



**NJ Department of Labor and Workforce Development
Division of Workers' Compensation**

**Task Force on Medical and Temporary Benefits
UPDATED REPORT**

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Rose Mary Granados
Supervising Judge of Compensation
Task Force Chair

**NJ Department of Labor
Division of Workers' Compensation and Workforce Development**

**Task Force on Medical and Temporary Benefits
List of Members**

Rose Mary Granados, Supervising Judge of Compensation, Task Force Chair

Cosmo Giovinazzi, Judge of Compensation

George E. Pollard, Judge of Compensation

Ronald Bronstein, Esq., Nusbaum, Stein, Goldstein Bronstein & Kron

Fred Hopke, Esq., Wilentz, Goldman & Spitzer

Joseph M. Soriano, Esq., Rotella & Soriano

Robert Young, Esq., Young & Perez

Mark Zirulnik, Esq., Passman, Dougherty & Zirulnick

TASK FORCE ON MEDICAL AND TEMPORARY BENEFITS ISSUES

UPDATED REPORT

Director Calderone requested the Task Force to update the Division on the status of its work on medical and temporary benefits motions. In the two years since we have addressed the matter, the number of motions filed remains about the same: 3,891 in 2003, 3,904 in 2001. As a percentage of total open cases, medical and temporary benefits motions now constitute 2.6% compared with 2.5% in 2001. These figures confirm that the vast majority of petitioners receive appropriate treatment.

Since beginning this project, we have instituted changes in how medical and temporary motions are processed. The result is a shortening of time at every stage, dramatically so regarding the length of time to final resolution. While a motion for medical and temporary benefits took an average of 134 days in 2001 to resolve, the time in 2003 plummeted to 78 days.

The Director and his staff have been extremely supportive and proactive in implementing our suggestions and more. For example, through the Director's efforts the Appellate Division agreed to give priority to appeals involving medical and temporary issues. That change has shortened the appellate process considerably.

Two new rules have been adopted incorporating Task Force suggestions. N.J.A.C.12:235-3.2(h) allows a judge to order one carrier or employer to pay benefits without prejudice and subject to reimbursement when it appears that the only issue is which carrier is liable to petitioner. N.J.A.C.12:235-3.2(j) requires every carrier and self-insured to designate a contact to respond to issues concerning medical and temporary benefits where no claim petition has been filed or where a claim petition has yet to be answered. The contact's name, telephone number, address, e-mail address and fax number must be filed with the Division and kept up-to-date.

Since implementing our suggestions some Task Force members report improved pleadings with more information and medical support. We suggest that the Division website publish the model form to encourage and facilitate this. In some vicinages, medical and temporary motions are conferenced almost immediately, even before formal listings, and kept on a "tight leash." This approach has contributed to more rapid resolution. Vicinages that have not yet adopted such a procedure have experienced less change.

Optimally, medical and temporary benefits motions should be reviewed by a judge as soon as they are filed. If the motion is deficient, the deficiency should be specified on the face sheet and the attorney so advised by telephone or by fax. Alerting counsel to defects in the motion **before** the conference promotes more meaningful discussion when the parties come together. We find that the earlier and more closely judges intervene, the earlier emergent matters are resolved or tried. If a matter proves at

the conference not to be emergent, it should be listed as an ordinary motion, MTNHG rather than MTNMT. In any event, it should be listed promptly. Lastly, judges should record conference results on their calendars (who agreed to do what and by when) or enter an order. This would clarify things not only for the judge, but also for the parties and for another judge should the conference judge not preside at the next hearing.

The key to moving medical and temporary motions is early and persistent judicial attention. When a judge is involved, things happen. Medical and temporary motions tend to be “squeaky wheels.” Attention at the outset spares petitioners needless inconvenience and spares everyone future aggravation. Judges, particularly new ones, are not always aware of the tools available to remedy emergent situations. Less experienced judges should be encouraged to network, with experienced judges and each other, to share methods found to be effective.

When the Division compiled the initial statistics and separated the motions into vicinages, the southern half of the state had a much larger percentage of medical and temporary motions per caseload than the northern, more urban counties. The discrepancy persists and may merit further investigation. Although the task force discussed many possible causes, we did not reach any conclusions regarding this anomaly.

Change requires time and nurturing to take root. Over the past years we have learned that the above approach significantly facilitates the administration of medical and temporary benefits motions. In our last report we listed techniques that have proven valuable in handling medical and temporary motions. Undoubtedly, other judges and attorneys have other useful methods. The next steps are to identify, distill and share this information. We suggest a forum, as a part of a judges’ meeting, where these matters can be discussed and the judges exposed to the universe of applicable experience. In that manner, the Division can build upon the current momentum – to the benefit of the parties and participants in our system.