

LEGAL UPDATE

A publication provided for the friends and clients of QRG

VOLUME 9 NUMBER 1

550 E. PITTSBURGH STREET, GREENSBURG, PA 15601

WINTER 2008

THE PANEL PHYSICIAN RIDDLE

By Peter J. Gough, Esq.

Most people, including doctors, believe that the Workers' Compensation Act requires an injured worker to treat only with a "panel" or "company" doctor for the first 90 days after a work injury.

Certainly, most employers and their workers' compensation carriers promote this "interpretation" of the Act because it helps them control a workers' compensation case. Many physicians are hesitant to treat an injured worker for the first 90 days for fear that their bills will not be paid.

However, this "interpretation" is not the law. In truth, a worker's choice of doctors can only be restricted during the first 90 days if the employer follows a very specific set of rules. The employer's failure to comply with any of these rules relieves the worker from having to treat with the panel physician, and the employer is responsible for all treatment costs.

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TAX TALK WITH JIM

By James A. Horchak, Esq., CPA



Why should you use a professional to prepare your income tax return?

Tax season can bring anxiety for many Americans. It begins with gathering all the forms you received in the mail in January and receipts and other documents that you have been saving throughout the year. Are you sure that you have everything? Next, stress levels increase as you begin to review the tax forms. The 1040 form, the instructions, and the Internal Revenue code can often be incomprehensible. Some of you may use one of the software programs designed to assist you in preparing your taxes. However, how can you make sure that you reported everything properly? Have you listed all reportable income? Have you deducted items that are not deductible? The following are just a few reasons why you should use a professional to prepare your taxes.

Experience. A professional prepares tax returns for many individuals with varying tax situations. In addition, a professional keeps abreast of the tax law changes which occur every year. As a result, a professional is familiar with different items of taxable income and tax deductions. This experience is very helpful in examining your tax situation to minimize the amount of taxes you have to pay.

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The LEGAL UPDATE is prepared by the staff of QRG for its friends and clients. The UPDATE sets forth general principles and should not be acted upon without specific advice.

CONGRATULATIONS . . .



Congratulations to **Carolyn Kutz**, who recently retired from her position as Claims Specialist at QRG. In her years at the firm, Carolyn helped many clients maneuver through the intricacies of the workers' compensation system. Carolyn will be spending much of her time with her grandchildren, Madison and Connor, volunteering at her church's food bank, and enjoying her hobbies of knitting, gardening, exercising and shopping. We wish Carolyn a long, healthy and happy retirement!



WHAT'S THE VERDICT?

By Richard H. Galloway, Esq.

Dan was the hot new anchor at the local television station and had quickly gone from the morning news to prime-time. He seemed to be leading a charmed life, particularly since he became engaged to the lovely Paige. Anchoring the news is time-consuming and nerve-racking, and was taking its toll on Dan. Paige thought he needed a break from it all, and suggested a day at Six Streams Ski Resort. Dan was a good skier and all that air and snow would be just the ticket for clearing his head.

The first thing they did was buy a ski pass, good for all day Saturday. The ticket office had a big sign: "Ski at your own risk." The back of the ski lift tickets had the following small print: "Ski at your own risk. The bearer of this ticket assumes all risks of skiing on the slopes of Six Streams. The skier acknowledges that skiing is dangerous and involves risks, including serious injury and death. The holder of this ticket will indemnify and hold harmless Six Streams for any and all injury sustained." Dan and Paige were in too festive a mood to read the back of the tickets. They were soon on the slopes, carving big wide turns and enjoying the soft powdery snow.

Three weeks earlier, before the snow had fallen, Harvey, one of Six Streams' maintenance staff, had been hauling a five hundred pound electric motor to the top of the slope. As he neared the top, the truck struck a rock and the motor bounced off the back onto the slope. Harvey was alone and had no way to lift the motor back onto the truck. He made a mental note of where the motor had fallen onto the slope. Since he was going to be off for the weekend, he planned to return on Monday with some help and a chain hoist to get that motor off the slope. But over the weekend it snowed and the skiing season began. By the time he came back to work on Monday, Harvey was so busy grooming snow that he forgot entirely about the electric motor.

Paige and Dan made six or seven runs down the mountain, but they wanted to try the Devil's Armpit, a particularly tricky and steep slope. They were the first skiers on Devil's Armpit that day. It was going to be a thrilling trip down the slope. Dan was leading the way. Unbeknownst to him, the 500-pound motor was hidden under a mound of snow he was approaching. Dan skied into it and fell hard, and Paige came tumbling after, her ski hitting Dan's face. After the ski patrol brought them down the slope, it was discovered that Paige had sprained her knee when her ski hit Dan, and Dan had lost six of his front teeth.

When Dan got back to the station, he explained to the producer of his news show that it would take eight weeks before he could have the implants and replacements for the front teeth he had lost. The producer told him that the station couldn't wait eight weeks, and that they were going to hire Ron Berg, a hot new anchor from San Diego. Dan wants to make Six Streams pay for his pain, and more importantly, for the income that he will lose before he finds a new job as an anchor. His wage loss alone will be over \$100,000, and he goes to see his lawyer. Paige limps in behind him. They take the lift tickets and for the first time notice the language on the back.

Question: Can Dan and Paige recover for their injuries?

Answer on Page 7

THE PANEL PHYSICIAN RIDDLE

Continued from page 1

An injured worker has the right to choose to treat with any medical provider from the day of the injury, and the employer's carrier must pay for reasonable and necessary medical service, including medicine and supplies, unless:

- The employer posts a conspicuous list of at least six designated health care providers;
- The employer provides written notification to the worker of the worker's rights and duties at two separate times: when the worker is hired AND as soon as practical after the worker is injured;
- The employer obtains from the worker a signed acknowledgment that the worker has been informed of and understands his or her rights and duties.

There is nothing in the law which relieves the company from having to pay for treatment when a worker treats with a panel physician and also treats simultaneously with his or her own physician. The fact that the employer has a "company doctor" either on or off the premises does not matter. The worker is under no obligation to treat with the company doctor.

After 90 days, even when the employer has complied with all these requirements, the worker may choose any other medical provider.

Whether you have freedom to choose or are limited to a panel physician, choose the very best. Choose a doctor who has experience in dealing with work injuries, who understands your situation, and whose focus is getting you better.

At QRG we are always happy to answer your questions concerning panel physicians or any other issues relating to workers' compensation law.

QRG PERSONAL NOTES



Ryan Hudec, son of legal secretary **Patty Apone**, plays both offense and defense for the Mount Pleasant Packers Junior Division football team. He is also the place kicker and punter. The Packers were undefeated and unscored upon this year, and went on to win the "Super Bowl" against the Donegal Browns.

Congratulations Mount Pleasant Packers!

Zachary Taylor, son of paralegal **Kellie Taylor**, plays soccer in the Derry Area Recreation Board's program. His team, sponsored by McCabe's Funeral Home, took first place in regular season play.

Paralegal **Kellie Taylor** raised \$1,000 for the annual Helping Hands Drive through the National Multiple Sclerosis Society. She will also participate in the annual MS Walk on April 20, 2008 at Lynch Field in Greensburg. Last year, Kellie's team placed 5th in the top fundraising teams, raising \$2,800.

Shelby Rerko Grundy, daughter of Attorney **Tereasa Rerko**, was named to the honor roll at St. John the Baptist Catholic School in Scottdale.

The Christ the Divine Teacher School Lady Celtics 5th and 6th grade basketball team earned runner-up honors in the "C" bracket at the Catholic Youth Organization's Junior Varsity playoffs. **Monica Sowinski**, niece of Attorney **Joyce Novotny-Prettiman**, is a guard on the team.



Client care representative **Terri Ross** and legal secretary **Robin Kennison** volunteer with the Connellsville Falcon Marching Band, which recently took 15th place in the Atlantic Coast Chapter Championships.

Cassidy Chappell, daughter of paralegal **Rhonda Chappell**, is a member of the seventh grade traveling basketball team at Norwin Junior High.

I'M HERE . . . BUT WHERE'S MY STUFF?!

By Michael V. Quatrini, Esq.



Relocating to a new area can be exciting – new job, new home, new friends! But while the notion of a fresh start may be inspiring, the idea of actually moving your stuff excites no one. Whether you are moving your belongings to a new home or to a new school, trying to find a cost-effective, reputable moving company can be a chore.

To help you avoid a future headache or horror story, we have a few recommendations before you sign on the dotted line with any moving company:

- **Research your mover** – Ask your real estate agent, family or friends for their recommendations. Ask all movers for references. Stay away from "too good to be true" deals. Visit www.protectyourmove.gov, a website maintained by the Federal Motor Carrier Safety Administration. This website allows you to research the complaint and safety record of all interstate moving companies nationwide. It is also loaded with useful resources and tips, including a glossary of moving terms, a helpful (and printable) checklist to guide you before, during and after the move, and links to individual state resources.
- **Protect your belongings** – Avoid a common misstep. Interstate movers must offer the option to purchase Full Value Protection or Released Value Protection coverage. With Full Value Protection, a damaged item will be repaired, replaced if severely damaged or lost, or paid for with a cash settlement. With Released Value Protection, you would recover no more than 60 cents per pound per item. A lost Chinese vase weighing two pounds would net \$1.20 under Released Value, even if its actual market value was \$2,000.
- **Check your own insurance coverage** – Talk to your own insurance agent about your options, including homeowner's insurance or third party coverage.
- **Make a detailed list and take pictures** - Before the movers arrive, take a picture of each item. While this may be tedious, it will protect you down the road should some of your stuff not arrive.
- **Be there for delivery** – When your belongings are delivered, make sure you are there to supervise. List any lost or damaged items. Document damages with photographs.
- **Read the fine print** – Consider contacting an attorney before signing a moving contract. Your attorney can review the contract and make sure that you are adequately protected. Remember, once you have signed the contract, you are bound by its terms.

SWIF GOES ELECTRONIC

By Rhonda F. Chappell, Paralegal

The State Workers' Insurance Fund (SWIF) is implementing a new electronic payment program. Injured workers who receive benefits from SWIF may now receive their payments by direct deposit or a prepaid debit card. The prepaid debit card allows only one free ATM cash withdrawal per month, which is available only at Wachovia or PNC Bank.

The benefit of the new program is that you will not have to wait for your check to be mailed.

If you currently receive workers' compensation benefits from SWIF, you should have received the details of this new program. If you do not wish to participate, you will still receive a paper check. If you did not receive this information, please contact our office.

ATTENTION: WORKERS' COMPENSATION CLIENTS

Here are some very important tips regarding your workers' compensation case:

- Keep all of your pay stubs from your employer and from the workers' compensation carrier. If your benefit check is late, missing or incorrect, these stubs are needed to solve the problem. Also, the pay stubs for the 52 weeks before your injury are necessary to calculate your average weekly wage.
- If your check is late, please wait a few days before calling us. Many times late checks are the result of holiday mail or some minor glitch at the insurance carrier and will arrive shortly.
- If calling about a late check, please know the last period for which you were paid. For example, "My last check was for 12/2/07 through 12/16/07."
- Never go to more than one pharmacy to obtain medications for your work-related injury.
- If you are changing doctors, being referred to a new doctor for additional testing, or seeing a new doctor for the first time, please call and give us that information before you visit that doctor. The doctor you choose may be critical to your case.
- Please know that if you drop in to our office without an appointment, you may not be able to see your attorney. The staff cannot interrupt your lawyer unless it is an absolute emergency. Please understand that each client deserves our undivided attention. We ask that you make an appointment when you have issues to discuss, so that your case will receive that same undivided attention.

WHAT IS AN ENERGY AUDIT?

Did you know that you can test your home to find out more about the energy you use? An energy audit is the first step toward becoming more energy efficient. A professional evaluator such as a home inspector can assess your current usage and suggest ways to save energy - which in turn saves money. Individuals who save energy help to reduce carbon emissions on a global scale.

The suggested changes can often be small ones. For example, you can substitute compact fluorescent bulbs for regular tungsten light bulbs. The simple action of changing one bulb can save up to \$12-\$15 per year.

An energy audit may show how adding a register air flow diverter can increase the flow of heat or cooling to the room and decrease the amount going directly up to the windows. Interestingly, as demonstrated in the thermal imaging photos below, a simple move of the chairs would significantly benefit the heating or cooling in this particular room. Although the energy is invisible to the naked eye, the thermal imaging camera reveals much more information.



*Photos and information provided by certified home inspector Michael Ashburn of Ashburn Inspections, Inc.
www.AshburnInspections.com*

QRG COMMUNITY PARTNERS

There are many organizations in our community that provide important services but their work is not always well-publicized. This month we spotlight one of these organizations so that our readers may benefit from information about the programs it administers. Westmoreland Human Opportunities, Inc. (WHO) is a private, nonprofit human services corporation. WHO is a member of the Community Action Partnership, a national organization representing the interests of the Community Action Agencies across the country that fight poverty on the local level. Marilyn Fox is the coordinator for the Circles™ Initiative and The Family Savings Account Program described in detail below. You can learn more about WHO at www.who-inc.org.

THE FAMILY SAVINGS ACCOUNT PROGRAM

By Marilyn Fox



THE HISTORY

Dr. Michael Sherraden, of the Center for Social Development at Washington University in St. Louis, first introduced the concept of Individual Development Accounts (IDAs) in his 1943 book Assets and the Poor. In it he urged the importance of putting a “level floor of assets under each family” in America.

Before 1997, only a handful of agencies were operating IDA Programs. In 1997, the American Dream Demonstration Project became the first large-scale test of IDAs in the United States. This five-year project was supported by several national and local foundations, private organizations, companies, individuals and governmental entities.

In 1999, the Office of Community Services of the U.S. Department of Health and Human Services instituted the Assets for Independence IDA Demonstration Project, which greatly increased the number of IDAs in existence. Today it is estimated that there are over 500 IDA Programs and 20,000 IDA Account Holders in the United States. (*Information obtained from the National Association of State Community Services Programs.*)

THE FAMILY SAVINGS ACCOUNT PROGRAM

Westmoreland Human Opportunities, Inc. works with individuals to establish IDAs through the Family Savings Account Program. This initiative is supported by the Pennsylvania Department of Community and Economic Development and is designed to help people with low or moderate incomes establish and maintain a savings account for the purpose of building the assets needed for attaining future goals. Allowable goals are the purchase or repair of a home, the purchase of a vehicle, education expenses or a business start-up.

Participants are required to open a savings account and to add to that account on a consistent basis. Savings of up to \$2,000 are matched 100% and must be applied to the specific goal. Savers are also required to attend four financial literacy classes held at the WHO office. Each class is two hours in length.

ADDITIONAL ADVANTAGES OF IDAs

- They enable those who are low-income to become self-sufficient through asset building.
- Savers receive education and training in how to use their assets effectively.
- They encourage long-range planning.

Participants also develop a better understanding of how financial institutions work.

REQUIREMENTS

Participants must be within 200% of the poverty guidelines (for a family of four, that yearly income would be \$41,300). Savers are required to deposit a minimum of \$40 per month into their accounts and to attend the financial literacy classes.

OUR VISION IS BOLD –ENDING POVERTY IN OUR NATION IN OUR LIFETIME!

For additional information contact: Marilyn Fox, Family Savings Account Coordinator
Westmoreland Human Opportunities
724-834-1260, Ext. 143



WHAT'S THE VERDICT?

Continued from page 2

ANSWER: It has long been the law in Pennsylvania that one who participates in a sport, as a spectator or a participant, assumes the risks that are normal and inherent to that sport. Accordingly, Dan's lawyer explains that when people go to a baseball game, they assume the risk that they may get hit by a foul ball, and if they do, they have no right to damages from the ball club.

Likewise, when skiing at a resort, people assume the risk of injury from falling on the slope, whether they hit an icy spot, a rock, a tree root, or another skier. All of these risks are inherent to the sport and are assumed by the skiers. Assumption of the risk prevents recovery from the resort. Furthermore, when Dan bought the tickets, there was a big sign stating he skied at his own risk. Finally, the back of the ticket was pretty explicit as to the risks that he and Paige were assuming.

It looks bad for Dan and Paige. However, while a skier assumes the normal risks of skiing, that does not include anticipating that some worker will leave a 500-pound motor lurking underneath the cover of snow just waiting to cause injury. Therefore, Dan may have a good claim against Six Streams. Paige, on the other hand, probably doesn't have a claim, because she assumed the risk of a collision with another skier.

A recent Pennsylvania Superior Court decision makes clear that even the language on the ticket can't release a ski resort from liability under every circumstance.

The moral of the story: Stick to shuffleboard and you won't have to worry about problems like this.

The second moral of the story: There is very little demand for an anchor who resembles a jack-o-lantern.

E-MAIL US!

We want to hear from you! Email us at news@qrglaw.com if:

- you have a change of address or telephone number
- you want to add someone to the Legal Update mailing list
- you have a comment about our newsletter
- you have ideas for future Legal Update articles or QRG seminars

Also, did you know that you can view our newsletter online at www.qrglaw.com? Visit our site and let us know your comments!

TAX TALK WITH JIM

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Time savings. A tax professional can generally draft a return quickly. After preparing the draft, the professional often needs additional information from you to determine whether all income is reported and all deductions are properly taken. Certain income (such as wages) and deductions (such as charitable contributions) also require proper documentation. Once everything is properly accounted for, the turn-around time for a completed return is about a week.

Peace of mind. A professional will make sure that you are in compliance with all requirements. These include mailing the return on time and to the proper address and attaching all of the required W-2 and 1099 forms. In addition, a professional can review your 2008 tax situation to determine whether you need more taxes withheld from your pay check or retirement, or perhaps need to make quarterly estimated tax payments.

Representation. Sometimes the taxing authorities question certain deductions and demand a response from you within 30 days. They may expect a detailed written explanation and/or copies of receipts and cancelled checks to support deductions you have claimed. If you have prepared your own return and are not comfortable dealing with the taxing authorities, you may have to scramble to find a professional to assist you. On the other hand, a qualified professional who prepares your return will represent and defend you in front of the IRS or the Pennsylvania Department of Revenue, as required.

If your tax situation is complicated or you do not have time to do your return this year, call me for an appointment as soon as possible. With 14 years of experience preparing individual income tax returns, I would be happy to assist you with your tax return.



MEET THE STAFF

RONALD J. FONNER, ESQ. AND P.J. PRITTS, PARALEGAL



Attorney **Ronald J. Fonner** has been with Quatrini Rafferty Galloway since 1993 and was named a partner in 2004. He is a graduate of Indiana University of Pennsylvania and the Duquesne University School of Law. Ron concentrates his practice in the area of workers' compensation. He is also actively involved in Phi Delta Phi, a legal fraternity that promotes professional ethics and professional responsibility.

Ron has two sons, Austin and Alec, who are active in soccer and basketball. He serves as a Cub Scout den leader for Alec. In his spare time, he enjoys hunting, camping, fishing and boating in northern Pennsylvania.

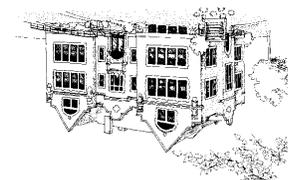
P.J. Pritts joined the firm as a paralegal in March 2007. She earned her Associate's Degree in Legal Assisting at Westmoreland County Community College and has worked in the legal field for over 11 years. She works for Attorney Pete Gough in the workers' compensation department and for Attorney Brian Bronson in the short-term and long-term disability department.

P.J. lives in Tarrs with her husband, Rick, and her daughters, Lindsey and Sami Jo. She enjoys skiing, horseback riding, and coaching girls' softball. She has attained a second degree green belt in Tae Kwon Do and is working toward her black belt.

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