

EWC NEWSLETTER

Resources to Help With Your Biggest Challenges, Insights From Industry Experts.



Leveraging ODG Disability Guidelines on Return to Work

BY MAGGIE JALTROSSIAN, INTERCARE HOLDINGS INSURANCE SERVICES

The Official Disability Guidelines (ODG) are the most comprehensive and up-to-date medical treatment and return-to-work guidelines that are nationally recognized, providing independent evidence-based decision support to improve as well as benchmark outcomes in workers' compensation. Why not use ODG guidelines to actively leverage your efforts in helping injured employees return to work?

The Return to Work (RTW) comorbidity calculator takes claim intake information such as diagnosis codes, procedure codes, demographics, and confounding factors to forecast projected disability duration using predictive analytics on the ODG claims database on millions of claims. The

guidelines provide minimum, optimum, and maximum averages of return-to-work timeframes that are considered to be an expected length of disability duration based on the claim information.

As a TPA, Intercare encourages treating physicians to adopt and use the Workplace Guidelines not only for Medical Guidelines but also for applying the Disability Duration Guidelines.

Most of the time, we see the disability duration exceed the maximum expectancy or return-to-work timeframes where physicians extend the disability duration based on an employee's subjective complaints or lack of interest in returning to work. But if you combine your

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In This Issue:

Leveraging ODG Disability Guidelines on Return to Work	1
Think Outside of the Box to Increase Your Corporate Value	5
Kegel, Tobin & Truce APC Presents George the Bartender's Dispatches From Online Happy Hour: Initial Physical Aggressor or That's Gonna Leave a Mark	8
COVID-19 Presumptions – SB 1159	13
COVID-19 and PD Ratings	16
Saying "No" in Workers' Comp: Recognizing a Gift When You Get It	19

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EXCEEDING WHAT IS
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BY SITTING IDLE AND NOT
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knowledge of the ODG disability duration guidelines along with providing the employee's comprehensive job description to the physician and point out what is an acceptable disability duration average, you may be surprised with how fast you see a shift in the disability status from Temporary Total Disability to modified light duty work or even a release to return to full work.

There will always be other factors that may influence medical recovery and disability duration, such as comorbid conditions and other medical complications, but these

should not be common. In addition, these disability guideline durations can represent points in time during an employee's medical care where additional evaluations might need to occur to determine why the employee is not improving and is unable to return to work.

Exceeding what is allowed as best practice or maximum duration on disability by sitting idle and not taking action should never be the norm. As workers' compensation professionals, we need to be proactive in keeping communication open and constant

so that all stakeholders are aware of each other's obligations and expectations.

Employers are also encouraged to stay in contact with their injured employees during their disability duration and consider temporarily modifying or adjusting an employee's job duties to accommodate their limitations, if they don't have a formal modified duty program. Claims professionals need to actively communicate with the treating physician and the injured employee regarding their return-to-work goals and engage nurse case management if necessary.



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I have had a diverse and exciting career, most of it attached to the claims industry in one way or another. I started in auto glass replacement, then to rental cars before moving on to work for a TPA where I learned everything from writing proposals, collections, customer service, and event planning to running a monthly magazine. For the last 23 years, I have worked for a national document retrieval company where I have been able to work with the owner to create new departments and programs.

This quote from John C. Maxwell sums up why many, including myself, have been able to advance their careers and skillsets: **“Leaders become great not because of their power, but because of their ability to empower others.”**

Great leaders can't do everything themselves; they must find others capable of fulfilling their vision for the companies they lead. Great leaders are open to new ideas, new concepts, ways to improve the customer's experience and ways to increase market share. One of my former employers, Greg Bragg, used to say he can't work *in* the business; his management team and staff do that. He works *on* the business to keep advancing it and empowers his management team to fulfill his vision.

If you work for someone like that and wonder how you can make a bigger impact within your organization, try to find a concept, product or skill you may have to help advance your business. For example, during this pandemic, it is not easy to meet up with your team. Figure out a way to make training easier, faster and better for new hires. It might be by remoting into their computers, hosting video conferences or creating tutorials they can access by subject matter or task. A decade and a half ago few understood the power of social media and the exposure it can generate in some industries. If your company does not have a strong social media presence, maybe you take the bull by the horns and make it happen. Write content or

Think Outside of the Box to Increase Your Corporate Value

BY D. DIANN COHEN, MACROPRO, INC.



find quotes or graphics that align with your company's mission.

During this shelter-in-place era, many employees are loving working from home, while others are pining to return to the office to be around others and reconnect as a team. Knowing this, you might want to create a way to communicate with employees regularly or find ways to build camaraderie within the company or departments. Naturally, you can hold Zoom meetings, but why not create a monthly “gathering” by hosting a special event. Throw a virtual picnic, or how about bringing some magic to the meeting and hiring my favorite virtual magician, Dan Chan, The Magic Man?

For the next three months, we have holidays we can use to unite our teams. Think outside of the box and figure out how you can let your staff know that their work is valued and that they are appreciated. Working remotely may cause us in management to forget to compliment our staff or recognize a job well done. Use these gatherings as a time to do just that. As for the holidays, if your company typically had a cubicle decorating contest, expand it to include home office area

decorating. Employees can snap photos of their work areas and email them to you to post (without the employees' names) for all to see. You can share them via email or post on a Facebook page or one of many other sharable applications. Get your team involved by having them vote for different categories: best theme, most creative, best use of space, and so on. At the end of the day or week, show the entries with the employees' names revealed before awarding prizes.

If your company does not have Zoom or other videoconferencing platform, partner on a session with one of your service providers. My team and I have hosted team-building events, training sessions and even an exhibitor fair.

There are many ways you can add value to your company. Find the area that fits you, your personality and skill set. Look for ways to collaborate with other managers or team members. We are in a unique era where not thinking out of the box can make client and employee contacts stale and uninspiring. Finding ways to innovate can advance your team, your organization and ultimately your value as a leader.



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KEGEL, TOBIN & TRUCE APC PRESENTS

**George the Bartender's Dispatches
From Online Happy Hour**

Initial Physical Aggressor or That's Gonna Leave a Mark

BY MARK THOMAS, SHAREHOLDER AT KEGEL, TOBIN & TRUCE APC

FROM MY BAR AT HOME - In the spirit of togetherness, our firm's attorneys have continued to meet over Zoom for Happy Hour. Despite our best efforts at keeping things light, the discussions have often taken a turn away from all things happy to the new normal of our lives - endless social distancing, the smoke-filled skies of California, challenges of homeschooling, and when would we be able to comfortably eat at a restaurant again.

The conversation about restaurants reminded me of the trouble I was having with my most recent case, which I was glad to share with my colleagues. The infinitely smug applicant attorney Ron Summers had recently taken on a case against one of my favorite establishments, Jack's Diner. As Ron told it, his client, a server, was just doing his job when a dispute arose with one of the patrons.

Words turned to heated words, which

led to shouts, which resulted in a physical altercation. When all was said and done, the server had been left with a nasty shiner on his perfect "angelic face, like a young Toby Maguire" (Ron's words), while the patron walked away relatively unscathed. The trauma of the attack would haunt his client forever, Ron claimed.

I then mentioned to my colleagues that on one of my recent trips to pick up takeout at

Jack's Diner, I had the opportunity to speak to the owner, Jack, about what had occurred. Evidently, the server did get into a heated verbal altercation with the patron, who was very displeased that they were out of their famous clam chowder. As the conflict became louder, the server swatted the patron with a menu, and in turn, the patron landed a solid left hook.

That's when Hoang Nguyen of our Kegel Tobin & Truce Ontario office piped up. He had recently dealt with a very similar set of facts and had prevailed under the argument that the applicant was the initial physical aggressor under California Labor Code §3600(a)(7), in *Knobler v. Los Angeles Unified School District* (ADJ10983154).¹

Labor Code §3600 provides the criteria for a compensable injury. Labor Code §3600(a)(7) specifically excludes injuries which "arise out of an altercation in which the injured employee is the initial physical aggressor." As with many defenses, the burden of proof lies with the defendant.

Hoang explained that in *Knobler*, the applicant was a school teacher who was punched in the chest by a student and claimed both physical and psychiatric injury as a result.

Leading up to the altercation, the teacher was standing in a classroom doorway after the bell rang between classes. A dispute began with a student who wished to pass through the door and leave the classroom. Although the teacher alleged that the student purposefully spat in his face during the quarrel, witnesses described a scene where the student shouted at the teacher with such vigor that spit flew out of his mouth inadvertently. The teacher then slapped the student on the cheek (by accident, he claimed),

which is when the student landed his punch.

At the trial level, the workers' compensation judge (WCJ) agreed that the teacher had been the initial aggressor in the argument and issued a finding that there was no injury AOE/COE. Applicant then filed a Petition for Reconsideration.

The panel agreed with the WCJ that the applicant's claim was barred, as he was the initial physical aggressor of the altercation. Their decision relied heavily on the Supreme Court of California decision *Jessie Mathews v. Workers' Comp. Appeals Bd.*, 6 Cal. 3d 719 and the use of the word "physical" within the Labor Code §3600(a)(7).

Citing *Mathews*, the Appeals Board explained:

One is not an initial physical aggressor so long as he confines his antagonism to arguments, epithets, obscenities or insults. Instead, an "initial aggressor" is one who first engages in physical conduct which a reasonable man would perceive to be a real, present and apparent threat of bodily harm.

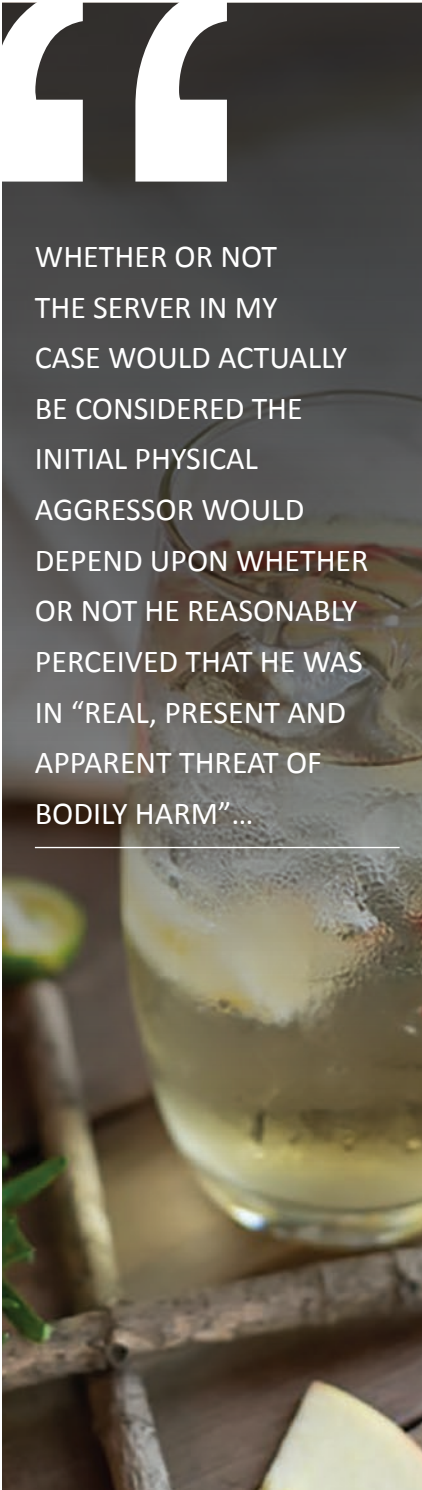
The physical conduct does not need to involve actual touching but can be an action that the other party reasonably perceived as threatening.

Hoang then said that the applicant attempted to argue that by yelling in his face and spitting on him, the student was the initial aggressor. The Appeals Board disagreed, as witness testimony supported that the spitting was because of the verbal altercation, and it was the applicant who first made the argument physical. There was no evidence presented that the applicant was in reasonable fear of a physical attack before he struck the student. It did not help the



GEORGE'S KT&T AUTUMN APPLE COCKTAIL

Fill a shaker with ice and add 2 oz gin, 2 oz apple cider, ½ oz lemon juice, ½ oz honey syrup, a pinch of cinnamon, and a dash of bitters. Shake it well and strain into a glass. Garnish with a lemon twist and thin apple slice and enjoy!



WHETHER OR NOT
THE SERVER IN MY
CASE WOULD ACTUALLY
BE CONSIDERED THE
INITIAL PHYSICAL
AGGRESSOR WOULD
DEPEND UPON WHETHER
OR NOT HE REASONABLY
PERCEIVED THAT HE WAS
IN “REAL, PRESENT AND
APPARENT THREAT OF
BODILY HARM” ...

applicant’s credibility that, in his testimony, he downplayed the force with which he slapped the student, which was rebutted by witnesses.

Hoang cautioned that the determinations are very fact-based. Whether or not the server in my case would actually be considered the initial physical aggressor would depend upon whether or not he reasonably perceived that he was in “real, present and apparent threat of bodily harm” when he struck the patron with the menu; and in turn, if that represented an actual physical threat to the patron.

This is when I remembered Jack had also helpfully mentioned that the applicant resembled famed wise guy and acclaimed TV and film star James Gandolfini, while the patron was significantly smaller in stature. It’s a wonder the patron was even able to reach, let alone bruise, the applicant’s face.

Just as we were going to log off, another square appeared in our Happy Hour. It was George the Bartender!² He joined to share with us his latest creation, an Autumn Apple Cocktail. We prepared our drinks and raised them in honor of Hoang’s win. George put the happy in Happy Hour!

DISCLAIMER: All characters at my home bar are fictional, and the storyline is simply a product of my animated imagination.

As Hoang cautioned, cases where you attempt to prove an applicant was the initial physical aggressor rely heavily on the facts of the alleged incident. Having multiple corroborating witnesses is an asset in a case like this, in addition to determining the state of mind of those parties involved in the alleged altercation. It is not a defense that is easily argued without sufficient evidence and a skilled attorney.

While *Knobler* lacks the designation “significant panel decision,” Joe Truce, formerly a managing shareholder at our firm and creator of *George the Bartender*, always liked to remind me of one of his favorite portions of the Labor Code, subtitled

“Specific Additional Evidence Allowed,” §5703(g) which states in relevant part as follows:

The appeals board may receive as **evidence either at or subsequent to a hearing**, and use as proof of any fact in dispute, the following matters, in addition to sworn testimony presented in open hearing: ... (g) Excerpts from expert testimony received by the appeals board upon similar issues of scientific fact in other cases and the prior decisions of the appeals board upon similar issues. (emphasis added)

He would also draw our attention to California Evidence Code §452(d), which provides that judicial notice may be taken of “Records of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.”

We’re still making our own doubles. May George guide my hand. Bottoms up, friends, and keep washing your hands.



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THE EXPLOITS AT THE LOBBY BAR?

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¹ A copy of *Knobler* can be obtained via email request.

² For those new patrons to the Lobby Bar, George the Bartender’s workers’ compensation case involves an injury to his elbow, epicondylitis (tennis elbow), sustained from the repetitive serving of martinis to Joe Truce. If there ever was an admitted industrial injury, this is it!



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COVID-19 PRESUMPTIONS – SB 1159

BY JAMES A. ROSSI, ESQ.

Governor Newsom signed SB 1159 on 9/17/2020, a bill that provides three rebuttable presumptions that COVID-19 is work-related. The first is LC § 3212.86, which codifies the governor's prior executive order that provided a rebuttable presumption of work-relatedness to all employees working outside the home who contracted COVID-19 between 3/19/2020 and 7/5/2020. The second is LC § 3212.87, which provides a rebuttable presumption starting on 7/6/2020 that COVID-19 contracted by front line workers (i.e., firefighters, peace officers, health care workers, home care workers, and IHSS workers) is work-related if certain elements are met. Lastly, LC § 3212.88 establishes a rebuttable presumption starting 7/6/2020 that COVID-19 is work-related when there is a company outbreak. It is not limited to front line workers or essential workers; it applies to all workers not working at home.

An outbreak occurs when, within 14 days, four employees test positive at a specific place of employment with 100 or fewer employees, and for larger places of employment, when 4% of the employees test positive. It also applies if the employer was shut down due to a COVID-19 outbreak. The biggest negative with this presumption is that the employer and administrator have to keep track of all the positive cases, locations worked, number of employees at each location, etc.

Overall, the law is favorable to employers other than those dealing with front line workers. However, the company outbreak presumption does create very burdensome tracking and reporting requirements for employers and administrators. Moreover, anyone who submits false or misleading information shall be subjected to a civil fine up to \$10,000, making it critical to implement a good tracking and reporting system.

TIPS - WHAT EMPLOYERS NEED TO DO NOW

- ❖ Employer must keep track of all locations each employee works at, the number of employees on each day at each location, and a log of those who test positive, including the date the specimen was collected.
- ❖ Where the employer is aware of employees testing positive between 7/6/2020 and 9/17/2020, the employer has 30 days after 9/17/2020 to report the positive test to the administrator via email or fax. The employer must also include the date of the positive test, each separate location the employee worked at in the 14 days before the positive test, and the highest number of employees who worked on any given day between 7/6/2020 and 9/17/2020 at such location(s).
- ❖ For positive tests on or after 9/18/2020, the employer must report any positive test, including the date of the positive test, to the administrator within 3 days via email or fax. Further, the employer must report to the administrator all separate locations the employee worked at during the 14 days before the positive test, as well as the highest number of employees working at each location during the 45-day period before the employee's last day at the location.

- ❖ Be sure to omit the employee's personal identifying information when reporting positive tests to the administrator unless the employee is making a claim.
- ❖ Note the employer representative in charge of tracking and reporting the information will likely be subjected to deposition by an employee's attorney and must be prepared to prove tracking and reporting.
- ❖ Note anyone who submits false or misleading information when reporting shall be subject to a civil penalty of up to \$10,000. LC § 3212.88 provides a procedure to contest the civil penalty.
- ❖ Advise the administrator whether there is COVID-19 leave pay for employees to reduce TTD.
- ❖ Provide any facts to the administrator that could help rebut any claim of work-relatedness.
- ❖ It should be noted AB 685 was also signed into law, effective 1/1/2021, which requires certain notices to be given when employees test positive. OSHA will be able to shut down non-complying employers. Employers will need to prepare for this.

EVIDENCE TO REBUT PRESUMPTIONS AND WORK-RELATEDNESS

All three labor code provisions indicate the presumptions are rebuttable; there is no limitation on the type of evidence that can be used. Moreover, even if a presumption cannot be established, the employee can still attempt to prove work-relatedness without a presumption. It is vital to provide information to the administrator, such as:

- ❖ Did employee work for any other employers during relevant time period?
- ❖ Did employee follow guidelines like PPE use and social distancing?
- ❖ Did employee associate with others (i.e., friends or family members) who are COVID-19 positive?
- ❖ Did employee live, travel or vacation in a hotspot or location of an outbreak?
- ❖ Did employee work with any other coworkers who have COVID-19?
- ❖ Did employee do type of work that increases exposure to COVID-19 compared to general public?
- ❖ Did employer comply with PPE requirements (require masks, provide sanitizer, social distancing guidelines followed, plexiglass dividers, etc.)?
- ❖ Did employee work indoors or outdoors?
- ❖ Any other evidence of preventative measures to reduce transmission risk. LC § 3212.88.
- ❖ Applicant's nonoccupational risks of infection. LC § 3212.88.

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Better Outcomes for Everyone



October 2020 Newsletter: COVID-19 and PD Ratings

It's here! In a press release published on September 17, 2020 on [gov.ca.gov](https://www.gov.ca.gov) by the Office of Governor Gavin Newsom, the headline reads, "Governor Newsom Signs Legislation to Protect California's Workforce Amid the COVID-19 Pandemic." The article goes on to say, "SB 1159 (Hill) expands access to workers' compensation by creating a rebuttable presumption for front line workers – health care workers, firefighters and peace officers. Creating a presumption removes burdens of access to workers' compensation for those workers who most likely got infected at work. Additionally, the bill establishes a rebuttable presumption when there is a workplace outbreak over a 14-day timeframe."

Although much has been written about the number of deaths and treatment of the coronavirus, very little has been published in terms of the long-term health effects associated with having contracted the virus. We do know that the coronavirus attacks the respiratory system of its victims, but the medical community is still at odds as to the permanent residual effects. We at The Rating Oracle are not physicians- we are rating experts. The purpose of this article is to be insightful and to prepare you for when the time comes to rate your COVID-19 cases.

Considering this virus attacks the respiratory system, we know that chapter 5 of the AMA Guides will be utilized to assess permanent impairments. Invariably, the 2005 PDRS would be utilized to take the resulting WPI to convert into a useable permanent disability percentage. Studying specifically page 107, table 5-12 of the AMA Guides, we find 5 pulmonary function tests utilized (FVC, FEV, FEV/FVC, Dco, Vmax). The AMA Guides would also apply ADLs (activities of daily living) to add additional WPI percentage value up to 3%.

All the tests mentioned in the Guides measure oxygen, and how effectively we can process and handle oxygen in our respiratory system. The FVC (forced vital capacity) measures how much air you are able to exhale. FEV1 measures how much air you can exhale in 1 second. FEV1/FVC ratio, also called the Tiffeneau-Pinelli index, represents the proportion of a person's vital capacity that one is able to expire in the first second of forced expiration to the full forced vital capacity (meaning the max amount of air you can exhale after max inhalation). Dco measures the transfer of oxygen in the lung to red blood cells in the lung blood vessels. Finally, Vo2 max measurements account for the highest rate of oxygen usage during varying levels of exercise.

Table 5-12 of the AMA Guides distinctly identifies 4 class groupings. Each class has WPI percentages starting with a class 1 which has a 0% WPI and ending with a class 4 which accounts for a 51% to 100% WPI. A class 2 has a range of 10% to 25%, while a class 3 has a range of 26% to 50%. Therefore, there is a very real possibility that we can have a significant number of 100% cases due to the COVID-19 virus.

Understanding what the various tests measure is the first step in recognizing whether an assignment impairment is appropriate. Secondly, the key is knowing and recognizing the physical manifestations. The AMA Guides 5th edition indicates on page 107, "A detailed description with supporting, objective documentation of the type of pulmonary impairment and its impact on the ability to perform activities of daily living is required." Notice the word REQUIRED in the AMA Guides. This mandates physicians to comply with this requirement. They must provide supporting objective documentation and its impacts on ADLs. For claims professionals, this will mean several things. Commonly there will be numerous vendors who will revert to the method of using FCE (functional capacity exams) to provide "objective evidence." Read table 5-12 carefully to understand the minimum levels required for the various tests and understand just how such tests can be beguiled to produce a more favorable claimant result. Finally, keep in mind that a good rating analysis is key in determining appropriate PD values. In the meantime, we at The Rating Oracle wish you a safe remaining 2020, and we look forward to servicing any rating challenges that come your way.



CALIFORNIA WORK COMP *Advocacy*

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the workplace.
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Between the employer, the
employee and the claim
adjuster, obtains the most
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LIEN ON ME, INC.

We just want to say...



Lien On Me, Inc. provides Bill Review and Lien Defense services in the Workers' Compensation and Auto Liability industry. We provide medical cost containment services through knowledge and stewardship of each client's program, thus allowing claims professionals to return their efforts to the administration of benefits. With our state-of-the-art systems, highly experienced staff, aggressive bill negotiations, and constant forward-driven solutions, Lien On Me is dedicated to relieving employers of the burden imposed by medical providers who participate in complex billing practices.

This past June, Qualcomm released a Small Business Accelerator Program designed to help bring small businesses into a mobile-first, remote work environment that will help take them through the COVID-19 crisis. Qualcomm sought to equip these small businesses with various products such as 4G and 5G-powered PCs, tablets, mobile hotspots, Wi-Fi solutions, and more, depending on each business's specific needs.

Of the 375 total applicants nationwide, Lien On Me has been selected as 1 of 30 awardees for the program. We would like to thank Qualcomm, who teamed up with Best Buy, Verizon and Microsoft, for their efforts in assisting small businesses like Lien On Me. This helped us immensely as we set up remotely during COVID-19 and continued to provide excellent service for our clients. The LOM family appreciates and thanks you from the bottom of our hearts!



For more information regarding our services, please visit our [website](#) or contact Sandy Paquillo at (626) 921-1120 ext. 516

Saying “No” in Workers’ Comp:

Recognizing a Gift When You Get It

BY CARL VAN, ITP



Imagine a conversation between an examiner, Sabrina, and an injured worker, Jennifer.

Jennifer: *I want to make sure my husband is compensated for the time he has taken off work to be home with me.*

Sabrina: *I am sorry, Jennifer, we can't do that.*

Jennifer: *That's not fair. He's been so helpful, and he deserves something.*

Sabrina: *I understand that. It's just that those are not expenses that can be paid under the workers' comp guidelines.*

Jennifer: *But I really, really think he should get something!*

Sabrina: *I do understand. If there were a way to pay for something like that, I would love to do it. The guidelines simply do not allow it.*

Jennifer: *That's a rip-off!*

Sabrina: *It's not a rip-off. If we paid something like that, people could claim payment for their whole family sitting at home.*

Jennifer: *I would never do anything like that!*

Sabrina: *I'm not saying you would, but some people would. So that's why it isn't paid.*

Jennifer: *I still think that's a rip-off!*

Sabrina: *Not really. This is the rule. We could easily get ripped off by some people,*

and we are just trying to protect ourselves. That makes sense, doesn't it?

Jennifer: *It doesn't make sense to me because now my husband is out of two weeks' salary!*

Sabrina: *Well, no one made him stay home with you, did they?*

Jennifer: (Getting upset) *No, but he was just trying to be nice. That's important, isn't it?*

Sabrina: *At least you got some time alone with your husband. Doesn't that make you feel better?*

Jennifer: (Getting angrier) *It doesn't make me feel better at all. All I feel is that not only am I injured, but no one gives a damn!*

You can see that this conversation is only going to get worse. It's going to worsen because Sabrina didn't realize she already had the battle won a long time ago. Remember back when Jennifer said, "What a rip-off!" Most people would have interpreted that as a snide comment, but the lesson for someone aspiring to be an Awesome Examiner is to recognize that as a gift. Do you know what that injured worker is saying when they declare, "What a rip-off!"? Think about it for one second: what are they really saying?

Believe it or not, what this person just said is, "I believe you." That's right. What this person just said is that *they believe you*. They're not happy about it, which is why they comment that it is a rip-off, but nevertheless,

they do believe what you are telling them. There's no way for them to conclude that it's a rip-off unless they believe you first. If they didn't believe you, they'd keep arguing with you about whether or not it's going to happen.

At this point, Sabrina should recognize that she has convinced Jennifer and stop all fighting. Fighting is not necessary. You don't need to inflict more pain on this person. You don't need to start an argument; this person already believes you. All you have to do from this point is empathize.

You have to recognize gifts when you get them. And believe it or not, this snide comment is a gift. Take it for what it is.

Imagine the conversation going slightly differently.

Jennifer: *I want to make sure my husband is compensated for the time he has taken off work to be home with me.*

Sabrina: *I am sorry, Jennifer, we can't do that.*

Jennifer: *That's not fair. He's been so helpful, and he deserves something.*

Sabrina: *I understand that. It's just that those*

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Jennifer: *But I really, really think he should get something!*

Sabrina: *I do understand. If there were a way to pay for something like that, I would love to do it. The guidelines simply do not allow it.*

Jennifer: *That's a rip-off!*

Sabrina: *Jennifer, I understand it feels like a rip-off. I appreciate that you are frustrated by the rules, and I wish it could be different. Is there something else I can help you with?*

Jennifer: *No, never mind.*

What's important to understand is that Jennifer is not going to be thrilled. She's not happy that her husband gets nothing, but at the very least, we avoid picking a fight. Believe it or not, because this person got treated with respect, they may accept the decision even though they didn't get what they wanted, and that's one of the critical things to understand about good customer service.



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