

Investigating a Missouri Worker's Compensation Case

By Chris Archer, 2020

This article will attempt to summarize what the current statutory and case law suggest on how to approach in an analytical and systematic way, the determination of what constitutes a compensable injury in Missouri. Knowing the questions to be asked, the information that should be gathered and the resources available are the key to effective and efficiently adjust or defend a claim.

The goal is to pay compensable injuries and resolve and close those claims as quickly as possible. In Missouri, as the Employer directs medical treatment, can provide light duty and have rights to discovery, these tools if used effectively can greatly reduce liability and exposure.

Knowing when the case needs a recorded statement to be taken, or claimant's deposition, or when the case needs a medical canvass performed, or when to tender treatment vs scheduling an IME are all nuanced decisions that are key in adjusting a claim. I will provide simple examples that will help highlight the decisions to be made and the suggested approach to these decisions.

My analysis of any case begins with the Report of Injury. If it is completed with all the fields and not just the mandatory ones, a lot of information can quickly triage the case:

What is the description of the accident? Key in any case is this information because in Missouri just because an accident occurs at work, it is not automatic that the accident is a compensable one.

Did the accident arise out of the claimant's employment? Here the issue is how or why the accident occurred. Example- claimant stumbles over a step while at a restaurant during a work-related dinner. Not compensable as the risk of the accident was not related to the claimant's employment. It was related to a "risk source" of the general population or so you would argue. In contrast, a slip or trip over a parking curb in an Employer's parking lot has been found to be compensable. Be specific in asking how or why the accident occurred; the circumstance surrounding the event.

Is the accident "the prevailing factor" for the claimant's current medical condition and disability? Example- walking across flat surface, claimant feels pop in knee and needs knee replacement. Not compensable depending on medical evidence.

CASE 1- Simple Injury

Description- slip and fall in owner-controlled parking lot while leaving work. Although one could argue leaving work is not "in the course of" the claimant's employment, the court and commission have routinely held these compensable IF Employer owned or controlled the parking lot.

Claimant's DOH (date of hire)- worked for ER for 10 years

When was injury reported? - same date as the accident

Initial treatment- taken by ambulance to Emergency Room

Were safety policy or device used? N/A

As part of the three-point contact with claimant, employer and medical provider- questions to be asked: did employer have drug testing policy and was claimant tested and was result negative?

What is the claimant's AWW for rate calculation and does Employer have light duty? If no longer working for Employer, did claimant apply and receive unemployment. Was the claimant terminated for post injury misconduct or resign when light duty was available?

Advice: Straight forward simple case- direct TX and pay benefits timely and maintain case on conference docket to be resolved cheaply and with limited expense.

Case 2

Description: Claimant reported straining low back lifting inventory.

DOH- new employee- only working for 3 months

When reported?- two weeks after the alleged accident. No witnesses

Claimant vague on prior low back problems, symptoms or treatment.

Advice- get recorded statement. Check index report and DWC history. Perhaps get medical canvass. Collect personnel file and application for employment.

Standard questions to ask on every case, whether recorded stmt or not:

How did the accident happen?

What "work" were you doing at the time?

Were there witnesses?

When did you first report it?

Where did you first get TX?

Ever have prior "problems" with this body part?

Ever have prior symptoms?

Ever receive prior treatment?

Name of PMD. Closest hospital and when last seen there? Where do you get prescriptions filled?

Please consult my article on Initial Claims Handling or topical handouts on subrogation, the notice defense, compensation rate calculation etc that are available on my website:

www.askarcher.com

Contact me with general questions anytime at chris@askarcher.com or call me in St Louis at 314-241-2481. Early issue identification and knowing the relevant questions to ask are key components to an effective and efficient claims and litigation management program. We are here to help our clients and would prefer to provide early advice on any file even if there is no need for the referral of the case at that point in time.