

What Do I Do If I Was Diagnosed With Carpel Tunnel Because Of Work?

June 28, 2012 | by Thomas F. Dorn, Jr

Dear Ask the Attorney:

I am an executive assistant who was just diagnosed with Carpel Tunnel syndrome which is going to require surgery. My doctor said it was due to excessive typing and that I should discuss this with the company I am working for to get them to pay for the surgery because he doesn't think my health insurance will cover it. But I just started working with a new company 7 months ago. Before that I was with a different company for 8 years. What should I do?

M.G.

Our guest Blogger today is Thomas F. Dorn, Esq., who is Counsel to Einhorn, Barbarito, Frost & Botwinick, PC and a member of the Personal Injury Department. Mr. Dorn is Certified as a Civil Trial Attorney and a Workers' Compensation Attorney by the Supreme Court of New Jersey.

Dear MG:

Your question raises several potential issues involving medical treatment, health insurance and your employer and/or your prior employer. Because you were diagnosed with carpal tunnel syndrome you may have the right to file a workers' compensation case.

Workers' compensation courts in New Jersey permit the filing of two types of cases:

- 1) an accident case in which a worker is injured on a specific date and time and
- 2) occupational exposure cases in which a worker, over a period of time develops an injury.

Your case falls under the second category, an occupational exposure case, because carpal tunnel syndrome, in many instances, develops from many years of computer keyboard use, writing and other examples of frequent use of the hands and wrists.

The standard to file an occupational case is that an injured worker must demonstrate both a legal and a medical cause in order to successfully prove an occupational case. This means is that there must be proof that the injury is connected or related to your work and that there is medical evidence that the injury was actually caused by the work related event or exposure as opposed to activities performed at home or in your spare time.

An occupational case must be filed within two years of a worker knowing that their injury was job related. If a medical test was done that showed an injury, then a claim should be filed within two years of the test if there is reason to believe that the occupation caused the injury. If you had a nerve test (usually an EMG test) or an MRI which revealed evidence of carpal tunnel then a case has to be filed within two years of the test date.

In your case, because you have just been diagnosed with carpal tunnel syndrome and your doctor has advised you that your condition resulted from excessive typing, you should immediately report your condition to your office manager or to your supervisor. They should then report your condition to your current employer's workers' compensation insurance company. Any treatment you receive for a work injury or condition has to be authorized and paid for by workers' compensation insurance and not by your private health insurance. Most likely, however, the workers' compensation insurance company for your current employer will deny that you suffered carpal tunnel based upon only seven months of employment. Your current employer will probably contend that your last employment of eight years caused your carpal tunnel condition. Once you receive a denial you should consult with a workers' compensation attorney as to the use of private health insurance for your medical treatment and as to your rights to file a workers' compensation case in court. In general your current employer is legally responsible for your injuries but former employers may be liable if you developed problems or had treatment during your last employment.

Although your doctor believes that your condition was work related, if a case is filed in court, the workers' compensation judge assigned makes the decision as to whether your condition resulted from your employment over the years or resulted from outside activities. You should contact a workers' compensation attorney to receive advice as to how you should proceed with your medical treatment, the use of your private health insurance and whether to file a workers' compensation case against your current employer and/or your former employer.

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