100 or more. May pay annual installment if monthly entitlement is less than \$100.

***** Use date of claim reopening if TTD/TPD benefits were not paid after the claim was reopened (2)(c).

PREPARED BY:
CHECKED BY:

Date:
Date:

D9b (rev 1/12)

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JA180

REQUEST FOR HEARING

REPLY TO: Department of Administration
Hearings Division
1050 E. William Street, Ste. 400
Carson City, NV 89710
(702) 687-5966

OR Department of Administration
Hearings Division
2200 South Rancho, Ste. 210
Las Vegas, NV 89102
(702) 486-2525

Do Not Complete or Mail This Form Unless You Disagree With Your Insurer's Determination.
If you disagree with the determination, complete the Employee and Employer Information below and the bottom portion of this form. INCLUDE A COPY OF YOUR DETERMINATION LETTER with this form and mail to the above address.

Employee Information
Employee's Telephone Number
Employee's Name and Address

Employer Information
Employer's Telephone Number
Employer's Name and Address

Briefly explain the basis for this appeal:

This request for hearing is filed by, or on behalf of: ☐ The Injured Employee
☐ The Employer

and is dated this _____ day of, 19 _____

Signature of Injured Employee/Employer

Injured Employee's/Employer's Rep. (Advisor)



D-12a (Rev. 10/03)

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JA181

AUG 15 2016

McDonald Carano Wilson LLP

**STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
HEARINGS DIVISION**

In the matter of the Contested
Industrial Insurance Claim of:

Hearing Number: 1700074-JL
Claim Number: 14853E248257

JODY YTURBIDE
9732 PYRAMID WAY #368
SPARKS, NV 89441

CITY OF RENO
ATTN: KELLY LEERMAN
1 EAST FIRST ST 9th FLOOR
RENO, NV 89501

BEFORE THE HEARING OFFICER

The Claimant's request for Hearing was filed on July 8, 2016 and a Hearing was scheduled for August 3, 2016. The Hearing was held on August 3, 2016, in accordance with Chapters 616 and 617 of the Nevada Revised Statutes.

The Claimant was represented by her attorney, Jason Guinasso, by telephone conference call. The Employer was not present. The Insurer was represented by Lisa Wiltshire Alstead, Esquire, by telephone conference call. Claimant appealed the Insurer's determination dated July 1, 2016. The issue before the Hearing Officer is 33% permanent partial disability (PPD) award. At today's hearing, the Claimant's counsel clarified that they were not contesting the 33% PPD award, only the 18% lump sum offering.

DECISION AND ORDER

The determination of the Insurer is hereby **REVERSED AND REMANDED**.

On July 1, 2016, the Insurer offered the Claimant a 33% PPD award. The Claimant was further advised that he was entitled to a one time lump sum payment of 18%, and the remaining 15% in monthly installments, the instant appeal. Having reviewed the submitted evidence and in consideration of the representations made at today's hearing, the Hearing Officer finds the Insurer erred in its 18% one time lump sum offering. As such, the Hearing Officer finds the Claimant is entitled to a one time lump sum offering of 25%, with the remaining 8% to be paid in monthly installments, pursuant to NAC 616C.498. Therefore, the Insurer shall recalculate the 33% PPD award based on a lump sum offering of 25%, and upon completion, render a new determination with appeal rights accordingly.

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JA182

In the Matter of the Contested
Industrial Insurance Claim of
Hearing Number:
Page two

JODY YTURBIDE
1700074-JL

NAC 616C.490(3)(4) provides that a precise apportionment must be completed if a prior evaluation of the percentage of impairment is available and recorded for the preexisting impairment. The condition, organ or anatomical structure of the preexisting impairment must be identical with that subject to current evaluation. If a rating evaluation was completed in this State for a previous industrial injury or occupational disease involving a condition, organ or anatomical structure that is identical to the condition, organ or anatomical structure being evaluated for the present industrial injury or occupational disease, an apportionment must be determined by subtracting the percentage of impairment established for the previous industrial injury or occupational disease from the percentage of impairment established for the present industrial injury or occupational disease, regardless of the edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment* used to determine the percentage of impairment for the previous industrial injury or occupational disease.

NRS 616C.495(1)(a)(c) provides authority for lump sum payments of Permanent Partial Disability awards. If the injury was incurred on or after July 1, 1981, and before July 1, 1995, the injured employee may elect to receive compensation in a lump sum equal to a present value of an award of 30 percent disability. If the injury was incurred after July 1, 1973, and prior to July 1, 1981, the maximum limit for lump sum compensation shall not exceed 12 percent disability. That portion of the award amount in excess of these limits shall be paid in installments.

NAC 616C.498 provides that an employee injured on or after July 1, 1995, who incurs a permanent partial disability that does not exceed 25 percent may elect to receive compensation in a lump sum. If it exceeds 25 percent, the injured employee may elect to receive compensation in a lump sum equal to the present value of an award for a disability of 25 percent. If the injured employee elects to receive compensation in a lump sum pursuant to this subsection, the insurer shall pay in installments to the injured employee that portion of the injured employee's disability in excess of 25 percent.

APPEAL RIGHTS

Pursuant to NRS 616C.345(1), should any party desire to appeal this final Decision and Order of the Hearing Officer, a request for appeal must be filed with the Appeals Officer within thirty (30) days of the date of the decision by the Hearing Officer.

IT IS SO ORDERED this 11th day of August, 2016.



Jason Luis, Hearing Officer

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(50)

CERTIFICATE OF MAILING

The undersigned, an employee of the State of Nevada, Department of Administration, Hearings Division, does hereby certify that on the date shown below, a true and correct copy of the foregoing **DECISION AND ORDER** was deposited into the State of Nevada Interdepartmental mail system, **OR** with the State of Nevada mail system for mailing via United States Postal Service, **OR** placed in the appropriate addressee runner file at the Department of Administration, Hearings Division, 1050 E. Williams Street, Suite 400, Carson City, Nevada, to the following:

JODY YTURBIDE
9732 PYRAMID WAY #368
SPARKS, NV 89441

JASON GUINASSO, ESQ
REESE KINTZ GUINASSO, LLC
190 WEST HUFFAKER SUITE 402
RENO NV 89511

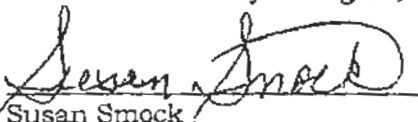
CITY OF RENO
ATTN: KELLY LEERMAN
1 EAST FIRST ST 9th FLOOR
RENO, NV 89501

LISA M WILTSHIRE ALSTEAD ESQ
MCDONALD CARANO WILSON
100 W LIBERTY ST 10TH FLOOR
RENO NV 89501

CCMSI
PO BOX 20068
RENO, NV 89515-0068

DIR
WORKERS COMP SECTION
INTERDEPARTMENTAL MAIL
400 W KING ST
CARSON CITY NV

Dated this 11th day of August, 2016.


Susan Smock
Employee of the State of Nevada

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SIERRA REGIONAL SPINE INSTITUTE

6630 J. MCGARRAN BLVD.
SUITE 4
RENO, NV 89509
(775) 828-2URE
(775) 828-2673
(775) 828-2890 FAX

BRANCH OFFICES
ELKO
FALLON
CARSON CITY
SPARKS
TRUCKEE

July 14, 2009

Lisa Kripps
CCMSI
P.O. Box 20068
Reno, NV 89515

PERMANENT PARTIAL DISABILITY RATING

RE: YTURBIDE, JODY
PATIENT ID NO.: 20498
CLAIM NO.: 08853A368316
DATE OF INJURY: 01/23/2008
EMPLOYER: CITY OF RENO
BODY PART: RIGHT WRIST

Dear Ms. Kripps:

Thank you very much for referring Ms. Yturbide today for a Permanent Partial Disability Rating. The rating was done in conjunction with the Guides to Evaluation for Permanent Impairment Fifth Edition, Second Printing.

MEDICAL CHART REVIEW:

5/6/99 Patient was diagnosed with paresthesias in both upper extremities. The patient was seen by Dr. VanDyken. I placed the patient on a Medrol Dosepak.

5/26/06 Patient saw Dr. Romick. She was diagnosed with a median neuritis condition. He recommended physiatry evaluation.

6/12/02 Patient saw Dr. Jay Bets. He diagnosed the patient with carpal tunnel problem. Recommended physiatry evaluation.

Page 1 of 5

SURGERY			PHYSICAL MEDICINE AND REHABILITATION		
IS R. RAPAPORT, M.D. SPINAL SURGEON BOARD CERTIFIED FELLOWSHIP TRAINED SPECIALIZING - MICRO SURGERY OF THE SPINE ASST. CLINICAL PROFESSOR - UNIVERSITY OF CA SAN FRANCISCO U.S. FRI. TOLU PHYSICIAN	PHELPS C. KIP, M.D. SPINAL SURGEON BOARD CERTIFIED FELLOWSHIP TRAINED SPECIALIZING - MICRO SURGERY OF THE SPINE ORTHOPAEDIC SURGERY U.S. & TEAM PHYSICIAN	JAMES H. OLSON, M.D. SPINAL SURGEON BOARD CERTIFIED FELLOWSHIP TRAINED SPECIALIZING - MICRO SURGERY OF THE SPINE ORTHOPAEDIC SURGERY	ROBERT G. BERRY, M.D. BOARD CERTIFIED PHYSICAL MEDICINE & REHABILITATION ELECTRODIAGNOSTIC MEDICINE PAIN MANAGEMENT SPECIALIZING IN NON-OPERATIVE DISORDERS	CHRISTOPHER D. TWOMBLY, M.D. BOARD CERTIFIED PHYSICAL MEDICINE & REHABILITATION ELECTRODIAGNOSTIC MEDICINE	DALLIN L. DEMORDAUNT, M.D. BOARD CERTIFIED PHYSICAL MEDICINE & REHABILITATION ELECTRODIAGNOSTIC MEDICINE

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JA185

PATIENT NAME: YTURBIDE, JODY

DATE: 07/14/2009

Page 2

- 1/31/08 Patient saw Dr. Hahn. Diagnosed the patient with tendinitis and wrist tenosynovitis. Recommended physiatry evaluation.
- 2/11/08 Patient saw Dr. Hahn. He recommended physiatry evaluation.
- 2/14/08 Patient saw Dr. Burke. He diagnosed patient with a bilateral median neuropathy condition.
- 6/13/08 Patient saw Dr. Huene. He felt the patient was a good candidate for surgery. He diagnosed the patient with bilateral carpal tunnel syndrome.
- 7/10/08 Patient had a right carpal tunnel release done by Dr. Huene.
- 11/8/08 Patient had a left carpal tunnel release done by Dr. Huene.

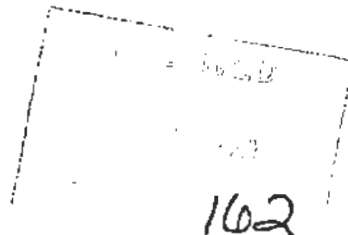
CHIEF COMPLAINT: Bilateral paresthesias, numbness and weakness in both hands and wrists.

HISTORY OF PRESENT ILLNESS: The patient is a 37-year-old female who has complained of intermittent numbness and tingling in both hands that dated back to 1998. She is right hand dominant. Her symptoms were worse in the right hand. Her claim was initially rejected. She filed another claim in 2006. At the time, she was pregnant and her symptoms worsened with her pregnancy. She worked as a police dispatcher during this period of time. She started this job in 1995. She eventually got her claim accepted. She was seen at Concentra Medical Centers. She did have an EMG by Dr. Burke which showed a bilateral carpal tunnel syndrome. She did see Dr. Huene, who did surgery in July of 2008 on the right hand and had the left carpal tunnel release done in November of 2008. She had extensive postoperative therapy. She is still complaining of numbness and tingling of both hands. She also complains of some weakness and has trouble with dexterity and gripping and grasping with her hands. She was scheduled for a Permanent Partial Disability Rating today.

PAIN COMPLAINT: She complains of numbness and tingling throughout the palm of her hand. It is mostly in the thumb and first three fingers. She does not have really any numbness in the left hand but complains of weakness. Otherwise, she denies any radicular symptoms or constitutional symptoms.

PAST HISTORY: She has had a c-section times two. She has had a cholecystectomy and gastric bypass.

DRUG ALLERGIES: None.



PATIENT NAME: YTURBIDE, JODY

DATE: 07/14/2009

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CURRENT MEDICATIONS: Tylenol.

REVIEW OF SYSTEMS: Unremarkable for all categories. The intake form was reviewed in detail.

FAMILY HISTORY: Family history is unremarkable for all categories.

SOCIAL HISTORY: The patient is married, has two children and lives in Reno. She occasionally drinks alcohol and denies tobacco use.

WORK STATUS: She works as a dispatcher for the Reno Police Department. She is working full-time.

PHYSICAL EXAMINATION:

Vital Signs: Height: 5'4". Weight: 150 pounds. Blood pressure: 98/62. Pulse 60. Respirations. 15.

GENERAL: Dressed appropriately, no acute distress, oriented to time, place and person.

NEUROLOGIC: There is fairly good sensation and strength throughout, although there was slight decreased sensation to pinprick at 7 mm and less on the ulnar aspect of the third digit, left hand, and also on the ulnar aspect of the second and third digit in the right hand. Otherwise, she had good two point discrimination. No atrophy noted. She does have markedly positive Tinel sign at the right wrist. Tinel sign at the left wrist was negative.

MUSCULOSKELETAL:

Neck: Fairly good range of motion throughout.

Shoulders/Upper Extremities: Fairly good range of motion throughout.

Bilateral Wrists: The joint goniometer was used and determined to be within 5° of accuracy with repeat testing. The results were as follows:

	RIGHT SIDE	LEFT SIDE
Flexion	50°.	55°.
Extension	55°.	70°.
Ulnar deviation	25°.	30°.
Radial deviation	20°.	30°.



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PATIENT NAME: YTURBIDE, JODY

DATE: 07/14/2009

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SKIN: There is normal skin and subcutaneous tissue in the trunk and both the upper and lower extremities.

CARDIOVASCULAR: There is no swelling with normal distal temperatures in both the upper and lower extremities.

ASSESSMENT:

- 1) Status post bilateral carpal tunnel release.
- 2) Chronic tendinitis condition in both wrists, with decreased range of motion in both wrists.

DISCUSSION AND PLAN:

- 1) There are a couple of issues that we need to address at this point. She definitely has some tendinitis problems in her wrists. She does have decreased range of motion in the wrists. Therefore, I do feel she has a rateable impairment regarding decreased range of motion of the wrists.
- 2) Before I can complete a final rating, we need to accurately rate her residual carpal tunnel problem. She improved after surgery but she is not 100% better. There was some patchy decreased sensation to two point discrimination in both hands, but only in the middle digit, left hand, and the second and third digit, right hand. She has got good strength throughout. At this point, I recommend that we do a follow-up EMG for a couple of reasons. Number one, I would like to establish a baseline after surgery to see if she has got any residual carpal tunnel problem remaining. As mentioned above, her surgery did not completely relieve her symptoms. Secondly, I do feel that it will help us give her a more accurate rating. We can determine the extent of the median nerve involvement, if any, which will help me complete the disability rating.
- 3) In summary, I recommend that we do an EMG study of the upper extremities to help us with the rating and also establish a baseline after surgery. I will finish the rating after I complete the EMG study. She also states that she is still having nocturnal numbness and also is having problems with dexterity, especially with gripping and grasping with persistent weakness. Therefore, I recommend that we get the EMG for further evaluation prior to completing the PPD rating.

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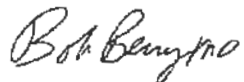
55

PATIENT NAME: YTURBIDE, JODY

DATE: 07/14/2009

Page 5

If you have any further questions regarding this case, please do not hesitate to contact me.
Thank you again for referring this patient.



Robert G. Berry, Jr., M.D.
RGB/db

cc: Gil McGuire
Worker's Comp Section
Division of Industrial Relations
400 W King Street, Suite 400
Carson City, NV 89710

1000

165

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JA189



C C M S I

September 17, 2009

Jody Yturbide
PO Box 17428
Reno, NV 89511

RE: Claim No.: 08853A368316
Date of Injury: 1/23/2008
Employer: City of Reno

Dear Ms. Yturbide:

As a result of your permanent partial disability (PPD) evaluation, you have been found to have an impairment rating of five (5) percent on a whole body basis. As indicated in the enclosed documents, you may elect to receive your PPD compensation either on an installment or lump sum basis.

As of the date of your PPD evaluation, your claim is closed for any further benefits except:

- (a) Right to request reopening in accordance with the provisions of NRS 616C.390; and
- (b) Any counseling, training or other vocational rehabilitation services, if applicable.

The following documents are enclosed.

- Election of Method of Payment of Compensation, Form D-10a (revised 7/99)
- Reaffirmation/retraction of Lump Sum Request, Form D-11 (revised 7/99)
- Injured Employee's Right to Reopen a Claim Which Has Been Closed/PPD Offset, Form D-13 (revised 7/99)
- Copy of PPD Rating Evaluation
- Copy of PPD Award Calculation Work Sheet, Form D-9a (revised 7/99)
- Request for Hearing, Form D-12a (revised 7/99)

Please sign one copy of the first two forms listed above. The second set is for your records.

P.O. Box 20068
Reno, NV 89515-0068
775-324-3301 phone
775-324-

Hele

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JA190

Page 2

Claim No.: 08853A368316

If you disagree with this decision, you have the right to file an appeal and mail it directly to the Hearing Officer, Department of Administration, 1050 E. William Street, Ste.400, Carson City, NV 89710. If your request does not reach the Hearing Officer within seventy (70) days from the date of this letter, you may lose your right to appeal the decision.

If you have questions, please contact this office at (775) 324-3301x1029.

Sincerely,



Lisa Jones
Claims Representative

Enclosure

cc: File
City of Reno
DIR

167

58

JA191

Injured Employee: Jody Yturbe
Claim No: 08853A368316
Employer: City of Reno

Date: 9/17/08
Date of Injury: 12/08
Insurer: CCMSI

ELECTION OF METHOD OF PAYMENT OF COMPENSATION
(Pursuant to NRS 616C.495)

NRS 616C.495(2) provides:

2. If the injured employee elects to receive his payment for a permanent partial disability in a lump sum, all of his benefits for compensation terminate. His acceptance of that payment constitutes a final settlement of all factual and legal issues in the case. By so accepting he waives all of his rights regarding the claim, including the right to appeal from the closure of the case or the percentage of his disability, except:

- (a) His right to reopen his claim according to the provisions of NRS 616C.390; and
- (b) Any counseling, training or other rehabilitative services provided by the insurer.

The injured employee must be advised in writing of the provisions of this subsection when he demands his payment in a lump sum, and has 20 days after the mailing or personal delivery of this notice within which to retract or reaffirm his demand, before payment may be made and his election becomes final.

I, Jody Yturbe
(Name)

(Social Security Number)

have been advised that I may elect to receive my permanent partial disability compensation on an installment basis or, if eligible, and I so elect, on a lump sum basis.

Should I elect to receive my compensation on an installment basis, payments will begin on 10/1/09 and terminate on 2/16/2041 and will be paid at the monthly rate of \$ 145.88 for a total installment payment of \$ 56,410.27.

If I elect to receive my entitlement on a lump sum basis I will receive approximately \$ 25,382.27. This sum will vary depending on the date I elect to receive my lump sum payment. As provided by NRS 616C.495, if I elect to receive my payment for permanent partial disability in a lump sum, all of my benefits for compensation terminate.

My acceptance of the lump sum payment constitutes a final settlement of all factual and legal issues in this case, including but not limited to unresolved issues that are or could become the subject of pending litigation. By so accepting, I waive all of my rights regarding the claim, including, but not limited to, the right to appeal from the closure of the case or the percentage of my disability, except:

- (a) My right to request reopening in accordance with the provisions of NRS 616C.390; and
- (b) Any counseling, training or other rehabilitation services provided by the insurer.

Further, I understand that I have twenty (20) days after this notice has been mailed or personally delivered to me, within which to retract or reaffirm my request for a lump sum. I also understand that I will not be paid a lump sum until I have reaffirmed this election in writing. I also understand that any lump sum I receive is subject to an offset based on any prior PPD payments I received before electing to accept a lump sum.

Check one to indicate method of payment desired and sign below.

- 1. ☐ On an installment basis as provided by NRS 616C.490.
- 2. ☐ A lump sum of approximately \$ 25,382.27 as calculated pursuant to NRS 616C.495.

DATE: _____ INJURED EMPLOYEE:

DATE: _____ WITNESS : _____

* Insurer: Designate whether monthly or annual rate.

** Amount depends on actual effective date (date elected).

168

59

Injured Employee: Jody Yturhde

Social Security No.:

Claim No.: 08853A368316

Employer: City of Reno

Date of Injury: 1/23/08

REAFFIRMATION/RETRACTION OF LUMP SUM REQUEST

(Pursuant to NRS 616C.495(2) and NAC 616C.499(1))

NAC 616C.499(1) provides: If an injured employee elects to receive his award for a permanent partial disability in a lump sum, he must reaffirm his election within 20 days after receiving notification from the insurer pursuant to subsection 2 of NRS 616C.495 before the lump sum will be paid.

Please indicate whether you wish to reaffirm or retract your request for a lump sum payment by checking the appropriate box below. Your decision as indicated on this form constitutes your final election regarding the lump sum payment.

Failure to return this form or not checking one of the boxes may result in a delay in the processing of your award.

☐ I reaffirm the request for my lump sum payment. I understand that in doing so, I am waiving all of my rights regarding the claim, except my right to request reopening and vocational rehabilitation.

☐ I retract the request for my lump sum payment.

Signature of Injured Employee

Date

Witness

Date

D-11 (rev. 4/99)

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(e)

JA193

PERMANENT PARTIAL DISABILITY AWARD CALCULATION

Injured Worker: **Jody Yturbe** Date of Birth: **02/17/1971** Sex: **F** SSN:
 Date of Injury: **01/23/2008** Claim Number: **08853A368316** * Average Monthly Wage: **4,862.68** State Average Wage: **4,862.68**
 Date of Rating: **08/24/2009** Date Award Offered: **09/16/2009** Date Evaluation Report Received: **08/28/2009**

Body Base Verification

Description: **bilateral wrist tenosynovitis** Percentage: **5.00 %**
8.00 %
 Total: **5.00 %BB**

Installment Calculations

* A **4,862.68** x Discount Percent: ** **0.0060** x **5.00 %BB** = **145.88** Year of Birth: **2041** Last TTD, TPD or DOI + 5yrs:
 Monthly Wage Monthly Rate
 B **145.88** x **12** = **1,750.56**
 Monthly Rate Annual Rate
 C **1,750.56** + **165.23** = **4.79**
 Annual Rate Daily Rate

(1) Last Date TTD or TPD Paid: **11/25/2008** First Payment Date: **10/01/2009**
 (2) Time Covered By First Payment: **11/26/2008** Through (b) ****: **09/30/2009**
 DOI or Day After Last TTD/TPD
 (3) First Payment = Daily Rate: **23.95** + Monthly Rate: **1,458.80** + Yearly Rate: **0.00** **1,482.75**
 Days: **5** Months: **10** Years:
 (4) Time Covered By Annual Payments: **10/01/2009** Through **09/30/2040** **54,267.36**
 (5) Time Covered By Final Payments: **10/01/2040** Through **02/16/2041** **** **31.00** Years
 (6) Final Payment = Monthly Rate: **583.52** + Daily Rate: **76.64** **660.16**
 4 Month(s) 16 Day(s)
 ***** Type of Installment Payments: **Monthly** Total of Installment Payments: **56,410.27**

Minimum Lump Sum Calculations

.05% x **5.00 %BB** x **4,862.68** Monthly Wage from (A) above **12,156.70**

Minimum Lump Sum Amount

Lump Sum Calculation of Disability Up To and Including 25% (Use from D-9b for disability greater 25%)

(7) Effective Date of Award (year, month following 2 b) Per NAC 616C.502 Year: **2009** Month: **10**
 (8) Date of Birth (year, month) Year: **1971** Month: **2**
 (9) Injured Employee Age at Award Effective Date = (7) minus (8) (years, months) Year(s): **38** Month(s): **8**
 (10) Monthly Rate from (B) \$ **145.88**
 (11) Factor from Table for Present Value x **163.83** = **23,899.52**
 (12) Insert Sum of (3). Add to Sum of (11) only + **1,482.75**
 (13) Subtotal of (11) plus (12) only **25,382.27**
 (14) Greater of (13) Full Lump Sum or Minimum Lump Sum: **25,382.27**
 (15) Minus any applicable award payments previously paid: **0.00**
 (16) Net Amount Payable **25,382.27**

- 1 Use the Average Monthly Wage or the State Average Wage, whichever is lower. If the average monthly wage (AMW) for TTD on this claim is subject to Afrozen@ 1993 rate, recalculate the AMW for PPD purposes.
 10 Use .005 for injuries sustained before 07/01/81. Use .006 for injuries sustained on or after 07/01/81, through 06/17/93. Use .0054 for injuries sustained on or after 06/18/93. Use .006 for injuries sustained on or after 01/01/00.
 100 Per NRS 616C.490(7), age at which entitlement ceases.
 1000 This must reflect the end of month prior to election of the award. Recalculations may be required to bring the award to present day value. If (2)(b) is December date, use caution on line (4) to assure correct number of years. (If subtracting dates, add one year)
 1 Must pay monthly installments, if monthly entitlement is \$100 or more. May pay annual installments if monthly entitlement is less than \$100.

Prepared by: **Jody Yturbe**

Date: **9-16-09**

Checked by: **Antashe Cortez**

Date: **9/17**

170

Injured Employee: Jody Yturbe
Claim No: 08853A368316
Employer: City of Reno

Date: 9/17/09
Date of Injury: 1/23/08
Insurer: COMSI

ELECTION OF METHOD OF PAYMENT OF COMPENSATION
(Pursuant to NRS 616C.495)

NRS 616C.495(2) provides:

2. If the injured employee elects to receive his payment for a permanent partial disability in a lump sum, all of his benefits for compensation terminate. His acceptance of that payment constitutes a final settlement of all factual and legal issues in the case. By so accepting he waives all of his rights regarding the claim, including the right to appeal from the closure of the case or the percentage of his disability, except:

- (a) His right to reopen his claim according to the provisions of NRS 616C.390; and
(b) Any counseling, training or other rehabilitative services provided by the insurer.

The injured employee must be advised in writing of the provisions of this subsection when he demands his payment in a lump sum, and has 20 days after the mailing or personal delivery of this notice within which to retract or reaffirm his demand, before payment may be made and his election becomes final.

I, Jody Yturbe
(Name)

(Social Security Number)

have been advised that I may elect to receive my permanent partial disability compensation on an installment basis or, if eligible, and I so elect, on a lump sum basis.

Should I elect to receive my compensation on an installment basis, payments will begin on 10/1/09 and terminate on 2/16/2041 and will be paid at the monthly rate of \$ 145.88 for a total installment payment of \$ 56,410.27.

If I elect to receive my entitlement on a lump sum basis I will receive approximately \$ 25,382.27. This sum will vary depending on the date I elect to receive my lump sum payment. As provided by NRS 616C.495, if I elect to receive my payment for permanent partial disability in a lump sum, all of my benefits for compensation terminate.

My acceptance of the lump sum payment constitutes a final settlement of all factual and legal issues in this case, including but not limited to unresolved issues that are or could become the subject of pending litigation. By so accepting, I waive all of my rights regarding the claim, including, but not limited to, the right to appeal from the closure of the case or the percentage of my disability, except:

- (a) My right to request reopening in accordance with the provisions of NRS 616C.390; and
(b) Any counseling, training or other rehabilitation services provided by the insurer.

Further, I understand that I have twenty (20) days after this notice has been mailed or personally delivered to me, within which to retract or reaffirm my request for a lump sum. I also understand that I will not be paid a lump sum until I have reaffirmed this election in writing. I also understand that any lump sum I receive is subject to an offset based on any prior PPD payments I received before electing to accept a lump sum.

Check one to indicate method of payment desired and sign below.

1. ☐ On an installment basis as provided by NRS 616C.490.
2. ☒ A lump sum of approximately \$ 25,382.27 as calculated pursuant to NRS 616C.495.

DATE: 9/22/09

INJURED EMPLOYEE: Jody Yturbe

DATE: 9/22/09

WITNESS: Kelly L. Adams

* Insurer: Designate whether monthly or annual rate.

** Amount depends on actual effective date (date elected).

SEP 24 2009

* Paid on 9.24.09 *

171

(62)

Injured Employee: Jody Yl .de

Social Security No.:

Claim No.: 08853A368316

Employer: City of Reno

Date of Injury: 1/23/08

REAFFIRMATION/RETRACTION OF LUMP SUM REQUEST

(Pursuant to NRS 616C.495(2) and NAC 616C.499(1))

NAC 616C.499(1) provides: If an injured employee elects to receive his award for a permanent partial disability in a lump sum, he must reaffirm his election within 20 days after receiving notification from the insurer pursuant to subsection 2 of NRS 616C.495 before the lump sum will be paid.

Please indicate whether you wish to reaffirm or retract your request for a lump sum payment by checking the appropriate box below. Your decision as indicated on this form constitutes your final election regarding the lump sum payment.

Failure to return this form or not checking one of the boxes may result in a delay in the processing of your award.

☒ I reaffirm the request for my lump sum payment. I understand that in doing so, I am waiving all of my rights regarding the claim, except my right to request reopening and vocational rehabilitation.

☐ I retract the request for my lump sum payment.

Joseph Hulice
Signature of Injured Employee

Date

9/22/09

Debra Wilson
Witness

Date

9/22/09

D-11 rev 4/98

SEP 24

172

JA196



TO: Jody Yturbide
PO Box 17428
Reno, NV 89511

Claim No: 10853B429461
Employer: City of Reno
Insurer: City of Reno
TPA: CCMSI
Date of Injury: 10/11/2010
Date of Notice: 1/25/2011

FROM: Lisa Jones, Claims Representative

NOTICE OF INTENTION TO CLOSE CLAIM
(Pursuant to NRS 616C.235)

After careful and thorough review of your workers' compensation claim, it has been determined that all benefits have been paid and your claim will be closed effective seventy (70) days from the date of this notice.

Your file reflects that you are not presently undergoing any medical treatment; however, if you are scheduled for future medical appointments please advise us immediately. You are not being scheduled for a disability evaluation because your doctor has indicated that you do not have a ratable impairment as a result of your above-referenced claim.

Nevada Revised Statute (NRS) 616C.390 defines your right to reopen your claim. You must make a written request for reopening and your doctor must submit a report relating your problem to the original industrial injury. The report must state that your condition has worsened since the time of claim closure and that the condition requires additional medical care. Reopening is not effective prior to the date of your request for reopening unless good cause is shown. Upon such showing by your doctor, the cost of emergency treatment shall be allowed.

If you disagree with the above determination, you do have the right to appeal. If your appeal concerns "accident benefits" (medical treatment or supplies) and your insurer has contracted with an organization for managed care, complete the bottom portion of this notice and send it to your insurer no later than fourteen (14) days after the date of this notice.

If your appeal concerns "compensation benefits," or if no organization for managed care is involved in your claim, complete the bottom portion of this notice and send it to the State of Nevada, Department of Administration, Hearings Division. Your appeal must be filed within seventy (70) days after the date on which the notice of the insurer's final determination was mailed.

Department of Administration
Hearings Division
1050 E. William Street, Ste. 400
Carson City, NV 89710
(775) 687-5966

OR

Department of Administration
Hearings Division
2200 S. Rancho Drive, Suite 210
Las Vegas, NV 89102
(702) 486-2525

Reason for appeal _____

Signature

Date

Retain a copy of this notice for your records.

cc: File, City of Reno, Dr. Glick

enclosures

D-31 (rev. 10/03)

P.O. Box 20068 Reno, NV 89515-0068
(775) 324-3301 • Fax (775) 324-9893

64

173

JA197

15
Katharina C. Welborn, DC, CICE
2821 Catalina Dr
Rocklin, CA 95765
T (877) 796-8601
F (877) 372-6670

Date: April 5, 2013

Company: CCMSI

Attention: Lisa Jones

Permanent Partial Disability Rating

15
Claimant: Jody Yturbide
Claim #: 11853C036358
DOI: 11/17/2011
Employer: City of Reno
Evaluation Date: 03/26/13
Body Part(s): left elbow

The following permanent impairment evaluation was performed according to the methodologies and criteria of the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, 5th edition, Second Printing February 2002, (herein referred to as "Guides").

*Identity confirmed with Nevada Driver License #0900930805.

HISTORY and RECORDS REVIEW:

On 11/17/11 while working for the City of Reno as a dispatcher, Jody Yturbide reported left arm/elbow pain. The pain developed over an extended period of time. Her job required repetitive use of her left hand for keyboarding and other light duties.

On 11/21/11, Ms. Yturbide went to South Virginia Medical Center where Michael Glick, DO examined her. Ms. Yturbide had a history of bilateral carpal tunnel syndrome. Left elbow radiographs were read as normal. The impression was overuse of the left arm, tennis elbow and medial epicondylitis. Ms. Yturbide was advised to ice her elbow. She was given a prescription for Ultram. She was released to light-duty work with no use of her left arm repetitively.

Received

APR 08 2013

CCMSI-Reno

1 of 5

65

174

JA198

On 10/17/12, Dr. Huene reviewed the tests and felt the majority of the claimant's problem was coming from her lateral epicondylitis. Another ACP injection was recommended. Ms. Yturbe remained on light-duty work.

On 11/26/12, Ms. Yturbe reported that she was doing quite well. She had full range of motion. She continued a home exercise program.

On 1/14/13, Dr. Huene increased the claimant's light-duty work over the next month. She was not quite at full-duty work yet.

On 2/25/13, Ms. Yturbe reported that if she used her left hand for more than 10 hours a day, it would flare up. She had full range of motion. Dr. Huene deemed the claimant to be at maximum medical improvement for her left elbow injury. If the pain flared-up again, another ACP injection could be considered. Ms. Yturbe was kept on permanent restrictions that included no working more than 10 hours per day. She could continue her home exercise program. An impairment rating could be performed.

WORK STATUS:

Ms. Yturbe is working full time at the same place of employment. She works four ten hour shifts and does alright with pain levels. If she works overtime or longer than 10 hours she tends to flare up.

FUNCTIONAL STATUS and ACTIVITIES OF DAILY LIVING ASSESSMENT:

Jody continues to have difficulties with her daily self care activities, usually with things requiring her to use her hands repeatedly, such as brushing her hair, putting on a bra etc. Writing and using a computer as well as answering phones wears on her arms. She is fatigued by the end of the day. Carrying, lifting, pushing and pulling are occasionally challenging as well. Grasping, holding and pinching are challenging and she gets numbness and a cold sensation in the last two fingers of her left hand with pain at the elbow. She has difficulty sleeping well and wakes often due to pain and numbness. She uses Ibuprofen due to a constant feeling of soreness at the left elbow. She states it is getting fatigued more often and that she notices heat at the elbow as well as sensitivity to touch lately. She also uses a topical ointment which she was given for pain and which tends to help a lot. She is beginning to run out of the ointment and is worried because she has not received another prescription. One of her difficulties is also that she feels her injury has slowed down her speed and ability to work as long and fast as previously.

CHIEF COMPLAINTS:

Ms. Yturbe states that her main complaint is fatigue and elbow in the left elbow with as feeling of heat in it as well as sensitivity to touch.

EXAMINATION:

Jody Yturbide is a friendly and cooperative woman who appears her stated age of 42. Visualization of the skin of her left elbow reveals heat and sensitivity to touch. Palpation by examiner shows tenderness to light touch on the dorsal and lateral surface of the elbow. Reflexes in the upper extremities are 2+, brisk and reactive above and below the elbows. She has 5/5 strength in all of the upper extremity muscle groups, though she does have pain in the extensor tendons of the forearm on performance of resisted motion. Circumferential measurements above and below the elbow are comparable from side to side between the right and left arm. Grip strength when tested with JAMAR dynamometer shows less strength with the left, injured arm, which fatigued increasingly throughout repeated grip tests. Her results cannot be used for any rating as results were too inconsistent. She is a right handed individual, range of motion is full in the right elbow. Her left elbow range of motion was tested after warm up movements were completed and is tabulated below:

left elbow	Flexion	Extension	Impairment %	Figure
Angle	120	0	2	16-34
Impairment %	2	0		page 472
	Pronation	Supination	Impairment %	Figure
Angle	60	82	1	16-37
Impairment %	1	0		page 474

Impairment of the upper extremity due to range of motion difficulty is 3% UE

DIAGNOSIS:

Status post tendinitis as well as lateral and medial epicondylitis.

PERMANENT PARTIAL DISABILITY SUMMARY:

From reviewing the records and from examining Jody Yturbide today, it is my opinion that she has reached a point of being stable and ratable.

Her hypersensitivity is not subject to a specific dermatome pattern, nor does it follow peripheral nerve distribution. The only impairment ratable at this time is for her mild loss of motion (3% UE) at the left elbow. This is converted to whole person from upper extremity using table 16-3 on page 438 which gives her 2% whole person impairment.

I recommend closure of claim number 11853C036358 with 2 percent whole person impairment.

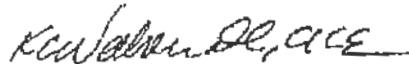
APPORTIONMENT:

In accordance with NAC 616C.493 this patient has no prior history of injury to the examined area. Therefore, there is no basis for apportionment in this case.

I do not believe there is inconsistency between the history of the accident and the physical examination findings in this case.

This examination was performed in accordance with the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, Second printing. All extremity ranges of motion and measure active range of motion measurements were performed utilizing a goniometer. All spinal ranges of motion were performed using inclinometers and measured during active range of motion.

Respectfully submitted,



Katharina C. Welborn, DC, CICE

5 of 5

Received
APR 08 2013
CCMSH-Reno



177

JA201



April 15, 2013

Jody Yturbe
9732 Pyramid Way #368
Sparks, NV 89441

RE: Claim No.: 11853C036358
Date of Injury: 11/17/2011
Employer: City of Reno

Dear Mrs. Yturbe:

As a result of your permanent partial disability (PPD) evaluation, you have been found to have an impairment rating of two (2%) percent on a whole body basis. As indicated in the enclosed documents, you may elect to receive your PPD compensation either on an installment or lump sum basis.

As of the date of your PPD evaluation, your claim is closed for any further benefits except:

- (a) Right to request reopening in accordance with the provisions of NRS 616C.390; and
- (b) Any counseling, training or other vocational rehabilitation services, if applicable.

The following documents are enclosed.

- Election of Method of Payment of Compensation, Form D-10a (revised 7/99)
- Reaffirmation/retraction of Lump Sum Request, Form D-11 (revised 7/99)
- Injured Employee's Right to Reopen a Claim Which Has Been Closed/PPD Offset, Form D-13 (revised 7/99)
- Copy of PPD Rating Evaluation
- Copy of PPD Award Calculation Work Sheet, Form D-9a (revised 7/99)
- Request for Hearing, Form D-12a (revised 7/99)

Please sign one copy of the first two forms listed above. The second set is for your records.

P.O. Box 20088
Reno, NV 89515-0088
775-324-3301 phone
775-324-9883 fax

178

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JA202

Page 2

Claim No.: 11853C036358

If you disagree with this decision, you have the right to file an appeal and mail it directly to the Hearing Officer, Department of Administration, 1050 E. William Street, Ste. 400, Carson City, NV 89710. If your request does not reach the Hearing Officer within seventy (70) days from the date of this letter, you may lose your right to appeal the decision.

If you have questions, please contact this office at (775) 324-3301 x1029.

Sincerely,



Lisa Jones
Claims Representative

Enclosure

cc: File, City of Reno, DIR,
Kathleen Sigurdson, Esq.

179

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JA203

Injured Employee: Jody Yturbide
Claim No: 11853C036358
Employer: City of Reno

Date: 4/15/2013
Date of Injury: 11/17/2011
Insurer: City of Reno

ELECTION OF METHOD OF PAYMENT OF COMPENSATION
(Pursuant to NRS 616C.495)

NRS 616C.495(2) provides:

2. If the injured employee elects to receive his payment for a permanent partial disability in a lump sum, all of his benefits for compensation terminate. His acceptance of that payment constitutes a final settlement of all factual and legal issues in the case. By so accepting he waives all of his rights regarding the claim, including the right to appeal from the closure of the case or the percentage of his disability, except:

- (a) His right to reopen his claim according to the provisions of NRS 616C.390; and
- (b) Any counseling, training or other rehabilitative services provided by the insurer.

The injured employee must be advised in writing of the provisions of this subsection when he demands his payment in a lump sum, and has 20 days after the mailing or personal delivery of this notice within which to retract or reaffirm his demand, before payment may be made and his election becomes final.

I, Jody Yturbide
(Name)

(Social Security Number)

have been advised that I may elect to receive my permanent partial disability compensation on an installment basis or, if eligible, and I so elect, on a lump sum basis.

Should I elect to receive my compensation on an installment basis, payments will begin on 5/1/13 and terminate on 2/16/41 and will be paid at the annual rate of \$ 741.84 for a total installment payment of \$ 21,759.72.

If I elect to receive my entitlement on a lump sum basis I will receive approximately \$ 10,739.97. This sum will vary depending on the date I elect to receive my lump sum payment. As provided by NRS 616C.495, if I elect to receive my payment for permanent partial disability in a lump sum, all of my benefits for compensation terminate.

My acceptance of the lump sum payment constitutes a final settlement of all factual and legal issues in this case, including but not limited to unresolved issues that are or could become the subject of pending litigation. By so accepting, I waive all of my rights regarding the claim, including, but not limited to, the right to appeal from the closure of the case or the percentage of my disability, except:

- (a) My right to request reopening in accordance with the provisions of NRS 616C.390; and
- (b) Any counseling, training or other rehabilitation services provided by the insurer.

Further, I understand that I have twenty (20) days after this notice has been mailed or personally delivered to me, within which to retract or reaffirm my request for a lump sum. I also understand that I will not be paid a lump sum until I have reaffirmed this election in writing. I also understand that any lump sum I receive is subject to an offset based on any prior PPD payments I received before electing to accept a lump sum.

Check one to indicate method of payment desired and sign below.

- 1. ☐ On an installment basis as provided by NRS 616C.490.
- 2. ☐ A lump sum of approximately \$ 10,739.97 as calculated pursuant to NRS 616C.495. (2%)

DATE: _____ INJURED EMPLOYEE: _____

DATE: _____ WITNESS: _____

* Insurer: Designate whether monthly or annual rate.

** Amount depends on actual effective date (date elected).

180

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Injured Employee: Jody Yturbe

Social Security No.:

Claim No.: 11853C036358

Employer: City of Reno

Date of Injury: 11/17/2011

REAFFIRMATION/RETRACTION OF LUMP SUM REQUEST

(Pursuant to NRS 616C.495(2) and NAC 616C.499(1))

NAC 616C.499(1) provides: If an injured employee elects to receive his award for a permanent partial disability in a lump sum, he must reaffirm his election within 20 days after receiving notification from the insurer pursuant to subsection 2 of NRS 616C.495 before the lump sum will be paid.

Please indicate whether you wish to reaffirm or retract your request for a lump sum payment by checking the appropriate box below. Your decision as indicated on this form constitutes your final election regarding the lump sum payment.

Failure to return this form or not checking one of the boxes may result in a delay in the processing of your award.

☐ I reaffirm the request for my lump sum payment. I understand that in doing so, I am waiving all of my rights regarding the claim, except my right to request reopening and vocational rehabilitation.

☐ I retract the request for my lump sum payment.

Signature of Injured Employee

Date

Witness

Date

D-11 rev/4/09

181

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JA205

**INJURED EMPLOYEE'S RIGHT
TO REOPEN A CLAIM WHICH HAS BEEN CLOSED**

Nevada Revised Statutes 616C.390 defines your right to reopen your worker's compensation claim after it has been determined that all benefits have been paid and your claim has been closed.

An application to reopen a claim must be in writing and accompanied by a certificate from a physician or chiropractor showing a change in medical condition.

If you did not lose time from work as a result of your industrial injury or occupational disease and you did not receive a permanent partial disability award, you may not request reopening of your claim more than one (1) year after the date on which your claim was closed.

Except as otherwise provided in NRS 616C.390(4), if the request for reopening is denied, the injured employee shall not request reopening of the claim until at least one (1) year after the date on which the final determination of an insurer is issued.

Reopening of a claim is not effective, and thus no benefits or compensation is available, before the date on which an application for reopening is made unless good cause is shown (NRS 616C.390(8)). If your claim closes under NRS 616C.235(2), then you may not reopen your claim (NRS 616C.390(6)).

PPD OFFSET

Nevada Revised Statutes (NRS) 616C.405 prohibits an injured employee from receiving a permanent partial disability (PPD) benefit at the same time you are receiving temporary total disability (TTD), temporary partial disability (TPD), or permanent total disability (PTD).

Further, if you have received a PPD on a claim and you were paid the award in a lump sum, future TTD, TPD, or PTD you receive on the same claim must be reduced by a portion of the PPD lump sum; or, if you are receiving installment payments for PPD, those payments will be suspended while TTD, TPD, or PTD is being paid.

The rate at which the PPD offset is deducted is the same as the daily/monthly rate of the PPD award. Except for minimum lump sum awards, for each day/month you receive TTD, TPD, or PTD on the claim, the daily/monthly PPD rate is deducted based on the time period used to calculate the lump sum PPD award. (See NRS 616C.440 for specific information regarding offsets to PTD)

Your PPD lump sum was computed through the day before your 70th* birthday. In other words, the lump sum represents permanent partial disability payments due you from the effective date of your initial PPD payment until you turn 70* years old (unless otherwise entitled to the minimum lump sum). Although you received just one lump sum payment(s), this payment represents the present value of all your future PPD payments.

* PPD awards are calculated using the maximum age established by law which, depending on the date of the injury or occupational disease, may be less than 70 years.

NOTE: This form is to be used by the Claims Agent when sending out permanent partial disability awards or whenever applicable.

D-13 rev. 10/11

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REQUEST FOR HEARING - CONTESTED CLAIM

(Pursuant to NAC 616C.274)

REPLY TO:

Department of Administration
Hearings Division
1050 E. William Street, Ste. 400
Carson City, NV 89701
(775) 687-8440

OR

Department of Administration
Hearings Division
2200 S. Rancho Drive, Suite 210
Las Vegas, NV 89102
(702) 486-2525

Employee Information	
Employee's Name and Address	
Employee's Telephone Number	Claim No.
	Date of Injury
Insurer Information	
Insurer's Name and Address	
Insurer's Telephone Number	

Employer Information
Employer's Name and Address
Employer's Telephone Number
Third-Party Administrator Information
Third-Party Administrator's Name and Address
Third-Party Administrator's Telephone Number

Do Not Complete or Mail This Form Unless You Disagree With the Insurer's Determination.

YOU MUST INCLUDE A COPY OF THE DETERMINATION LETTER OR A HEARING WILL NOT BE SCHEDULED PURSUANT TO NRS 616C.315.

Briefly explain the basis for this appeal:

The Injured Employee

This request for hearing is filed by, or on behalf of:

The Employer

and is dated this _____ day of _____, 20_____.

Signature of Injured Employee/Employer

Injured Employee's/Employer's Rep. (Advisor)

D-12a (Rev. 10/75)

183

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JA207

PERMANENT PARTIAL DISABILITY AWARD CALCULATION WORK SHEET

Injured Employee: Jody Yturbe DOB: 11/17/11 Sex: Female
 SSN: 11853C036358 D. O. I.: 11/17/11 Claim # 11853C036358
 *Average Monthly Wage: \$5,151.57 * State Average Wage: \$5,151.57 Date of Rating: 03/26/13
 Date Award Offered: 04/10/13 Date Evaluation Report Received: 04/08/13

Description: 2 % 0 % Total: 2 % BB

Installment Calculation
 *A. \$5,151.57 x 0.0060 = \$31.82 Monthly Wage Monthly Rate
 B. \$31.82 x 12 = \$381.84 Annual Rate
 C. \$381.84 / 365.25 = \$1.04 Daily Rate

Installment Calculation
 (1) Last Date TTD or TPD paid: 11/17/11 First Payment Date: 05/01/13
 (2) Time Covered by First Payment: (a) 11/17/11 through (b)**** 04/30/13
 (3) First Payment: \$28.42 + \$370.92 + \$741.84 = \$1,141.18
 (4) Time covered by Annual Payments: 5/1/13 through 4/30/14 = \$20,029.65
 (5) Time Covered by final payment: 5/1/14 through 2/16/15 **** 27 Years
 (6) Final Payment: \$556.38 + \$32.48 = \$588.86
 **** Monthly 9 Month(s) 16 Day(s) Total of Installment Payments = \$21,759.72

Minimum Lump Sum Calculation
.5 % X 2 %BB X \$5,151.57 Monthly Wage from (A) above: \$5,151.57
 Minimum Lump Sum Amount

Lump Sum Calculation of Disability Up To and Including 25%
 (Use form D-9b for disability greater 25%)
 (7) Effective Date of Award (year, month following 2b) Per NAC 616C.502 2013
 (8) Date of Birth (year, month) 1971
 (9) Injured Worker's Age at Award Effective Date (7) minus (8) (years, months) 42
 (10) Monthly Rate From (B) \$61.82
 (11) Factor from Table for Present Value X \$155.27 = \$9,598.79
 (12) Insert Sum of (3). Add to sum of (11) only. + \$1,141.18
 (13) Subtotal of (11) plus (12): \$10,739.97
 (14) Greater of (13) full Lump Sum or Minimum Lump Sum: \$10,739.97
 (15) Minus any applicable award payments previously paid:
 (16) Net Amount Payable: \$10,739.97

* Use the Average Monthly Wage or the State Average Wage, whichever is lower. If the average monthly wage (AMW) for TTD on this claim is subject to the "frozen" 1993 rate, recalculate the AMW for PPD purpose.
 ** Use .005 for injuries sustained before 07/01/81. Use .006 for injuries sustained after 07/01/81, through 06/17/93. Use .0054 for injuries sustained on or after 06/18/93. Use .006 for injuries sustained on or after 1/1/00.
 *** Per [NRS 616.605(3)] NRS 616C.490(3), age at which entitlement ceases.
 **** This must reflect the end of the month prior to election of the lump sum payment. Recalculation may be required to bring the award to present day value. If (2)(b) is December date, use caution on line (4) to assure correct number of years. (If subtracting dates, add one year)
 ***** Must pay monthly installments if monthly entitlement is \$100 or more. May pay annual installment if monthly entitlement is less than \$100.

PREPARED BY: [Signature]
 CHECKED BY: [Signature]

Date: 04/11/13
 Date: 04/11/13

D-9a (rev 2/)

184

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Injured Employee: Jody Yturbe
Claim No: 11853C036358
Employer: City of Reno

Date: 4/15/2013
Date of Injury: 11/17/2011
Insurer: City of Reno

ELECTION OF METHOD OF PAYMENT OF COMPENSATION
(Pursuant to NRS 616C.495)

NRS 616C.495(2) provides:

2. If the injured employee elects to receive his payment for a permanent partial disability in a lump sum, all of his benefits for compensation terminate. His acceptance of that payment constitutes a final settlement of all factual and legal issues in the case. By so accepting he waives all of his rights regarding the claim, including the right to appeal from the closure of the case or the percentage of his disability, except:

- (a) His right to reopen his claim according to the provisions of NRS 616C.390; and
- (b) Any counseling, training or other rehabilitative services provided by the insurer.

The injured employee must be advised in writing of the provisions of this subsection when he demands his payment in a lump sum, and has 20 days after the mailing or personal delivery of this notice within which to retract or reaffirm his demand, before payment may be made and his election becomes final.

I, Jody Yturbe
(Name)

(Social Security Number)

have been advised that I may elect to receive my permanent partial disability compensation on an installment basis or, if eligible, and I so elect, on a lump sum basis.

Should I elect to receive my compensation on an installment basis, payments will begin on 5/1/13 and terminate on 2/16/41 and will be paid at the annual rate of \$ 741.84 for a total installment payment of \$ 21,759.72.

If I elect to receive my entitlement on a lump sum basis I will receive approximately \$ 10,739.97. This sum will vary depending on the date I elect to receive my lump sum payment. As provided by NRS 616C.495, if I elect to receive my payment for permanent partial disability in a lump sum, all of my benefits for compensation terminate.

My acceptance of the lump sum payment constitutes a final settlement of all factual and legal issues in this case, including but not limited to unresolved issues that are or could become the subject of pending litigation. By so accepting, I waive all of my rights regarding the claim, including, but not limited to, the right to appeal from the closure of the case or the percentage of my disability, except:

- (a) My right to request reopening in accordance with the provisions of NRS 616C.390; and
- (b) Any counseling, training or other rehabilitation services provided by the insurer.

Further, I understand that I have twenty (20) days after this notice has been mailed or personally delivered to me, within which to retract or reaffirm my request for a lump sum. I also understand that I will not be paid a lump sum until I have reaffirmed this election in writing. I also understand that any lump sum I receive is subject to an offset based on any prior PPD payments I received before electing to accept a lump sum.

Check one to indicate method of payment desired and sign below

- 1. ☐ On an installment basis as provided by NRS 616C.490.
- 2. ☒ A lump sum of approximately \$ 10,739.97 as calculated pursuant to NRS 616C.495 (2%)

DATE: 4/18/2013

INJURED EMPLOYEE

DATE: 4/18/2013

WITNESS

18th April 2013

* Insurer: Designate whether monthly or annual rate.

** Amount depends on actual effective date (date elected)

Received

APR 25 2013

CCMSH Reno

Paid on 4-25-13 LT

185

76

Injured Employee: Jody Ythurbide

Social Security No.:

Claim No.: 11853C036358

Employer: City of Reno

Date of Injury: 11/17/2011

REAFFIRMATION/RETRACTION OF LUMP SUM REQUEST

(Pursuant to NRS 616C.495(2) and NAC 616C.499(1))

NAC 616C.499(1) provides: If an injured employee elects to receive his award for a permanent partial disability in a lump sum, he must reaffirm his election within 20 days after receiving notification from the insurer pursuant to subsection 2 of NRS 616C.495 before the lump sum will be paid.

Please indicate whether you wish to reaffirm or retract your request for a lump sum payment by checking the appropriate box below. Your decision as indicated on this form constitutes your final election regarding the lump sum payment.

Failure to return this form or not checking one of the boxes may result in a delay in the processing of your award.

☒ I reaffirm the request for my lump sum payment. I understand that in doing so, I am waiving all of my rights regarding the claim, except my right to request reopening and vocational rehabilitation.

☐ I retract the request for my lump sum payment.

Signature of Injured Employee

Date

Witness

Date

Received

APR 8 5 2013

CCMSI-Reno

D-11 000459

77

186

JA210

McDONALD-CARANO-WILSON;

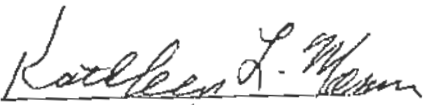
100 WEST LIBERTY STREET, 10TH FLOOR • RENO, NEVADA 89501
TEL: 775.784.1111 • FAX: 775.784.1112

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of McDONALD CARANO WILSON LLP, and that on the 8th day of September, 2016, I served true and correct copies of the within **INSURER'S DOCUMENTARY EVIDENCE** via hand delivery and U.S. Mail as follows:

Via Hand Delivery Nevada Department of Administration
Appeals Office
1050 E. William St., Suite 450
Carson City, NV 89701

Via Hand Delivery Jason Guinasso, Esq.
Reese Kintz Guinasso, LLC
190 West Huffaker Suite 402
Reno, NV 89511


Kathleen L. Morris

470204.1

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JA211

ORIGINAL

1 Jason D. Guinasso, Esq.
Nevada Bar No. 8478
2 Reese Kintz Guinasso
190 W. Huffaker Lane
3 Suite 402
Reno, NV 89511
4 Attorney for Jody Yturbide

5
6 NEVADA DEPARTMENT OF ADMINISTRATION
7 BEFORE THE APPEALS OFFICER

8 In the Matter of the
Industrial Insurance Claim

9
10 of

11 JODY YTURBIDE
12 9732 PYRAMID WAY, #368
13 SPARKS, NV 89441

Claim No.: 14853E248257

Hearing No.: 1700074-JL

Appeal No.: 1700698-LLW

Employer: CITY OF RENO
PO BOX 1900
RENO, NV 89505

TPA: CCMSI
PO BOX 20068
RENO, NV 89515-0068

15
16 JODY YTURBIDE'S
17 DOCUMENTARY EXHIBIT #1
18
19
20
21



22
23 Reese Kintz,
Guinasso
190 W Huffaker Ln
Suite 402
24 Reno, NV 89511
(775) 853-8746

#2

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1 AFFIRMATION

2 The undersigned does hereby affirm that the JODY YTURBIDE'S
3 DOCUMENTARY EXHIBIT #1 filed under Appeal No. 1700698-LLW:

4
5 ☒ Does not contain the social security number of any person.

6 -OR-

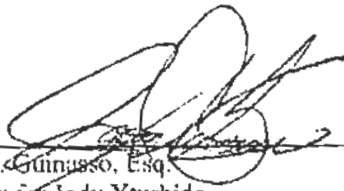
7 ☐ Contains the social security number of a person as required by:

8 A. A specific state or federal law, to wit: _____

9 -OR-

10 B. For the administration of a public program or for an application for a
11 federal or state grant.

12
13 DATED this 14th day of October, 2016

14 
15 Jason D. Guinasso, Esq.
16 Attorney for Jody Yturbide
17
18
19
20
21
22



Reeno Klotz,
Guinasso
190 W. Hoffbauer Ln.
Suite 402
Reno, NV 89511
(775) 853-8746

CERTIFICATE OF SERVICE

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 190 W Huffaker Lane, Suite 402, Reno, Nevada, 89511.

On October 14th, 2016, I served the following:

JODY YTURBIDE'S

DOCUMENTARY EXHIBIT #1

on the following in said cause as indicated below:

JODY YTURBIDE 9732 PYRAMID WAY, NO. 368 SPARKS, NV 89441 (VIA U.S. MAIL)	CCMSI P.O. BOX 20068 RENO, NV 89515-0068 (VIA U.S. MAIL)
LISA WILTSHIRE ALSTEAD, ESQ. MCDONALD CARANO WILSON 100 W LIBERTY ST., 10 TH FLOOR RENO, NV 89505 (VIA U.S. MAIL)	CITY OF RENO ATTN: KELLY LEERMAN PO BOX 1900 RENO, NV 89505 (VIA U.S. MAIL)
NEVADA DEPARTMENT OF ADMIN. APPEALS DIVISION 1050 E WILLIAM ST, STE 450 CARSON CITY, NEVADA 89701 (VIA U.S. MAIL)	

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 14th, 2016, at Reno, Nevada.


KATRINA A. TORRES



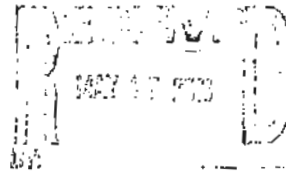
Renee Kintz,
Guinness
190 W Huffaker Ln
Suite 402
Reno, NV 89511
(775) 853-8746

INDEX TO JODY YTURBIDE'S
DOCUMENTARY EXHIBIT #1
Appeal No. 1700698-LLW

DATE	SUMMARY	PAGE
05/16/16	Lisa Jones, Claim Examiner; CCMSI; Letter to Jody Yturbide informing her of the PPD evaluation scheduled for her with Dr. Welborn as she had reached MMI.	Yturbide0001-3
05/16/16	Lisa Jones, Claim Examiner; CCMSI; Letter to Dr. Katharina Welborn confirming the PPD evaluation appointment and attaching medical file.	Yturbide0004
06/19/16	Katharina Welborn, DC; Permanent Partial Disability Rating; <ul style="list-style-type: none">• 33% Whole Person Impairment	Yturbide0005-11
07/01/16	Lisa Jones, Claim Examiner; CCMSI; Letter to Jody Yturbide offering buyout options for 33% impairment rating.	Yturbide0012-26
07/09/16	Jason Guinasso, Esq; Reese Kintz Guinasso; Letter to CCMSI requesting that they re-issue determination that is compliant with Nevada statutes.	Yturbide0027-34



Reese Kintz,
Guinasso
190 W. Hoffman Ln.
Suite 402
Reno, NV 89501
(775) 853-8746



May 16, 2016

Jody Yturblide
9732 Pyramid Way #368
Sparks, NV 89441

Re: Claim No.: 14853E248257
D.O.I.: 05/22/2014
Employer: City of Reno
Body part: Neck-Cervical

Dear Ms. Yturblide:

Based on recent medical reporting from your treating physician, you have reached maximum medical improvement for your injuries. As it appears you may have a permanent impairment, you have been scheduled for a Permanent Partial Disability evaluation with Dr. Welborn on 5/9/2016 at 3:00 p.m. Please check in at least 15 minutes early to your appointment. The physician's office is located at Sierra Chiropractic at 3670 Grant Dr., Suite 101, Reno, NV 89509. Please call the physician's office at (877) 796-8601 to confirm this appointment.

If your injury involves your back or a lower extremity (i.e. knee, ankle, leg), please wear comfortable clothing and bring gym shorts or cut offs for your evaluation.

One of the necessary factors in computing a monetary award is the injured worker's age. Please bring a copy of your driver's license, birth certificate, or other official record that documents your exact age with you to the evaluation, or send a copy to CCMSI at the address below.

You are asked to hand carry any diagnostic films to this appointment, including but not limited to ALL MRI films taken for your injury. If you do not bring films to the evaluation the rating physician may not perform the evaluation.

As of the date of your scheduled evaluation, whether or not you are present, your claim will close for all benefits, except the right to request reopening and any ongoing rehabilitation programs.

Also, as of the date of this letter, CCMSI will not authorize payment of any further medical treatment. However, payments will be honored for any treatments and/or prescriptions authorized prior to the date of this letter up through the date of this evaluation.

Cannon Cochran Management Services, Inc.
PO Box 20068 • Reno, NV 89515
866-602-6153 • 775-324-3301 • Fax: 775-324-6899 • www.ccmsi.com

Yturblide0001

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JA216



Page 2
Re: Jody Yturbide
May 16, 2016

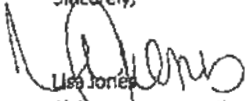
It is very important that you keep this appointment and cooperate fully with the physician. NRS 616C.140 (5) states: "If the employee refuses to submit to an examination ordered or requested pursuant to subsection 1 or 2 or obstructs the examination, his right to compensation is suspended until the examination has taken place, and no compensation is payable during or for the period of suspension."

If you are a no call / no show for this appointment, or if you fail to cancel at least 24 hours prior to the examination, you will be responsible for any associated charges (NRS 616C.230).

If you disagree with this determination, you have the right to request a hearing by completing the bottom portion of the enclosed Request for Hearing form, and sending it to the State of Nevada, Department of Administration, Hearings Division, Carson City address, within seventy (70) days from the date of this letter.

If you have questions regarding this letter, you may contact me at (775) 324-9891.

Sincerely,


Lisa Jones
Claims Representative
CCMSI - Reno, Nevada

cc: file
City of Reno
Dr. Welborn
Jason Guinasso, Esq.

Cannon Cochran Management Services, Inc.
PO Box 20068 • Reno, NV 89515
866-601-6165 • 775-324-3301 • Fax 775-324-9893 • www.ccmsi.com

Yturbide0002

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JA217

REQUEST FOR HEARING - CONTESTED CLAIM

(Pursuant to NAC 616C.274)

REPLY TO: Department of Administration
Hearings Division
1050 E. William Street, Ste. 400
Carson City, NV 89701
(775) 687-8440

OR Department of Administration
Hearings Division
2200 S. Rancho Drive, Suite 210
Las Vegas, NV 89102
(702) 486-2525

Employee Information	
Employee's Name and Address Jody Ylurbide 8732 Pyramid Wy #388 Sparks, NV 89441	
Employee's Telephone Number 775-830-5707	Claim No. 14853E248257 Date of Injury 05/22/2014
Insurer Information	
Insurer's Name and Address	
Insurer's Telephone Number	

Employer Information	
Employer's Name and Address CITY OF RENO 1 EAST FIRST STREET, 9TH FLOOR RENO, NV 89505	
Employer's Telephone Number 775-328-8837	
Third-Party Administrator Information	
Third-Party Administrator's Name and Address CCMSI PO Box 20068 Reno, NV 89515	
Third-Party Administrator's Telephone Number 775-324-3301	

Do Not Complete or Mail This Form Unless You Disagree With the Insurer's Determination.

YOU MUST INCLUDE A COPY OF THE DETERMINATION LETTER OR A HEARING WILL NOT BE SCHEDULED PURSUANT TO NRS 616C.315.

Briefly explain the basis for this appeal:

The Injured Employee

This request for hearing is filed by, or on behalf of The Employer

and is dated this _____ day of _____, 20_____.

Ylurbide0003

Signature of Injured Employee/Employer

Injured Employee's/Employer's Rep. (Advisor)
D-128 (Rev. 1/97)

194

JA218



May 16, 2016

Dr. Katharina Welborn
Attn: Peggy Wood
1544 Picetti Ct.
Fernley, NV 89408

Re: Employee: Jody Yturbide
Employer: City of Reno
D.O.I.: 05/22/2014
Claim #: 14853E248257
Rateable Body Part: Neck-Cervical

Dear Dr. Welborn:

This letter is to confirm an appointment for Impairment Rating of the above captioned workers' compensation claimant. The appointment is scheduled for 6/9/2016 at 3:00 p.m.

Enclosed are copies of all medical records that we have pertaining to the treatment of this worker, along with a copy of the notice of assignment from the Nevada Department of Business & Industry, Division of Industrial Relations.

Please apply apportionment if applicable regarding this case.

I would like to thank you in advance for your professional cooperation and courtesy regarding this matter. Please do not hesitate to contact me at (775) 324-9891 if you have any questions or need additional information.

Respectfully,


Lisa Jones
Claims Representative

Encl: Medical Records
cc: file
City of Reno
Ms. Yturbide
Jason Guinasso, Esq.

Cannon Cochran Management Services, Inc.
PO Box 20058 • Reno, NV 89515
866-601-6165 • 775-324-3301 • Fax: 775-324-9893 • www.ccmst.com

Yturbide0004

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JA219

Jody Yturbide

SCANNED

Katharina C. Welborn, DC
404 Shannon Way
Roseville, CA 95678
Ph: (916) 401-6912
fax: (916) 285-9355

Date: June 19, 2016

Company: CCMSI

Attention: Lisa Jones

Permanent Partial Disability Rating

Claimant: Jody Yturbide
Claim #: 14853E248257
DOI: 05/22/14
Employer: City of Reno
Evaluation Date: 06/09/16

RECEIVED

JUN 21 2016

CCMSI - RENO

Body Part(s): Cervical spine

The following permanent impairment evaluation was performed according to the methodologies and criteria of the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, 5th edition, Second Printing February 2002, (herein referred to as "Guides").

Identity was confirmed with Nevada Driver License #0900830905.

HISTORY and RECORDS REVIEW:

On 5/22/14 while working as a public safety dispatcher for the City of Reno, Jody Yturbide reported the onset of severe pain in her right fingers, forearm, elbow, and her shoulder. Her job entailed non-stop typing and answering phones.

On 5/23/14, Ms. Yturbide went to Concentra Medical Center where Michael Panicari, MD examined her for right arm pain. The assessment was recurrent right elbow tenosynovitis and status post bilateral arthroscopic carpal tunnel release. Dr. Panicari prescribed ketoprofen gel and Celebrex. Ms. Yturbide was released to light-duty work with limited use of her right hand.

On 5/27/14, Ms. Yturbide went to Specialty Health where Scott Hall, MD examined her for complaints of right wrist, fingers, elbow and shoulder pain. Ms.

Jody Yurbide

Yurbide was taken off work for two days to let her symptoms calm down. She was given a trial of Lyrica.

On 6/9/14, Ms. Yurbide went to Sierra Regional Spine Institute for a Pain Management Evaluation. John Reyher, DO examined the claimant. Past treatments included bilateral carpal tunnel release 5-6 years prior, chiropractic treatment that was not helpful, physical therapy, and bilateral epicondyle injections. Electrodiagnostic and nerve conduction studies of the claimant's bilateral upper extremities showed mild sensory median nerve slowing across the carpal tunnel and no evidence of cervical radiculopathy or brachial plexopathy. The assessment was chronic right upper extremity neuropathic pain secondary to an Industrial Injury. History and physical were consistent with mild right carpal tunnel syndrome, possible subclinical cervical radiculopathy, status post gastric bypass surgery, and bilateral right greater than left lateral epicondylitis. Ms. Yurbide was advised to continue physical therapy. Dr. Reyher requested cervical radiographs.

On 6/23/14, Dr. Hall noted that the claimant had been to a chiropractor the week prior and had no improvement. Ms. Yurbide had severe right arm pain and tingling. A trial of Medrol was prescribed and the claimant was transferred to physical therapy.

On 6/26/14, right shoulder radiographs were taken at Reno Diagnostic Centers and read as normal. Cervical spine radiographs showed spondylosis that was most pronounced at C5-6 and to a lesser extent at C6-7. No instability with flexion/extension views was noted.

On 7/7/14, Dr. Reyher ordered a cervical MRI study and prescribed amitriptyline. Ms. Yurbide was placed on light-duty work with no lifting more than 10 pounds.

On 7/23/14, Ms. Yurbide underwent a cervical MRI study without contrast at Reno Diagnostic Centers that showed apparent foreshortening of the lateral masses that resulted in an element of congenital spinal canal narrowing with superimposed degenerative changes that caused severe canal stenosis at C5-6 and moderate to severe canal stenosis at C6-7 without abnormal signal intensity in the cord to suggest cord edema or myelomalacia at the time.

On 7/29/14, Dr. Reyher reviewed the MRI study. He requested a C7-T1 epidural steroid injection for the claimant. Ms. Yurbide remained on light-duty work.

On 9/24/14, the assessment was chronic cervicalgia and right upper extremity pain. Dr. Reyher recommended ongoing physical therapy.

On 11/19/14, physical therapy, Voltaren gel, and light-duty work continued.

On 12/2/14, Ms. Yurbide went to Sierra Neurosurgery Group where Hilari Fleming, MD examined her. The impression was severe cervical stenosis with

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Yurbide0006

Jody Yturbide

quite significant cord flattening at C5-6 into a lesser extent at C6-7, and multi-level foraminal narrowing on the right most significant at C5-6, but also involving C6-7. Surgical intervention was recommended.

On 12/17/14, Dr. Reyher prescribed Cymbalta and Flexeril.

On 1/22/15, Dr. Reyher transferred the claimant's care to Dr. Fleming.

On 2/13/15, Dr. Fleming performed surgery at St. Mary's Regional Medical Center that was described as anterior cervical microdiscectomy with foraminotomies at C6-6 and C6-7, arthrodesis C5-6 and C6-7 with Cornerstone allograft, and internal fixation segmental C5 through C7 with Atlante plate.

On 5/28/15, Ms. Yturbide had some discomfort in her right shoulder and slight numbness in her thumb and index finger. The assessment was cervical spondylosis with myelopathy. A new MRI was recommended.

On 6/16/15, a cervical MRI study without contrast was performed at Reno Diagnostic Centers that showed foreshortened lateral masses that resulted in an element of congenital central spinal canal narrowing, interval ACDF C5-7 without evidence of complication or myelomalacia of the cord, no significant central canal stenosis from C5 to C7 with mild central canal stenosis noted at the C6-4 level, uncovertebral arthropathy most pronounced at the C5-6 level with moderate bilateral neural foraminal narrowing, similar compared to prior studies.

On 6/23/15, the assessment was congenital spinal stenosis with some superimposed degenerative changes, fusion at C5-6 and C6-7, no new problems. The claimant's upper cervical levels had some degenerative changes, but nothing that required intervention. Dr. Fleming released the claimant to full-duty work with the necessity of a headset for the majority of her work.

On 7/23/15, Ms. Yturbide was having trouble even working six hours per day. The assessment was cervical spondylosis with myelopathy. The accommodations recommended did not give the claimant adequate relief of her symptoms. Dr. Fleming recommended a neurology evaluation.

On 8/27/15, Robert G. Berry Jr., MD performed an initial physiatry consultation at Sierra Regional Spine Institute. The assessment was electrodiagnostic evidence of a very mild median neuropathy condition in the right upper extremity that was consistent with residual carpal tunnel syndrome. Dr. Berry felt that, from a clinical standpoint, the claimant had a C5 sensory radiculitis condition and that a nerve root block at C6 in the right upper extremity would be helpful for diagnostic and therapeutic purposes.

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Yturbide0007

Jody Yturbe.

On 10/27/15, Ms. Yturbe underwent a Functional Capacity Evaluation (FCE) at Advanced Testing, Ltd that placed her in the "light" work category.

On 10/29/15, Dr. Fleming agreed that a nerve root block may be informative and provide some long-term benefit.

On 12/9/15, Jacob Blake, MD administered a right C6 cervical selective nerve root block.

On 1/5/16, Ms. Yturbe reported that the nerve block gave her good relief, but only lasted for one week. The plan was for a right-sided C5-C6 laminoforaminotomy.

On 1/26/16, Dr. Fleming performed surgery at Renown described as right-sided posterior C6-6 laminoforaminotomy.

On 2/8/16, Ms. Yturbe's right arm pain was much better than prior to surgery. Dr. Fleming referred the claimant to physical therapy.

On 3/8/16, Ms. Yturbe had some numbness in her right index finger and felt that her right arm was not as strong as her left. Overall, she felt she had some significant improvement. The impression was that the claimant was doing well following posterior decompression. Her radiculopathy was markedly better. She was ready to begin physical therapy.

On 4/22/16, Ms. Yturbe was tolerating the physical therapy. She was getting some new sensations in the thumb that had been numb. Dr. Fleming felt that the claimant was progressing as expected. Dr. Fleming deemed the claimant to be at maximum medical improvement for her neck injury and wanted Ms. Yturbe to resume her vocational rehabilitation activities.

PAST MEDICAL HISTORY:

Jody Yturbe denied previous injury to the affected cervical spine. She also denied previous worker's compensation claim.

WORK STATUS:

Jody was no longer able to perform her job duties as a dispatcher, even at a decreased duty. Her injury forced early retirement. She had a FCE which placed her in the light category; they are attempting to find vocational rehabilitation for her.

FUNCTIONAL STATUS and ACTIVITIES OF DAILY LIVING ASSESSMENT:

Jody continues to have difficulties with her daily activities as well as self care. She notices fatigue and pain in her right arm when she puts her arm up over shoulder height as well as a burning sensation when she tries to do small movements, such as curling her hair or buttoning a shirt. She is having a hard

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JA223

Jody Yturbe

Cervical spine	Flexion	Extension	Impairment %	Table
Angle	15	10	8	15-12
Impairment %	4	5		page 418
	Right lat flex	Left lat flex	Impairment %	Table
Angle	20	20	4	15-13
Impairment %	2	2		page 420
	Right rotate	Left rotate	Impairment %	Table
Angle	30	40	5	15-14
Impairment %	3	2		page 421

Impairment due to range of motion difficulty is 18% whole person.

DIAGNOSIS:

Status post anterior cervical microdiscectomy with foraminotomies at C5-6 and C6-7, arthrodesis C5-6 and C6-7 with Cornerstone allograft, and internal fixation segmental C5 through C7 with Atlantis plate and then subsequent right-sided posterior C6-7 laminoforaminotomy.

PERMANENT PARTIAL DISABILITY SUMMARY:

From reviewing the records and from examining Jody Yturbe today, it is my opinion that she has reached a point of being stable and reliable.

Mrs. Yturbe had an injury and subsequent fusion to multiple spinal levels C5-C7 which means that for her the most appropriate rating method is the RDM method, as shown on page 380 Figure 15-4.

1. **Diagnosis:** Table 15-7 page 404 category IV.E

She had multiple levels operated on with residual pain and symptoms. This gives her 10% for single level fusion and another 1% for the second level. She also had a second operation for another 2%. Overall whole person impairment from diagnosis method is 13%.

2. **Range of motion:** Table 15-12, 13, 14 page 418-21

As tabulated above her range of motion impairment is 18% whole person.

3. **Neurological Deficit:** Table 15-15 and 15-17 page 424

Maximum % loss of function due to sensory deficit at C6 is 8%. This is multiplied by her Sensory loss grade of 2 with 75% deficit to give her 6% sensory deficit.

All three of the above categories (13%, 18%, 6%) are then combined using the Combined Values Chart on page 504 for a total of 33% whole person impairment.

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Yturbe0010

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Jody Yturbe

I recommend closure of claim number 14863E248267 with 33 percent whole person impairment.

Though this is a high number, I do believe it reflects her level of impairment. Even if the DRE method were to be used for a similar single-level injury, she would have been placed in category IV due to fusion and radiculopathy, which wasn't even necessary to be present for the category IV placement. This would have already given her 28% impairment for the single level. She has had multiple surgeries over multiple levels with residual radicular involvement. In my medical opinion, the 33% is easily justified in her case.

APPORTIONMENT:

In accordance with NAC 616C.490 this patient has no prior history of injury to the examined area. Therefore, there is no basis for apportionment in this case.

I do not believe there is inconsistency between the history of the accident and the physical examination findings in this case:

This examination was performed in accordance with the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, Second printing. All extremity ranges of motion and measure active range of motion measurements were performed utilizing a goniometer. All spinal ranges of motion were performed using inclinometers and measured during active range of motion.

Respectfully submitted,

Katharina C. Welborn, DC

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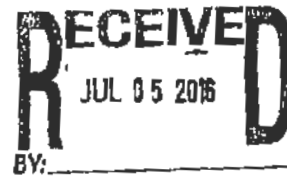
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Yturbe0011

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JA226



July 1, 2016

Jody L. Yturbide
9732 Pyramid Wy #368
Sparks, NV 89441

RE: Claim #: 14853E248257
Date of Injury: 5/22/2014
Employer: City of Reno
Body Part: cervical

Dear Ms. Yturbide:

We are enclosing a copy of the Permanent Partial Disability rating report from Katharina Welborn, D.C. Based on your permanent impairment as a result of this industrial injury, you have been awarded thirty three (33%) percent disability of the whole man as a direct result of this industrial injury to your listed body parts as described above.

Pursuant to NRS 616C.495 since prior PPDs have resulted in a total whole person impairment of 7%, you are only entitled to a 18% lump sum on this claim and the remaining 15% in installments

Based on the 33% percent of disability, you are entitled to receive all monthly installments of \$1,047.56 until you reach the age of seventy (70) for a total installment of \$311,710.46; or you are entitled to a one time lump sum payment of eighteen (18%) percent in the amount of approximately \$85,788.21 and the remaining 15% in monthly installments of \$476.16 until you reach the age of seventy (70) for a total monthly installments of \$140,717.44.

Enclosed is the Election of Method of Payment of Compensation form and the Reaffirmation/retraction of Lump Sum Request form. If you choose to accept the award, please sign, date and return the Election of Method of Payment of Compensation form. Three (3) days later, if you still choose to accept the award, please sign, date and return the Reaffirmation/Retraction of Lump Sum Request form. Both forms must have a witness to your signature.

Please note, if a response is not received in this office within 30 days from the date of this letter, it will be necessary to initiate installment payments.

Yturbide0012

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JA227

Your claim was closed for any further medical treatment effective 6/19/2016, the date you were rated for a permanent partial disability.

Pursuant to NRS 616C495 (2), acceptance of payment for a permanent partial disability lump sum terminates all benefits for compensation and constitutes a final settlement of all factual and legal issues in the case. By so accepting the lump sum, you waive all rights regarding the claim, including the right to appeal the closure of this case or the percentage of disability, except for Vocational Rehabilitation Services. You will have lifetime reopening rights, which are explained in the enclosed form D-13, "Injured Workers Right to Reopen a Claim".

If you disagree with this determination, you may appeal by filing the enclosed "REQUEST FOR HEARING" form within seventy (70) days of the date of this notice by contacting the Hearing Division at the address applicable to the jurisdiction.

Sincerely,
CCMSI



Lisa Jones
Claims Representative

Cc: file
City of Reno
Jason Guinasso, Esq.

Yturbide0013

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JA228

Injured Employee: Jody Yturbe Date: 7/1/2016
Claim No.: 14853E248257 Date of Injury: 5/22/2014
Employer: City of Reno Insurer: City of Reno

ELECTION OF METHOD OF PAYMENT OF COMPENSATION
(Pursuant to NRS 616C.495)

I, Jody Yturbe, have been advised that I may elect to receive my permanent partial disability compensation on an installment basis or, if eligible, and I so elect, on a lump sum basis.

Should I elect to receive my compensation on an installment basis, payments will begin on 7/1/2016 and terminate on 2/16/2041 and will be paid at the monthly rate of \$1,047.56 or a total installment payment of \$311,710.46.

If I elect to receive my entitlement on a lump sum basis I will receive approximately \$85,788.21 and additional monthly installments of \$476.16 until you reach the age of seventy (70) for a total annual installments of \$140,717.44. This will vary depending on the date I elect to receive my lump sum payment. According to NRS 616C.495, if I elect to receive my payment for permanent partial disability in a lump sum, all of my benefits for compensation terminate.

My acceptance of the lump sum payment constitutes a final settlement of all factual and legal issues regarding this claim. By so accepting, I waive all of my rights regarding the claim, including the right to appeal from the closure of the case or the percentage of my disability, except:

- (a) My right to request reopening in accordance with the provisions of NRS 616C.390; and
- (b) Any services for counseling, training or other rehabilitation services provided by the insurer.

Further, I realize that I have twenty (20) days after the mailing or personal delivery of this notice within which to retract or reaffirm my request for a lump sum. I also realize that I will not be paid a lump sum until I have reaffirmed this election in writing.

Check one to indicate method of payment desired and sign below.

1. ☐ On an installment basis as provided by NRS 616C.490.
2. ☐ A lump sum of approximately \$85,788.21 and additional monthly installments of \$476.16 until you reach the age of seventy (70) for total annual installments of \$140,717.44. According to NRS calculated pursuant to NRS 616C.495.

DATE: _____ INJURED EMPLOYEE: _____

DATE: _____ WITNESS: _____

Insurer: Designate whether monthly or annual rate.

**Amount depends on actual effective date (date elected) D-10a (Rev. 2/98)

Yturbe0014

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JA229

Claimant: Jody Yturvide
Social Security No: 14853E248257
Claim No:
Employer: City of Reno
Date of Injury: 5/22/2014

REAFFIRMATION OF LUMP SUM REQUEST
(Pursuant to NRS 616C.495(2))

NRS 616C.495 requires:

2. If the injured employee elects to receive his payment for a permanent partial disability in a lump sum, all of his benefits for compensation terminate. His acceptance of that payment constitutes a final settlement of all factual and legal issues in the case. By so accepting he waives all of his rights regarding the claim, including the right to appeal from the closure of the case or the percentage of his disability, except:
- (a) His right to reopen his claim according to the provisions of NRS 616C.390; and
 - (b) Any services for counseling, training or other rehabilitation services provided by the insurer.
- The injured employee must be advised in writing of the provisions of this subsection when he demands his payment in a lump sum, and has 30 days after the mailing or personal delivery of this notice within which to retract or reaffirm his demand before his election becomes final.

Pursuant to this statute, if you still choose to accept the lump sum amount, please reaffirm your decision in the space provided below.

Failure to return this form or not checking one of the boxes may result in a delay in the processing of your award.

- ☐ I reaffirm the request for my lump sum payment and required installment payments for PPD over 25%.
- ☐ I do not reaffirm the request for my lump sum payment and required installment payments for PPD over 25%.

Signature of Injured Employee

Date

Witness

Date

D-11 (rev. 2/98)

Yturvide0015

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JA230

**INJURED EMPLOYEE'S RIGHT
TO REOPEN A CLAIM WHICH HAS BEEN CLOSED**

Nevada Revised Statutes 616C.390 defines your right to reopen your worker's compensation claim after it has been determined that all benefits have been paid and your claim has been closed.

An application to reopen a claim must be in writing and accompanied by a certificate from a physician or chiropractor showing a change in medical condition.

If you did not lose time from work as a result of your industrial injury and you did not receive a permanent partial disability award, reopening of your claim must be requested within one (1) year after the date on which your claim was closed.

Except as otherwise provided in NRS 616C.390(4), if the request for reopening is denied, the injured employee shall not reapply to reopen the claim until at least one (1) year after the date on which the final determination of an insurer is issued.

Reopening of a claim is not effective before an application for reopening is made unless good cause is shown (NRS 616C.390(8)).

PPD OFFSET

Nevada Revised Statutes (NRS) 616C.405 prohibits an injured employee from receiving a permanent partial disability (PPD) benefit at the same time he/she is receiving temporary total disability (TTD), temporary partial disability (TPD), or permanent total disability (PTD).

This means that if you have received a PPD on a claim and you were paid the award in a lump sum, future TTD, TPD, or PTD you receive on that claim must be reduced by a portion of the PPD lump sum; or, if you are receiving installment payments for PPD, those payments will be suspended while TTD, TPD, or PTD is being paid.

Your PPD lump sum was computed through the day before your 70th* birthday. In other words, the lump sum represents permanent partial disability payments due you from the effective date of your initial PPD payment until you turn 70* years old (unless otherwise entitled to the minimum lump sum). Although you received just one lump sum payment(s), in essence you received your future PPD payments as well.

The rate at which the PPD offset is deducted is based on the daily/monthly rate of the PPD award. Except for minimum lump sum awards, for each day/month you receive TTD, TPD, or PTD on the claim, the daily/monthly PPD rate is deducted for the time period used to calculate the lump sum PPD award. (See NRS 616C.440 for specific information regarding offsets to PTD)

*PPD awards are calculated using the maximum age established by law and, depending on the date of the injury, may be less than 70 years of age.

NOTE: This form is to be used by the Claims Agent when sending out permanent partial disability awards or whenever applicable.

D-13 (Rev. 2/98)

Yturbide0016

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JA231

PERMANENT PARTIAL DISABILITY AWARD CALCULATION WORK SHEET

PERMANENT PARTIAL DISABILITY AWARD CALCULATION WORK SHEET

Injured Employee: Jody Yturbe DOB: 2/7/1971 Sex: Female
 SSN: 14853E246257 D. O. I.: 5/22/2014 Claim #: 14853E246257
 *Average Monthly Wage: \$5,290.70 * State Average Wage: \$5,290.70 Date of Rating: 6/19/2016
 Date Award Offered: 6/29/2016 Date Evaluation Report Received: 6/21/2016

Body Basis Verification

Description: cervical 33.00 % Total: 33.00 % BB

Installment Calculation

*A. \$5,290.70 0.0060 33.00 %BB = \$ 1,047.56 Year of Birth Last TTD
 Monthly Wage Monthly Rate *** TPD, or DOI
 B. \$1,047.56 x 12 = \$ 12,570.72 1971 2016
 Monthly Rate Annual Rate + 70 + 5
 C. \$12,570.72 / 365.25 = \$ 34.42 2041 2021
 Annual Rate Daily Rate

Installment Calculation

(1) Last Date TTD or TPD paid: 4/29/2016 First Payment Date: 7/1/2016
 (2) Time Covered by First Payment: (a) 4/30/2016 through (b) 6/30/2016
 *****DOI/date of claim reopening or day after last TTD/TPD
 (3) First Payment: \$34.42 + \$2,095.12 + \$0.00 = \$2,129.54
 1 Day(s) 2 Month(s) 0 Year(s)
 (4) Time Covered by Annual Payment: 7/1/2016 through 6/30/2040 = \$301,697.28
 (5) Time Covered by Final Payment: 7/1/2040 through 2/16/2041 **** 24 Years
 (6) Final Payment: \$7,332.92 + \$350.72 = \$7,683.64
 7 Month(s) 16 Day(s)
 **** Monthly .X Annual Total of Installment Payments: = \$311,210.46

Minimum Lump Sum Calculation

.5 % X 18.00 % BB X \$5,290.70 Monthly Wage From (A) above: \$47,516.30
 Minimum Lump Sum Amount

Lump Sum Calculation of Disability Up To and Including 25%
 (Use form D-9b for disability greater 25%)

(7) Effective Date of Award (year, month following 2b) Per NAC 616C.502
 (8) Date of Birth (year, month)
 (9) Injured Employee Age at Award Effective Date = (7) minus (8) (year, month)
 (10) Monthly Rate From (8)
 (11) Factor from Table for Present Value X
 (12) Insert Sum of (3). Add to sum of (11) only.
 (13) Subtotal of (11) plus (12):
 (14) Greater of (13) or Minimum Lump Sum:
 (15) Minus any applicable award payments previously paid:
 (16) Net Amount Payable:

* Use the Average Monthly Wage or the State Average Wage, whichever is lower. If the average monthly wage (AMW) for TTD on this claim is subject to the frozen 1993 rate, recalculate the AMW for PPD purposes.
 ** Use .005 for injuries sustained before 07/01/81. Use .006 for injuries sustained after 07/01/81, through 06/17/93. Use .0054 for injuries sustained on or after 06/18/93. Use .006 for injuries sustained on or after 1/1/00.
 *** Per NRS 616C.490(7), age at which entitlement ceases.
 **** This must reflect the end of the month prior to election of the lump sum payment. Recalculation may be required to bring the award to present day value. If (2)(b) is December date, use election on line (4) to assure correct number of years. (If subtracting dates, add one year)
 ***** Must pay monthly installments if monthly entitlement is \$100 or more. May pay annual installment if monthly entitlement is Over \$100.
 ***** Use date of claim reopening if TTD/TPD benefits were not paid after the claim was reopened (2)(n).

PREPARED BY:
 CHECKED BY:

[Signature]
[Signature]

Date:
 Date:

6/30/16
 6/29/16
 6/30/16

Yturbe0017

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**PERMANENT PARTIAL DISABILITY AWARD CALCULATION WORKSHEET
FOR DISABILITY OVER 25% BODY BASIS**

see NRS 616C.475(1)(d)

Injured Employee: Jody Yturbe DOB: 2/17/1971 Sex: Female
 SSN: D. C. 1: 503/2018 Claim #: 1487246157
 *Average Monthly Wage: \$5,150.70 *State Average Wage: \$5,200.70 Date of Injury: 6/19/2016
 Date Award Offered: 6/29/2016 Date Evaluation Report Received: 6/21/2016

Description: carpal 33.00 % 33.00 % 12.00 %
25% Lump Sum
 Release for installment calculation: 12 %

Installment Calculation

A.	\$5,200.70	0.0060	15 % DT	= \$	426.16	Years/Birth	Low TTD
B.	Monthly Wage				Monthly Rate	***	TPD, or DCB
	\$476.16 x 12			= \$	5,713.92	1971	2016
C.	Monthly Rate				Annual Rate	+ 70	+ 5
	\$5,713.92 / 365.25			= \$	15.64	2041	2021
	Annual Rate				Daily Rate		

Transfer (1) through (3) from form D-9a to (1) through (3) on form D-9b

(1)	Last Date TTD or TPD paid:	<u>4/29/2016</u>	First Payment Date:	<u>7/1/2016</u>					
(2)	Time Covered by Plan Payment (a)	<u>4/29/2016</u>	through (b)***	<u>6/30/2016</u>					
(3)	First Payment:	\$	34.42	+ \$	2,055.12	+ \$	-	= \$	52,129.54
		1	Days	2	Months	0	Years		(from Form D-9a)
(4)	Time Covered by Annual Payment:	<u>7/1/2016</u>	through	<u>6/30/2016</u>	=	24	Years		\$137,114.08
(5)	Time Covered by First Payment:	<u>7/1/2016</u>	through	<u>7/1/2016</u>	***				
(6)	Total Payment:	\$	52,129.54	+ \$	57,500.24	=			\$109,629.78
	Monthly	X	Annual						
									Total of Installment Payments (4) through (6)
									\$140,717.24

Minimum Lump Sum Calculation

3 % X	18.00	% DT	X	=	\$5,200.70	Monthly Wage from (A) above:	\$47,616.30
(Use Total Percent of Disability)							Minimum Lump Sum Amount
01	\$5,150.70	X** X 18 % DT			\$92,712.60		
	Average Monthly Wage (from A above)				Monthly Rate		

(7)	Effective Date of Award (year, month following 26)	<u>2016</u>			
(8)	Date of Birth (year, month)	<u>1971</u>			
(9)	Injured Employee Age at Award Effective Date (7) minus (8) (year, month)	<u>45</u>			
(10)	Monthly Rate From (D)	<u>\$371.40</u>			
(11)	Factor from Table for Present Value	X	<u>146.41</u>	=	\$53,618.47
(12)	Insert Sum of (3)			+	\$2,122.34
(13)	Subtotal of (11) plus (12)				\$55,740.81
(14)	Minus any applicable award payments previously paid				\$0.00
(15)	Net Amount Payable:				\$55,740.81

* Use the Average Monthly Wage or the State Average Wage, whichever is lower. If the average monthly wage (AMW) for TTD on this claim is subject to the frozen 1999 rate, recalculate the AMW for TPD purposes.

** Use .005 for injuries sustained before 07/01/81. Use .006 for injuries sustained after 07/01/81, through 06/17/82. Use .0054 for injuries sustained on or after 06/18/82. Use .006 for injuries sustained on or after 1/1/00.

*** For NRS 616C.475(2), see at which entitlement ceases.

**** This must reflect the end of the month prior to election of the lump sum payment. Recalculation may be required to bring the award to present day value. If (13) is in December date, use month on line (4) to assure correct number of years. (If subtracting dates, add one year)

***** Must pay monthly installment if monthly entitlement is \$100 or more. May pay annual installment if monthly entitlement is less than \$100.

***** Use date of claim reporting TTD/TPD benefits were not paid after the claim was reopened (2)(a).

PREPARED BY:
CHECKED BY:

[Signature]
[Signature]

DATE:
DATE:

[Signature]
[Signature]
6/30/16

Yturbe0018

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REQUEST FOR HEARING

REPLY TO: Department of Administration OR Department of Administration
Hearings Division Hearings Division
1050 E. William Street, Ste. 400 2200 South Rancho, Ste. 210
Carson City, NV 89710 Las Vegas, NV 89102
(702) 687-5966 (702) 486-2525

Do Not Complete or Mail This Form Unless You Disagree With Your Insurer's Determination.
If you disagree with the determination, complete the Employee and Employer Information below and the bottom portion of this form. INCLUDE A COPY OF YOUR DETERMINATION LETTER with this form and mail to the above address.

Employee Information
Employee's Telephone Number
Employee's Name and Address

Employer Information
Employer's Telephone Number
Employer's Name and Address

Briefly explain the basis for this appeal:

This request for hearing is filed by, or on behalf of: ☐ The Injured Employee
☐ The Employer

and is dated this _____ day of, 19 _____

Signature of Injured Employee/Employer

Injured Employee's/Employer's Rep. (Advisor)

WIRE PARTY ADMINISTRATOR
C.C. JALL
P.O. Box 20208 Las Vegas, Nevada 89150-0208
PHONE: (702) 933-4200 / FAX: (702) 933-4487

D-12a (Rev. 10/03)

Yturbide0019

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JA234

Jody Yturbe

SCANNED

Katharina C. Wellborn, DC
404 Shannon Way
Roseville, CA 95678
Ph: (530) 401-6512
fax: (916) 285-9355

Date: June 19, 2016

Company: CCMSI

Attention: Lisa Jones

Permanent Partial Disability Rating

Claimant: Jody Yturbe
Claim #: 14853E248257
DOI: 05/22/14
Employer: City of Reno
Evaluation Date: 06/09/16

RECEIVED

JUN 21 2016

CCMSI - RENO

Body Part(s): Cervical spine

The following permanent impairment evaluation was performed according to the methodologies and criteria of the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, 5th edition, Second Printing February 2002, (here to referred to as "Guides").

Identity was confirmed with Nevada Driver License #0900930905.

HISTORY and RECORDS REVIEW:

On 5/22/14 while working as a public safety dispatcher for the City of Reno, Jody Yturbe reported the onset of severe pain in her right fingers, forearm, elbow, and her shoulder. Her job entailed non-stop typing and answering phones.

On 5/23/14, Ms. Yturbe went to Concentra Medical Center where Michael Panicali, MD examined her for right arm pain. The assessment was recurrent right elbow tenosynovitis and status post bilateral arthroscopic carpal tunnel release. Dr. Panicali prescribed ketoprofen gel and Celebrex. Ms. Yturbe was released to light-duty work with limited use of her right hand.

On 5/27/14, Ms. Yturbe went to Specialty Health where Scott Hall, MD examined her for complaints of right wrist, fingers, elbow and shoulder pain. Ms.

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Yturbide was taken off work for two days to let her symptoms calm down. She was given a trial of Lyrica.

On 6/9/14, Ms. Yturbide went to Sierra Regional Spine Institute for a Pain Management Evaluation. John Reyher, DO examined the claimant. Past treatments included bilateral carpal tunnel release 5-6 years prior, chiropractic treatment that was not helpful, physical therapy, and bilateral epicondyle injections. Electrodiagnostic and nerve conduction studies of the claimant's bilateral upper extremities showed mild sensory median nerve slowing across the carpal tunnel and no evidence of cervical radiculopathy or brachial plexopathy. The assessment was chronic right upper extremity neuropathic pain secondary to an industrial injury. History and physical were consistent with mild right carpal tunnel syndrome, possible subclinical cervical radiculopathy, status post gastric bypass surgery, and bilateral right greater than left lateral epicondylitis. Ms. Yturbide was advised to continue physical therapy. Dr. Reyher requested cervical radiographs.

On 6/23/14, Dr. Hall noted that the claimant had been to a chiropractor the week prior and had no improvement. Ms. Yturbide had severe right arm pain and tingling. A trial of Medrol was prescribed and the claimant was transferred to physiatry.

On 6/26/14, right shoulder radiographs were taken at Reno Diagnostic Centers and read as normal. Cervical spine radiographs showed spondylosis that was most pronounced at C5-6 and to a lesser extent at C6-7. No instability with flexion/extension views was noted.

On 7/7/14, Dr. Reyher ordered a cervical MRI study and prescribed amitriptyline. Ms. Yturbide was placed on light-duty work with no lifting more than 10 pounds.

On 7/23/14, Ms. Yturbide underwent a cervical MRI study without contrast at Reno Diagnostic Centers that showed apparent foreshortening of the lateral masses that resulted in an element of congenital spinal canal narrowing with superimposed degenerative changes that caused severe canal stenosis at C5-6 and moderate to severe canal stenosis at C6-7 without abnormal signal intensity in the cord to suggest cord edema or myelomalacia at the time.

On 7/29/14, Dr. Reyher reviewed the MRI study. He requested a C7-T1 epidural steroid injection for the claimant. Ms. Yturbide remained on light-duty work.

On 9/24/14, the assessment was chronic cervicgia and right upper extremity pain. Dr. Reyher recommended ongoing physical therapy.

On 11/19/14, physical therapy, Voltaren gel, and light-duty work were continued.

On 12/2/14, Ms. Yturbide went to Sierra Neurosurgery Group where Hilari Fleming, MD examined her. The impression was severe cervical stenosis with

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quite significant cord flattening at C5-6 into a lesser extent at C6-7, and multi-level foraminal narrowing on the right most significant at C5-6, but also involving C6-7. Surgical intervention was recommended.

On 12/17/14, Dr. Reyher prescribed Cymbalta and Flexeril.

On 1/29/15, Dr. Reyher transferred the claimant's care to Dr. Fleming.

On 2/13/15, Dr. Fleming performed surgery at St. Mary's Regional Medical Center that was described as anterior cervical microdiscectomy with foraminotomies at C5-6 and C6-7, arthrodesis C5-6 and C6-7 with Cornerstone allograft, and internal fixation segmental C5 through C7 with Atlantis plate.

On 5/26/15, Ms. Yturbide had some discomfort in her right shoulder and slight numbness in her thumb and index finger. The assessment was cervical spondylosis with myelopathy. A new MRI was recommended.

On 6/15/15, a cervical MRI study without contrast was performed at Reno Diagnostic Centers that showed foreshortened lateral masses that resulted in an element of congenital central spinal canal narrowing, Interval ACDF C5-7 without evidence of complication or myelomalacia of the cord, no significant central canal stenosis from C5 to C7 with mild central canal stenosis noted at the C3-4 level, uncovertebral arthropathy most pronounced at the C5-6 level with moderate bilateral neural foraminal narrowing, similar compared to prior studies.

On 6/23/15, the assessment was congenital spinal stenosis with some superimposed degenerative changes, fusion at C5-6 and C6-7, no new problems. The claimant's upper cervical levels had some degenerative changes, but nothing that required intervention. Dr. Fleming released the claimant to full-duty work with the necessity of a headset for the majority of her work.

On 7/23/15, Ms. Yturbide was having trouble even working six hours per day. The assessment was cervical spondylosis with myelopathy. The accommodations recommended did not give the claimant adequate relief of her symptoms. Dr. Fleming recommended a neurology evaluation.

On 8/27/15, Robert G. Berry Jr., MD performed an initial physiatry consultation at Sierra Regional Spine Institute. The assessment was electrodiagnostic evidence of a very mild median neuropathy condition in the right upper extremity that was consistent with residual carpal tunnel syndrome. Dr. Berry felt that, from a clinical standpoint, the claimant had a C6 sensory radiculitis condition and that a nerve root block at C6 in the right upper extremity would be helpful for diagnostic and therapeutic purposes.

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On 10/27/15, Ms. Yturbe underwent a Functional Capacity Evaluation (FCE) at Advanced Testing, Ltd that placed her in the "light" work category.

On 10/29/15, Dr. Fleming agreed that a nerve root block may be informative and provide some long-term benefit.

On 12/9/15, Jacob Blake, MD administered a right C8 cervical selective nerve root block.

On 1/5/16, Ms. Yturbe reported that the nerve block gave her good relief, but only lasted for one week. The plan was for a right-sided C5-C8 laminoforaminotomy.

On 1/26/16, Dr. Fleming performed surgery at Renown described as right-sided posterior C5-8 laminoforaminotomy.

On 2/8/16, Ms. Yturbe's right arm pain was much better than prior to surgery. Dr. Fleming referred the claimant to physical therapy.

On 3/8/16, Ms. Yturbe had some numbness in her right index finger and felt that her right arm was not as strong as her left. Overall, she felt she had some significant improvement. The impression was that the claimant was doing well following posterior decompression. Her radiculopathy was markedly better. She was ready to begin physical therapy.

On 4/22/16, Ms. Yturbe was tolerating the physical therapy. She was getting some new sensations in the thumb that had been numb. Dr. Fleming felt that the claimant was progressing as expected. Dr. Fleming deemed the claimant to be at maximum medical improvement for her neck injury and wanted Ms. Yturbe to resume her vocational rehabilitation activities.

PAST MEDICAL HISTORY:

Jody Yturbe denied previous injury to the affected cervical spine. She also denied previous worker's compensation claim.

WORK STATUS:

Jody was no longer able to perform her job duties as a dispatcher, even at a decreased duty. Her injury forced early retirement. She had a FCE which placed her in the light category; they are attempting to find vocational rehabilitation for her.

FUNCTIONAL STATUS and ACTIVITIES OF DAILY LIVING ASSESSMENT:

Jody continues to have difficulties with her daily activities as well as self care. She notices fatigue and pain in her right arm when she puts her arm up over shoulder height as well as a burning sensation when she tries to do small movements, such as curling her hair or buttoning a shirt. She is having a hard

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time reading for longer periods because of difficulty with looking down. She has a pins and needles sensation between her shoulder blades when she is writing and her fatigues and eventually has increased pain and cramping from the right hand all the way to her shoulder. Sitting for longer periods increases discomfort. She is able to stand and walk without increased pain. Carrying, lifting and pulling are all pain inducing, especially if it is over 30 pounds. Her thumb and first finger of her right hand are usually numb which makes it difficult to grasp things for her, including her fork to eat. She notices that she has a difficulty with swallowing sometimes, or feels like her food will get stuck. She was told this is most likely due to the plate and scar tissue in her neck. Numbness is continually present in the first two fingers of the right hand as well as between the shoulder blades. She has difficulty traveling if it is over 25 minutes. Sleep is extremely problematic for and she states she has the worst sleep of her life. She tosses and turns due to numbness and tingling in the upper extremity as well as pain in her neck. She has not been as social or participating in recreational activities as she used to due to pain. She is also suffering severe headaches almost daily. She is not using pain medications, she is relying on her TENS unit as well as ice for pain control.

CHIEF COMPLAINTS:

Jody continues to have pain and difficulties in her day to day life. She has severe headaches several time per week. She has numbness in her first two finger on the right hand as well as a burning sensation between her shoulders at the surgical site. Her entire neck will feel like pins and needles and burning with certain activities or movements and she is having a very difficult time sleeping.

EXAMINATION:

Jody Yturbide is a friendly and cooperative woman who appears her stated age of 45. She presents for evaluation of her cervical spine today, which she states is worse on the right and involves the entire right upper extremity. Visualization of the skin on her neck shows a 2" posterior mid line scar as well as a 1 3/4 " anterior scar which is to the right of midline. Dermatome evaluation shows decreased sensation in the right C6 and C7 distribution. Grip strength shows 65 pounds bilaterally when tested with JAMAR dynamometer, though it got progressively more painful for her with repeat testing. She has visual as well as palpable spasm at the cervicothoracic junction bilaterally; this is where she points to as the location of her burning sensation. When testing cervical muscle strength against examiner resistance, she noticed pain on flexion, left lateral flexion hurt on the right side, and rotation was painful bilaterally. Rotation was the most uncomfortable for her. She did not have an increase in pain with extension or right lateral flexion. Cervical compression increased pain and she was not able to complete SotoHall due to pain and inability to flex forward. Range of motion is very limited due to her arthrodesis. Warm up movements were completed and motion she was able to do is tabulated below:

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Cervical spine	Flexion	Extension	Impairment %	Table
Angle	15	10	9	15-12
Impairment %	4	5		page 418
	Right lat flex	Left lat flex	Impairment %	Table
Angle	20	20	4	15-13
Impairment %	2	2		page 420
	Right rotate	Left rotate	Impairment %	Table
Angle	30	40	5	15-14
Impairment %	3	2		page 421

Impairment due to range of motion difficulty is 18% whole person.

DIAGNOSIS:

Status post anterior cervical microdissection with foraminotomies at C5-6 and C6-7, arthrodesis C5-6 and C6-7 with Cornerstone allograft, and internal fixation segmental C5 through C7 with Atlantis plate and then subsequent right-sided posterior C5-6 laminoforaminotomy.

PERMANENT PARTIAL DISABILITY SUMMARY:

From reviewing the records and from examining Jody Yturbide today, it is my opinion that she has reached a point of being stable and rateable.

Mrs. Yturbide had an injury and subsequent fusion to multiple spinal levels C5-C7 which means that for her the most appropriate rating method is the ROM method, as shown on page 380 Figure 15-4.

1. Diagnosis: Table 15-7 page 404 category IV.E
She had multiple levels operated on with residual pain and symptoms. This gives her 10% for single level fusion and another 1% for the second level. She also had a second operation for another 2%. Overall whole person impairment from diagnosis method is 13%.
2. Range of motion: Table 15-12, 13, 14 page 418-21
As tabulated above her range of motion impairment is 18% whole person.
3. Neurological Deficit: Table 15-15 and 15-17 page 424
Maximum % loss of function due to sensory deficit at C6 is 8%. This is multiplied by her Sensory loss grade of 2 with 75% deficit to give her 6% sensory deficit.

All three of the above categories (13%, 18%, 6%) are then combined using the Combined Values Chart on page 604 for a total of 33% whole person impairment.

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Judy Yturbe

I recommend closure of claim number 14853E248287 with 33 percent whole person impairment.

Though this is a high number, I do believe it reflects her level of impairment. Even if the DRE method were to be used for a similar single-level injury, she would have been placed in category IV due to fusion and radiculopathy, which wasn't even necessary to be present for the category IV placement. This would have already given her 28% impairment for the single level. She has had multiple surgeries over multiple levels with residual radicular involvement. In my medical opinion, the 33% is easily justified in her case.

APPORTIONMENT:

In accordance with NAC 616C.490 this patient has no prior history of injury to the examined area. Therefore, there is no basis for apportionment in this case.

I do not believe there is inconsistency between the history of the accident and the physical examination findings in this case.

This examination was performed in accordance with the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, Second printing. All extremity ranges of motion and measure active range of motion measurements were performed utilizing a goniometer. All spinal ranges of motion were performed using inclinometers and measured during active range of motion.

Respectfully submitted,

Katharina C. Weiborn, DC

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Devon T. Reese *
Sustained Truck Kinetic §
Jason D. Guinasso §

D. Gino Menchetti *§1
Kimberly Mendi Guinasso *§2
Eric C. Werner §

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* Licensed in Nevada
§ Licensed in Nevada and California
§ Licensed in Illinois
§ Of Counsel
§ Non-Attorney Government Affairs Director

July 9, 2016

SENT VIA FACSIMILE & U.S. MAIL
(775-324-3301)

Lisa Jones
CCMSI
PO Box 20068
Reno, NV 89515

Re: Claimant: Jody Yturbide
Claim No.: 14853E248257
Employer: City of Reno
TPA: CCMSI

Dear Ms. Jones,

I am in receipt of your July 1, 2016 letter regarding my clients, Jody Yturbide, PPD rating of 33% whole person impairment. The purpose of this letter is to address and resolve several misstatements of law and to ask you to re-issue your determination.

First, you state that you apportioned 7% based on a past PPD award. However, such apportionment is only permissible when the impairment is identical to the current impairment and evaluation related thereto. Here, Mrs. Yturbide received an evaluation under a different claim for a permanent disability related to carpal tunnel syndrome at 5% whole person impairment and tendonitis at 2% whole person impairment. The current evaluation is for a disability related to injuries to the cervical spine. Clearly, the ratings referenced herein are not identical impairments. See NRS 616C.490 and NAC 616C.490 (c), attached hereto.

Second, as you conceded in your letter, Mrs. Yturbide is entitled to 33% whole person impairment. This means that she can elect to take a lump sum buyout of 30% not 25%. As you may or may not be aware, NRS 616C.495 was amended in 2015, increasing the amount a claimant could take in a lump sum to 30% from 25%.

Therefore, in accordance with the foregoing, please render a new determination with appeal rights offering 30% in lump sum and 3% in installments in compliance with NRS 616C.490, NRS 616C.495, and NAC 616.490, attached hereto.

INCLINE OFFICE: 936 Southwood Blvd., Suite 301, Incline Village, Nevada 89451

RENO OFFICE: 190 W. Huffaker Lane, Suite 402, Reno, Nevada 89511.

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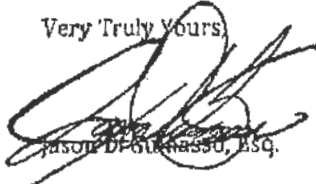
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Our office has initiated an appeal of your July 1, 2016 determination letter. However, we anticipate that you will see the errors in your determination and correct these errors without the time and expense associated with unnecessary litigation. If you will agree to correct the determination letter, we will dismiss our appeal.

Thank you for your anticipated assistance. Please do not hesitate to contact me if you have any questions or concerns.

Very Truly Yours,



Jason D. Guassuto, Esq.

ENCLOSURES

CC: Jody Yturvide

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NRS 616C.490 Permanent partial disability: Compensation.

1. Except as otherwise provided in NRS 616C.175, every employee, in the employ of an employer within the provisions of chapters 616A to 616I, inclusive, of NRS, who is injured by an accident arising out of and in the course of employment is entitled to receive the compensation provided for permanent partial disability. As used in this section, "disability" and "impairment of the whole person" are equivalent terms.

2. Within 30 days after receiving from a physician or chiropractor a report indicating that the injured employee may have suffered a permanent disability and is stable and ratable, the insurer shall schedule an appointment with the rating physician or chiropractor selected pursuant to this subsection to determine the extent of the employee's disability. Unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor:

(a) The insurer shall select the rating physician or chiropractor from the list of qualified rating physicians and chiropractors designated by the Administrator, to determine the percentage of disability in accordance with the American Medical Association's *Guides to the Evaluation of Permanent Impairment* as adopted and supplemented by the Division pursuant to NRS 616C.110.

(b) Rating physicians and chiropractors must be selected in rotation from the list of qualified physicians and chiropractors designated by the Administrator, according to their area of specialization and the order in which their names appear on the list unless the next physician or chiropractor is currently an employee of the insurer making the selection, in which case the insurer must select the physician or chiropractor who is next on the list and who is not currently an employee of the insurer.

3. If an insurer contacts the treating physician or chiropractor to determine whether an injured employee has suffered a permanent disability, the insurer shall deliver to the treating physician or chiropractor that portion or a summary of that portion of the American Medical Association's *Guides to the Evaluation of Permanent Impairment* as adopted by the Division pursuant to NRS 616C.110 that is relevant to the type of injury incurred by the employee.

4. At the request of the insurer, the injured employee shall, before an evaluation by a rating physician or chiropractor is performed, notify the insurer of:

(a) Any previous evaluations performed to determine the extent of any of the employee's disabilities; and

(b) Any previous injury, disease or condition sustained by the employee which is relevant to the evaluation performed pursuant to this section.

4 The notice must be on a form approved by the Administrator and provided to the injured employee by the insurer at the time of the insurer's request.

5. Unless the regulations adopted pursuant to NRS 616C.110 provide otherwise, a rating evaluation must include an evaluation of the loss of motion, sensation and strength of an injured employee if the injury is of a type that might have caused such a loss. Except in the case of claims accepted pursuant to NRS 616C.180, no factors other than the degree of physical impairment of the whole person may be considered in calculating the entitlement to compensation for a permanent partial disability.

6. The rating physician or chiropractor shall provide the insurer with his or her evaluation of the injured employee. After receiving the evaluation, the insurer shall,

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within 14 days, provide the employee with a copy of the evaluation and notify the employee:

- (a) Of the compensation to which the employee is entitled pursuant to this section; or
- (b) That the employee is not entitled to benefits for permanent partial disability.

7. Each 1 percent of impairment of the whole person must be compensated by a monthly payment:

(a) Of 0.5 percent of the claimant's average monthly wage for injuries sustained before July 1, 1981;

(b) Of 0.6 percent of the claimant's average monthly wage for injuries sustained on or after July 1, 1981, and before June 18, 1993;

(c) Of 0.54 percent of the claimant's average monthly wage for injuries sustained on or after June 18, 1993, and before January 1, 2000; and

(d) Of 0.6 percent of the claimant's average monthly wage for injuries sustained on or after January 1, 2000.

↪ Compensation must commence on the date of the injury or the day following the termination of temporary disability compensation, if any, whichever is later, and must continue on a monthly basis for 5 years or until the claimant is 70 years of age, whichever is later.

8. Compensation benefits may be paid annually to claimants who will be receiving less than \$100 a month.

9. Where there is a previous disability, as the loss of one eye, one hand, one foot, or any other previous permanent disability, the percentage of disability for a subsequent injury must be determined by computing the percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury.

10. The Division may adopt schedules for rating permanent disabilities resulting from injuries sustained before July 1, 1973, and reasonable regulations to carry out the provisions of this section.

11. The increase in compensation and benefits effected by the amendment of this section is not retroactive for accidents which occurred before July 1, 1973.

12. This section does not entitle any person to double payments for the death of an employee and a continuation of payments for a permanent partial disability, or to a greater sum in the aggregate than if the injury had been fatal.

[63:168:1947; A 1949, 659; 1953, 292] — (NRS A 1959, 204; 1966, 46; 1967, 691; 1969, 475; 1971, 326; 1973, 531; 1975, 605; 1977, 1006; 1979, 1057; 1981, 1170, 1493, 1653; 1983, 428, 1295; 1985, 308, 374; 1987, 78; 1991, 493, 2423, 2424; 1993, 748, 1871; 1995, 579, 2156; 1999, 1791; 2001, 1898; 2009, 3036)

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NAC 616C.490 Apportionment of impairments. (NRS 616A.400, 616C.490)

1. If any permanent impairment from which an employee is suffering following an accidental injury or the onset of an occupational disease is due in part to the injury or disease, and in part to a preexisting or intervening injury, disease or condition, the rating physician or chiropractor, except as otherwise provided in subsection 9, shall determine the portion of the impairment which is reasonably attributable to the injury or occupational disease and the portion which is reasonably attributable to the preexisting or intervening injury, disease or condition. The injured employee may receive compensation for that portion of his or her impairment which is reasonably attributable to the present industrial injury or occupational disease and may not receive compensation for that portion which is reasonably attributable to the preexisting or intervening injury, disease or condition. The injured employee is not entitled to receive compensation for his or her impairment if the percentage of impairment established for his or her preexisting or intervening injury, disease or condition is equal to or greater than the percentage of impairment established for the present industrial injury or occupational disease.

2. Except as otherwise provided in subsection 9, the rating of a permanent partial disability must be apportioned if there is a preexisting permanent impairment or intervening injury, disease or condition, whether it resulted from an industrial or nonindustrial injury, disease or condition.

3. A precise apportionment must be completed if a prior evaluation of the percentage of impairment is available and recorded for the preexisting impairment. The condition, organ or anatomical structure of the preexisting impairment must be identical with that subject to current evaluation. Sources of information upon which an apportionment may be based include, but are not limited to:

- (a) Prior ratings of the insurer;
- (b) Other ratings;
- (c) Findings of the loss of range of motion;
- (d) Information concerning previous surgeries; or
- (e) For claims accepted pursuant to NRS 616C.180, other medical or psychological records regarding the prior mental or behavioral condition.

4. If a rating evaluation was completed in this State for a previous industrial injury or occupational disease involving a condition, organ or anatomical structure that is identical to the condition, organ or anatomical structure being evaluated for the present industrial injury or occupational disease, an apportionment must be determined by subtracting the percentage of impairment established for the previous industrial injury or occupational disease from the percentage of impairment established for the present industrial injury or occupational disease, regardless of the edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment* used to determine the percentage of impairment for the previous industrial injury or occupational disease.

5. Except as otherwise provided in subsection 6, if a rating evaluation was completed in another state for a previous injury or disease involving a condition, organ or anatomical structure that is identical to the condition, organ or anatomical structure being evaluated for the present industrial injury or occupational disease, or if no previous rating evaluation was performed, the percentage of impairment for the previous injury or

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disease and the present industrial injury or occupational disease must be determined by using the *Guide*, as adopted by reference pursuant to NAC 616C.002. The apportionment must be determined by subtracting the percentage of impairment established for the previous injury or disease from the percentage of impairment established for the present industrial injury or occupational disease.

6. If precise information is not available, and the rating physician or chiropractor is unable to determine an apportionment using the *Guide* as set forth in subsection 5, an apportionment may be allowed if at least 50 percent of the total present impairment is due to a preexisting or intervening injury, disease or condition. The rating physician or chiropractor may base the apportionment upon X rays, historical records and diagnoses made by physicians or chiropractors or records of treatment which confirm the prior impairment.

7. If there are preexisting conditions, including, without limitation, degenerative arthritis, rheumatoid variants, obesity, congenital malformations or, for claims accepted under NRS 616C.180, mental or behavioral disorders, the apportionment must be supported by documentation concerning the scope and the nature of the impairment which existed before the industrial injury or the onset of disease.

8. A rating physician or chiropractor shall always explain the underlying basis of the apportionment as specifically as possible by citing pertinent data in the health care records or other records.

9. If no documentation exists pursuant to subsection 7 or 8, the impairment may not be apportioned.

[Comm'r of Insurance & Industrial Comm'n, No. 41 § 9, eff. 5-13-82]—(NAC A by Dep't of Industrial Relations, 10-26-83; 6-23-86; A by Div. of Industrial Insurance Regulation, 2-22-88; A by Div. of Industrial Relations by R009-97, 10-27-97; R105-00, 1-18-2001, eff. 3-1-2001; R108-09, 6-30-2010)

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NRS 616C.495 Permanent partial disability: Payments in lump sum.

1. Except as otherwise provided in NRS 616C.380, an award for a permanent partial disability may be paid in a lump sum under the following conditions:

(a) A claimant injured on or after July 1, 1973, and before July 1, 1981, who incurs a disability that does not exceed 12 percent may elect to receive his or her compensation in a lump sum. A claimant injured on or after July 1, 1981, and before July 1, 1995, who incurs a disability that does not exceed 30 percent may elect to receive his or her compensation in a lump sum.

(b) The spouse, or in the absence of a spouse, any dependent child of a deceased claimant injured on or after July 1, 1973, who is not entitled to compensation in accordance with NRS 616C.505, is entitled to a lump sum equal to the present value of the deceased claimant's undisbursed award for a permanent partial disability.

(c) Any claimant injured on or after July 1, 1981, and before July 1, 1995, who incurs a disability that exceeds 30 percent may elect to receive his or her compensation in a lump sum equal to the present value of an award for a disability of 30 percent. If the claimant elects to receive compensation pursuant to this paragraph, the insurer shall pay in installments to the claimant that portion of the claimant's disability in excess of 30 percent.

(d) Any claimant injured on or after July 1, 1995, may elect to receive his or her compensation in a lump sum in accordance with regulations adopted by the Administrator and approved by the Governor. The Administrator shall adopt regulations for determining the eligibility of such a claimant to receive all or any portion of his or her compensation in a lump sum. Such regulations may include the manner in which an award for a permanent partial disability may be paid to such a claimant in installments. Notwithstanding the provisions of NRS 233B.070, any regulation adopted pursuant to this paragraph does not become effective unless it is first approved by the Governor.

(e) If the permanent partial disability rating of a claimant seeking compensation pursuant to this section would, when combined with any previous permanent partial disability rating of the claimant that resulted in an award of benefits to the claimant, result in the claimant having a total permanent partial disability rating in excess of 100 percent, the claimant's disability rating upon which compensation is calculated must be reduced by such percentage as required to limit the total permanent partial disability rating of the claimant for all injuries to not more than 100 percent.

2. If the claimant elects to receive his or her payment for a permanent partial disability in a lump sum pursuant to subsection 1, all of the claimant's benefits for compensation terminate. The claimant's acceptance of that payment constitutes a final settlement of all factual and legal issues in the case. By so accepting the claimant waives all of his or her rights regarding the claim, including the right to appeal from the closure of the case or the percentage of his or her disability, except:

(a) The right of the claimant to:

(1) Reopen his or her claim in accordance with the provisions of NRS 616C.390;

or

(2) Have his or her claim considered by his or her insurer pursuant to NRS 616C.392;

(b) Any counseling, training or other rehabilitative services provided by the insurer;

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and

(c) The right of the claimant to receive a benefit penalty in accordance with NRS 616D.120.

↪ The claimant, when he or she demands payment in a lump sum, must be provided with a written notice which prominently displays a statement describing the effects of accepting payment in a lump sum of an entire permanent partial disability award, any portion of such an award or any uncontested portion of such an award, and that the claimant has 20 days after the mailing or personal delivery of the notice within which to retract or reaffirm the demand, before payment may be made and the claimant's election becomes final.

3. Any lump-sum payment which has been paid on a claim incurred on or after July 1, 1973, must be supplemented if necessary to conform to the provisions of this section.

4. Except as otherwise provided in this subsection, the total lump-sum payment for disablement must not be less than one-half the product of the average monthly wage multiplied by the percentage of disability. If the claimant received compensation in installment payments for his or her permanent partial disability before electing to receive payment for that disability in a lump sum, the lump-sum payment must be calculated for the remaining payment of compensation.

5. The lump sum payable must be equal to the present value of the compensation awarded, less any advance payment or lump sum previously paid. The present value must be calculated using monthly payments in the amounts prescribed in subsection 7 of NRS 616C.490 and actuarial annuity tables adopted by the Division. The tables must be reviewed annually by a consulting actuary.

6. If a claimant would receive more money by electing to receive compensation in a lump sum than the claimant would if he or she receives installment payments, the claimant may elect to receive the lump-sum payment.

(Added to NRS by 1983, 430; A 1983, 646, 1296; 1987, 1465; 1989, 687, 1162; 2001, 2002; 1991, 493, 2425; 1993, 749, 1872; 1995, 579, 2157; 2001, 1899; 2003, 1675; 2005, 1493; 2007, 3357; 2015, 1141)

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