

Lex and Verum

The National Association of Workers' Compensation Judiciary



Number XXII, June 2011

President's Message

By Hon. Ellen Lorenzen, President, NAWCJ

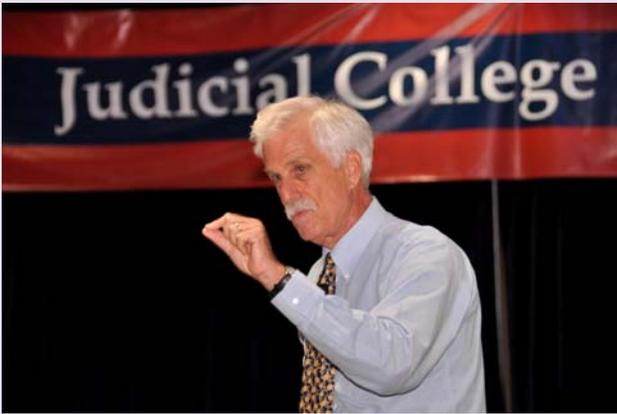
We are really in high gear now, getting ready for our College in August. In case you haven't calendared the conference yet, it will be 8/21/11 through 8/24/11 at the Orlando World Center Marriott. Expect presentations on addiction, problems of the agency work force, evidence (Emeritus Professor Ehrhardt returns), and neuroscience. I have had the opportunity to hear our speaker on neuroscience and decision making and I think you will find that presentation fun as well as educational and, perhaps, a little unsettling. And, of course, there will also be the many additional offerings in other seminars sponsored by FWCI, including live surgery and live appellate argument.

I cannot come up with any better reason for you to attend than to share with you two learning experiences I had in April. Remember I have been involved with workers' compensation in Florida in some way since 1974. I have seen innumerable statutory changes and read many appellate decisions along the way. And I really believed I understood the impact of workers' compensation on individuals, having spoken with injured employees as an adjuster, having represented them as a claimant's attorney, having opposed their efforts to secure benefits as a defense attorney, having attended policy making meetings with self-insured employers in both the private and public sector and having attended policy making meetings with insurance carriers. What I learned in Boston was that I had missed out on two of the broader aspects of workers' compensation issues.

In April I attended the Worker' Compensation Centennial Symposium, a combination retrospective look at the past 100 years of workers' compensation legislation in our country and a prospective educated guess at the next 50 years. I was particularly impressed by information from two speakers. The first was Les Boden, professor of public health in the Department of Environmental Health at Boston University

Continued, Page 2.





School of Public Health. Dr. Boden conducted a study of the impact of an on-the-job accident upon the employee's future earnings. His study was confined to a few states, so it may be dangerous to extrapolate his findings to the country as a whole, but what he found was startling to me. First, workers' compensation indemnity, by making partial payments of lost income, replaces only 32 to 41% of an injured employee's earnings over the first 10 years after the accident. And second, if an employee suffers a loss of earnings following an accident, (s)he will earn substantially less the rest of her/his working career. In other words, many injured employees are unlikely to return to substantially the same earning capacity they had before their accidents. From a personal standpoint, I now realize the future value of my social security and Medicare benefits is directly impacted by every worker who has a lost time injury at work. From a legal standpoint, though, we could have a long discussion about what this study means with respect to the trade off employees make when they relinquish their right to sue in exchange for assurance of the receipt of some benefits and medical care.

The second speaker was Emily Spieler who is the Dean and Edwin Haley Professor of Law at Northeastern University School of Law. In her past live Professor Spieler actually practiced law in Massachusetts and West Virginia and served as the Commissioner of the Workers' Compensation Fund in West Virginia. Her research has revealed that something like 40% of all workers who are hurt on the job get no workers' compensation benefits. These employees might have non-covered employment; they might not report the injury for fear of retaliation; the employer might not report the injury to its carrier; the state statute might make the injury non-compensable; they might be undocumented workers. But 40% of injured employees are never compensated and never receive medical treatment under the auspices of workers' compensation. I was concerned about the size of this group of workers, if for no other reason than as a taxpayer, who will bear some of the cost of providing medical care and social security disability to those in this group. But again, from a legal standpoint, at what point do we say that such a large percentage of employees are not eligible to make or do not make workers' compensation claims that the system no longer delivers what it promises?

I tell you about my two "Ah Hah" moments because I know that when I receive a brochure for an educational event, I tend to quickly look at the topics and decide if the program is worthwhile or just a rehash of old news. After all these years, I figure I know it all already. I went to Boston planning to attend one organization's meeting and wound up going to a second one simply on the basis of "why not?" And I came away with insights into workers' compensation that will give me food for thought for a long time.

Please plan to come in August. You never know what you might learn. As always, contact me at Ellen_Lorenzen@DOAH.state.fl.us

New MSP Reform Bill Proposed in Congress

The *SMART Act (H.R. 1063)* Proposes New Amendments to the Medicare Secondary Payer Statute

By: Mark Popolizio, Esquire

Ed. Note: the May 2011 Lex and Verum introduced this new reform effort, and provided the reader with “proposal #1.” The following continues the explanation adding Proposals #2 through #7.

On March 14, 2011, the *Strengthening Medicare and Repaying Taxpayers Act of 2011 (SMART Act) (H.R. 1063)* was introduced in the U.S. House of Representatives by Tim Murphy (R-PA) and Ronald Kind (D-WI). This legislation proposes major amendments to the Medicare Secondary Payer Statute (MSP).¹ The SMART Act modifies and replaces the reform proposals contained in the Medicare Secondary Payer Enhancement Act (H.R. 4796) which was introduced last year in Congress. H.R. 4796 generated considerable bipartisan interest having secured 35 cosponsors prior to the close of the 111th Congress in December 2010.

The SMART Act targets specific components of MSP compliance relating to Section 111 of the Medicare, Medicaid and SCHIP Extension Act, Medicare conditional payments and other important aspects of the MSP.

Proposal #2

The SMART Act proposes extended appeal rights to challenge MSP claims through the administrative appeals process and into the federal court system as follows:

Right of Appeal. - [CMS] shall promulgate regulations establishing a right of appeal and appeals process, with respect to any determination under this subsection for a payment made under this title for an item or service under a primary plan, under which the applicable plan involved, or an attorney, agent or third party administrator on behalf of such applicable plan, may appeal such determination.¹⁹

As proposed, this appeal right would include “*review through an administrative law judge and administrative review board, and access to judicial review in the district court of the United States.*”²⁰ CMS would be required to carry out the appeals procedures “*in a manner similar to the appeals procedure under regulations for hearing procedures respecting notices of determinations of nonconformance of group health plans under this section.*”²¹

One area where this particular proposal would likely have significant (and welcomed) application concerns challenges to Medicare conditional payment claims.

Under CMS’ current process, if a claimant or primary payer believes CMS’ conditional payment claim is incorrect, inaccurate or otherwise includes inappropriate claims, it can submit a request to the MSPRC for removal of those claims. If the MSPRC agrees to remove the requested claims this usually extinguishes the issue.

However, problems could arise in situations where the MSPRC *refuses* to remove the requested claims. This then raises the issue of what additional recourses a party may have to challenge CMS’ claim. Under the current process, the *claimant* may appeal the claim through an established administrative appeals process and may ultimately file an action in federal court.²² However, CMS takes the position that when a conditional payment recovery demand letter is issued to a primary payer identifying said primary payer as the debtor, the primary payer has *no* formal administrative appeal rights under the MSP.²³ The SMART Act would level the playing field in this instance by permitting the primary payer (and others) to appeal CMS’ claim through the administrative appeals process and, if necessary, into federal court.

Proposal #3

Section 111 of the Medicare, Medicaid and SCHIP Act of 2007 (Section 111 or MMSEA) is Medicare’s new electronic “notice and reporting” law.²⁴ Under Section 111, certain parties known as Responsible Reporting Entities (RREs) are required to determine a claimant’s Medicare beneficiary status. If the claimant is a Medicare beneficiary and the claim meets one of CMS’ Section 111 “reporting triggers,” the RRE must then report the claim electronically to CMS (with all required information and data) in accordance with the agency’s specific reporting mandates.

Continued, Page 5.

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MULTISTATE COMPARATIVE LAW PANEL

Our distinguished panel of Judges from Florida, Texas, Pennsylvania, and Maryland will describe and discuss similarities and differences among the states' workers' compensation laws and procedures. This highly interactive program will provide insight, perspective and analysis of the variety found in workers' compensation systems around the country. Attendees will come away from this with perspective and ideas.

Visit a Florida OJCC Videoteleconference facility for live demonstration of technology during conference!

THE 2011 PROGRAM INCLUDES THREE TIMELY AND EXCEPTIONAL MEDICAL PRESENTATIONS:

THE POWER OF ADDICTION

Marc Gerber, M.D., Orlando, FL, will provide an overview of the pill mill problem spreading through the nation. His presentation will focus on addictions and the physical and psychological causes of patients becoming dependent on the variety of opiod medications.

THE ANATOMY OF THE INJURY

Michael T. Reilly, M.D., Ft. Lauderdale, FL, and Tim Joganich, Penns Park, PA, will discuss the questions of causality inherent in the orthopedic surgeon's diagnoses. This is a study in the biomechanical forces necessary to produce injuries to the spine and joints. Understand how the medical findings relate to the medical opinions.

THE AGING WORKFORCE

Jesse A. Lipnick, M.D., Gainesville, FL, will explore the implications of older workers remaining in the workforce and the body's ability to heal changes with age. The likelihood of co-morbidities is also an issue with older workers' injuries. Dr. Lipnick uses his medical experience and work with aging patients to foster understanding of the unique challenges that are presented by this demographic.

NAWCJ

National Association of Worker's Compensation Judiciary

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New MSP Reform Bill, from P.3

The penalty for non-compliance with Section 111 is steep: \$1,000 per day, per claim. In pertinent part, Section 111's penalty provision as currently contained in the MMSEA states as follows:

(B) ENFORCEMENT-

(i) IN GENERAL- An entity, a plan administrator, or a fiduciary described in subparagraph (A) that fails to comply with the requirements under such subparagraph *shall be subject to a civil money penalty of \$1,000 for each day of noncompliance for each individual for which the information under such subparagraph should have been submitted.* (Emphasis Added).²⁵

Use of the word *shall* has generated concern in the claims industry as this word in the context of legal statutory interpretation is generally interpreted to mean "must" – which would result in the mandatory and automatic application of Section 111's penalty -- *without* due consideration being afforded to potential mitigating factors, such as a RRE which acts diligently and in good faith, but for circumstances beyond its control, simply cannot comply with, or perhaps even determine, its Section 111 reporting obligations. This concern only deepens in light of what many view as underlying statutory deficiencies and the remaining questions pertaining to several aspects of CMS' reporting mandates which have not yet been adequately addressed or explained by the agency.

In recognition of these concerns, the SMART Act would amend Section 111's penalty provision by (a) making the Section 111 penalty discretionary in application and amount and (b) limiting the "severity" of the penalty to specific factors. Specifically, the SMART Act would strike the "*shall be subject to*" language and replace it with "*may be subject to a civil money penalty of up to \$1,000 for each day of noncompliance.*" Furthermore, the act proposes that "*the severity of each such penalty shall be based on the knowing, willful, and repeated nature of the violation.*"²⁶ (Emphasis Added).

Proposal #4

The SMART Act would require CMS to work with the industry in devising Section 111 "safe harbors" protecting the RRE from potential Section 111 liability, including the creation of a specific safe harbor for situations where the RRE makes a "good faith effort" to determine a claimant's Medicare beneficiary status but is unable to do so.

The SMART Act proposes the following:

Not later than 60 days after the enactment of this subparagraph, the Secretary shall publish a notice in the Federal Register soliciting proposals ... for the specification of practices for which sanctions will not be imposed [under Section 111], including for good faith efforts to identify a beneficiary pursuant to this paragraph under an applicable entity responsible for reporting information, under which this paragraph will be deemed to have complied with this paragraph and will not be subject to such sanctions. [After an applicable solicitation and comment period, CMS would then be required to issue and publish specific Section 111 "safe harbors"]²⁷

The SMART Act's requirement that a safe harbor be created with respect to RREs "good faith efforts" to determine a claimant's Medicare beneficiary status strikes directly at an issue that has concerned the industry from day one of CMS' implementation of Section 111. To better appreciate the significance of this particular proposal some background is in order.

Under Section 111, RREs are statutorily required to determine a claimant's Medicare status. The actual statutory text of Section 111 provides that RREs shall "*determine whether a claimant (including an individual whose claim is unresolved) is entitled to benefits under the [Medicare] program under this title on any basis.*"²⁸

Continued, Page 6.

However, the statute does *not* provide a specific process or system for RREs to determine a claimant's Medicare status. Furthermore, the statute is devoid of an express provision requiring a claimant (or his/her counsel) to provide RREs with the necessary information to make this determination and does not otherwise contain a provision requiring the claimant (or his/her counsel) to cooperate.

In light of the statutory silence on this core compliance requirement, CMS introduced a Query Process system to assist RREs in determining a claimant's Medicare status. However, to use this system the RRE is *required* to submit the claimant's social security number or Medicare health identification number.

The need to obtain the claimant's social security or health identification number has caused issues for RREs, especially in the liability context where liability RREs (unlike their workers' compensation counterparts) do not typically have access to this information. There is significant concern that claimants will be reluctant to provide, or may outright refuse to provide, this information due to privacy reasons and concerns that same may be used for other discovery purposes. In fact, cases have already started to surface where the claimant has refused to provide the RRE with their social security number and other identifying information needed to determine Medicare status.²⁹

In the absence of a specific statutory mandate requiring the claimant to provide this information, and with CMS refusing to recognize any safe harbors in these situations, RREs could be left in the very troublesome position where it is difficult, or impossible, to determine a claimant's Medicare status, although it is required to do so. This situation takes on an even more ominous tone given that Section 111's significant penalty would all the while still be hanging over the RRE's head --- despite the RRE's genuine and diligent efforts to determine its reporting obligations.

Thus, for these reasons the SMART Act's proposed revisions will likely be well received by the industry. From a more global perspective, these revisions would seemingly comport with notions of overall fair play and justice.

Proposal #5

As discussed under Proposal #4, there are legitimate concerns that RREs will encounter significant problems in obtaining a claimant's social security number for a number of reasons. Furthermore, RREs may be reluctant themselves to have access to this information as part of its claim files and records.

Accordingly, the SMART Act proposes that CMS would be required to "*modify the reporting requirements ... so that an applicable plan in complying with such requirements is permitted but not required to access or report to [CMS] beneficiary social security account numbers or health identification claims numbers.*"³⁰

Continued, Page 7.

Kansas Gets a New Workers' Compensation Law

The Lex and Verum reported in May that the Kansas Governor signed into law significant changes in the Kansas Workers' Compensation Act. These changes are effective as of May 15, 2011, and will apply to all injuries occurring after that day. Some of the major changes are:

Notice of injury. Most injuries will need to be reported within 30 days of the accident. However, different rules apply if an injured worker sees a physician for her/his injuries and/or if an injured worker's injuries are from repetitive trauma. Different rules may also apply if an injured worker is laid off, quits or is fired. In some cases the time to report an injury may be reduced to 20 days.

Prevailing Factor. One of the biggest changes in the law is the new requirement that an injured worker's injury be the "prevailing factor" in her/his injury or disability. No longer will injuries be deemed work related just because work played a part in the condition. This may significantly affect aggravations of preexisting conditions. Any condition an injured worker has as of May 15, 2011, could be considered a preexisting condition.

Future Medical. Future medical benefits will not automatically be left open on claims after May 15, 2011.

New definition of accident. The new law redefines what types of injuries are considered work related. This is mainly accomplished by listing different kinds of conditions that will no longer be considered work-related injuries.

From the IT Department Manual:

Percussive Maintenance: The fine art of whacking an electronic device to get it to work again.

Keyboard: The standard way to generate computer errors.

Disk Crash: A typical computer response to any critical deadline.

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A Slogan for Government in the New Millinium:

“The light at the end of the tunnel has been turned off due to budget cuts.”

New MSP Reform Bill, from P.6

Proposal #6

The applicable statute of limitations governing MSP claims remains alarmingly unclear and confusing. In the recent case of *U.S. v. Stricker*, the court noted that the MSP is “convoluted and complex” and “a model of un-clarity” as the court in that case struggled to determine and apply the appropriate statute of limitations regarding the MSP claim before it.³¹

The SMART Act would clarify this issue by establishing a three (3) year statute of limitations for MSP claims as follows:

An action may not be brought by the United States under this clause with respect to payment owed unless the complaint is filed not later than 3 years after the date of the receipt of notice of a settlement, judgment, award, or other payment made pursuant to [Section 111] relating to such payment owed.³²

In addition, the SMART Act proposes the following limitations in relation to Section 111:

A civil money penalty may not be imposed under this clause with respect to failure to submit required information unless service of notice of intention to impose the penalty is provided not later than 3 years after the date by which the information was required to be submitted.³³

Proposal #7

The current version of the MSP does not contain a standard “nuisance value” or “small settlement” compliance exception.³⁴ While CMS has established minimal monetary exceptions regarding the reporting of certain settlements, judgments, awards, and other payments under Section 111, these exemptions are quite limited and temporary.³⁵ Furthermore, CMS has continually stressed that the potential applicability of these minor Section 111 reporting exceptions does *not* excuse the parties from addressing other MSP compliance obligations *outside* of Section 111.

The absence of an established MSP compliance threshold exemption raises legitimate questions regarding the breaking point at which it becomes economically infeasible and counterproductive for CMS to expend the time, administrative resources and taxpayer money to pursue MSP recovery. On this point, MARC has compiled several examples where CMS

Continued, Page.8.

focused the full weight of its collection efforts on very small recovery claims, including one case where CMS ultimately demanded conditional payment reimbursement for \$1.59.³⁶

In the claims context, this issue continues to cause frustration and delay in finalizing settlements, and imposes additional administrative costs for primary payers. This is particularly relevant in regard to smaller settlements where distribution of the settlement proceeds to the claimant, and the primary payer's ability to close its file, are routinely delayed by having to address MSP issues and waiting for CMS to provide necessary information.

To address this situation, the SMART Act would require that CMS establish an annual MSP threshold exemption amount below which MSP compliance would not be necessary.

In particular, CMS' Chief Actuary would be responsible for calculating the threshold exemption amount each year by November 15th in accordance with specific parameters set forth in the act. In addition, CMS would be required to publish this figure, along with certain information as to how same was derived including "a summary of the methodology used by [the] Chief Actuary in computing the threshold amount and such average cost of collection."³⁷

The SMART Act's proposal of a yearly MSP threshold exemption amount replaces the flat \$5,000 monetary threshold exemption proposed last year in H.R.4796.

Conclusion

As the foregoing illustrates, the SMART Act advances several proposals aimed at reforming key aspects of the MSP, substantively and procedurally. In many regards, the SMART Act can be viewed as a serious and reasoned effort toward making MSP compliance more reasonable, equitable and practical, while still respecting the important underlying objectives of the MSP.

In closing, as noted above, whether the SMART Act is ultimately enacted into law in its present form, or passed in a modified version, is simply unknown at this time. Along these lines, the reader will need to follow the progress of this bill as it proceeds through Congress. Those interested in learning more about the SMART Act and the legislative efforts related thereto should contact MARC directly.

Mark Popolizio, Esquire is the Vice President of MSP Compliance & Customer Relations for NuQuest/Bridge Pointe. Prior to joining NuQuest, Mark practiced workers' compensation and liability legal defense for 10 years. During this time, he developed a national Medicare practice which included Medicare Set-Asides and Medicare Compliance. Mark also served as Vice President of the National Alliance of Medicare Set-Aside Professionals (NAMSAP) from 2006-2008 and remains active with NAMSAP concentrating on educational and legislative matters. Mark has also published numerous articles on MSA/Medicare compliance issues. Mark can be reached at 786-457- 4393 or via e-mail at mpopolizio@nqbp.com.

¹⁹ SMART Act (H.R. 1063) § 2 (viii) (p.6-7).

²⁰ SMART Act (H.R. 1063) § 2 (viii) (p.6-7).

²¹ SMART Act (H.R. 1063) § 2 (viii) (p.6-7).

Continued, Page.8.

Upcoming Conferences:

SEAK 31st Annual National Workers' Compensation & Occupational Medicine Conference, July 19-21, 2011, Hyannis, MA, \$975.00, http://www.seak.com//App_Themes/seak/July2011%20reg%20page%20only.pdf

63rd Annual SAWCA Convention, Beau Rivage, Biloxi, Mississippi July 25-29, 2011, \$650.00, <http://store.sawca.com/>

The Fourteenth Annual Tennessee Workers' Compensation Educational Conference, ne 14-15, 2011, \$325.00, http://www.tennessee.gov/labor-wfd/wc_conf_register2011.pdf

These programs are not sponsored or endorsed by the NAWCJ, but are noted here for information.

Workers' Comp Resources

National Association of Workers' Compensation Judiciary
www.NAWJC.org

Florida Workers' Compensation Institute
www.fwciweb.org

WorkCompCentral
www.workcompcentral.com

Judge Tom Talks
<http://judgetom.blogspot.com/>

Judge Torrey
<http://www.davetorrey.info/>

NCCI 2011 Annual Issues Symposium

The National Council on Compensation Insurance (NCCI) held its 2011 Annual Issues Symposium in May, in Orlando, Florida. The NCCI reported that the employer costs for workers' compensation remain virtually unchanged comparing 2010 (1.6%) to 2000 (1.7%). Wages and salaries have decreased from 73% (2000) of employer's costs to 70.7% (2010, while health insurance costs have increased from 5.5% (2000) to 7.5% (2010). The NCCI noted that this demonstrates that workers' compensation is a small and relatively stable element of employer costs, but conceded that in certain market segments (such as construction) that result is not as consistent or as moderate.

NCCI reports that the economic contraction of 2007-09 is the most significant contraction since the Great Depression. The NCCI characterized the workers' compensation "line" of business as "continuing to deteriorate" through this period. Dennis Mealy, the chief NCCI actuary, noted that a twenty-five year progression of "frequency" (the reporting of injuries) declines seems to have ended. He noted that underwriting results worsened again in 2010, interest rates remain low, the impacts of health care reform specifically and the political climate generally are current uncertainties. The combination of these major factors and some other minor factors are the foundation of his conclusion that workers' compensation business is deteriorating.

He noted that a positive statistic this year is that severity of claims has not increased, meaning that injuries are not getting more severe or worse.

NCCI predicts that economic recovery will lead to increased claim frequency, and notes that the recession is distorting some of the measures that are used in tracking claim frequency. Some specific issues include the more marked recession decreases in manufacturing and contracting employment. Overall, Mr. Mealy noted that the recession is responsible for the loss of about 8.5 million jobs overall, of which perhaps 1.5 million have returned through the recent trend to recovery. Therefore, the frequency measures are less clear than might otherwise be perceived. The NCCI calculation is that frequency has increased something between three percent and nine percent in 2010.

Mr. Mealy summarized his comments returning to the negativity of a frequency increase in 2010. He noted that this would be far more concerning if the severity of those increases were not moderating the change, essentially remaining static in 2010. He stressed the uncertainty of the changes that may come from the healthcare reform, and noted that the timing of those challenges would likely lead to determinations in 2012.

The entire program can be heard at <http://websrvr92va.audiovideoweb.com/va92web25048/sotl2011/sotl2011.html>

²² See e.g., 42 C.F.R. § 405.900. Claimants also have other potential methods to request a reduction of the conditional payment claim not available to primary payers, including, but not necessarily limited to, "economic hardship," "equity and good conscience," and for reasons "beyond the fault of the claimant." See e.g., 42 U.S.C. § 1395y(b)(2)(B)(v); 42 U.S.C. § 1395gg, 42 U.S.C. § 404(b), 31 U.S.C. § 3711 and 20 C.F.R. § 404.506. (Not an exhaustive list).

²³ See, e.g., October 6, 2008 letter from CMS to NuQuest/Bridge Pointe, citing 42 C.F.R. § 405.926.

²⁴ The MMSEA is codified at 42 U.S.C. § 1395y(b)(7) and (8). Subsection (7) concerns group health plans. Subsection (8) concerns liability insurance (including self insurance), no-fault insurance and workers' compensation which are commonly referred to by CMS as non-Group Health Plans (non-GHP or NGHP).

²⁵ 42 U.S.C. § 1395y(b)(8)(E). This section further states: The provisions of subsections (e) and (k) of section 1128A shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). A civil money penalty under this clause shall be in addition to any other penalties prescribed by law and in addition to any Medicare secondary payer claim under this title with respect to an individual.

²⁶ SMART Act (H.R. 1063) § 4 (1) (p. 10-11).

²⁷ SMART Act (H.R. 1063) § 4 (2) (p. 11-12).

²⁸ 42 U.S.C. §1395y(b)(8)(A).

²⁹ See, *Seeger v. Tank Connection, LLC*, No. 8:08CV 75, 2010 WL 1665253, at *4 (D. Neb. April 22, 2010), *Hackley v. Garofano, et. al.*, No. CV 095031940S, 2010 WL 3025597, *2 (Conn. Super. Ct. July 1, 2010), and *Smith v. Sound Breeze of Groton Condominium Association*, No. KNLVC095012261S, 2011 WL 803067 at *3 (Conn. Super. Ct. February 3, 2011).

³⁰ SMART Act (H.R. 1063) § 5 (p.12).

³¹ *U.S. v. Stricker*, CV-09-PT-2423-E (U.S.D.C. Northern District of Alabama) (September 30, 2010), at p. 8 (citations omitted). The court in *Stricker* noted that the MSP was "silent as to a deadline for filing a claim for recovery." *Stricker* at p. 11. In that case, the parties agreed to apply the statute of limitations contained under the Federal Claims Collection Act.

³² SMART Act (H.R. 1063) § 6 (a) (1) (p.12-13).

³³ SMART Act (H.R. 1063) § 6 (a) (2) (p.12-13).

³⁴ Currently, under 42 U.S.C. § 1395y (b)(2)(B)(v) Medicare may "waive (in whole or in part)" an individual claim if the Secretary determines that the waiver is in the best interests of the program. However, the prospect of securing a waiver under the current system is based purely on an individualized and ad hoc basis. This process does *not* provide the parties with an efficient, timely or consistent method to address and determine their potential MSP obligations in relation to smaller claims and settlements.

³⁵ Full examination of Section 111 reporting and CMS' various reporting exceptions related thereto is beyond the scope of this article. However, in general, under Section 111 one of CMS' reporting triggers is referred to as TPOC (Total Payment Obligation to the Claimant). Reporting under TPOC is required upon claim resolution (or partial resolution) via a settlement, judgment, award or other payment. CMS has established certain TPOC "interim monetary reporting exemptions" below which Section 111 TPOC reports are not required. At the time this article was drafted, TPOC reporting under Section 111 is exempted regarding liability (except no-fault) and workers' compensation TPOCs as follows: TPOCs prior to 1/1/13 of \$0-\$5,000; TPOCs from 1/1/13 to 12/31/13 of \$0 to \$2,000; and TPOCs from 1/1/14 to 12/31/14 of \$0 to \$600.

³⁶ If the reader is interested in learning about these instances, contact the MARC coalition, www.marccoalition.com.

³⁷ SMART Act (H.R. 1063) § 3 (a) (2) (9) (p.10).

In Keeping with the NAWCJ mission to facilitate and encourage education, collegiality and interaction for those who adjudicate workers' compensation disputes, the National Association of Workers' Compensation Judiciary is pleased to provide the following information on upcoming meetings of the Southern Association of Workers' Compensation Administrators (SAWCA). You can learn more about SAWCA by visiting their website, www.sawca.com

The Southern Association of Workers' Compensation Administrators

The Southern Association of Workers' Compensation Administrators, Inc. (SAWCA) is a cooperative effort of nineteen jurisdictions. The Mission of SAWCA is to make available and present instruction by means of forums, lectures, meetings, and written material regarding the administration of workmen's laws and to provide an avenue by which those interested in workers' compensation may interact with one another to share information and address issues common to the jurisdictions that are members of the association.

63rd Annual SAWCA Convention July 25 – 29, 2011 Biloxi, Mississippi

Conference Outline:

Monday: Executive Committee Meeting /Ex. Com. Reception & Dinner, Sponsored By NCCI

Tuesday: Regulator's Roundtable & President's Reception

Wednesday: General Sessions / Lunch / & Committee Meetings

Thursday: General Sessions, Committee Mtgs Network Reception & Dinner

Friday – "Farewell Friday" / General Session & Committee Reports

SAWCA National Regulators "Roundtable" August, 23, 2011 at the Workers' Compensation Educational Conference, Orlando, FL

This new addition to the conference is sponsored by SAWCA and intended to bring together regulators from throughout the country to discuss challenges, concerns, and issues facing individual jurisdictions in the oversight of the ever changing workers' compensation industry. Problems faced by one jurisdiction may have already been successfully addressed by another; a developing issue or concern in one state may be an omen for future development in your state; and legislative initiatives know no boundaries. The National Regulators Roundtable is a forum designed to permit regulators to share lessons learned and seek timely answers to their most pressing issues. Karl Aumann, President of SAWCA and Chairman of the Maryland Workers' Compensation Commission will moderate the roundtable which will include the following panelists:

Michael W. Alvey / Chairman of the Kentucky Workers' Compensation Board

Richard Thompson / Chairman of the Georgia State Board of Workers' Compensation

David Langham / Florida Deputy Chief Judge of Compensation Claims

Preston Williams / Director of Self-Insurance for Mississippi WCC

Larry White / Deputy Dir. Louisiana Workforce Commission Office of Workers' Compensation

Deneise Lott / Mississippi Administrative Law Judge

Melodie Belcher / Georgia State Board of WC / Division Director & Administrative Law Judge

Michele J. McDonald / Maryland Assistant Attorney General

Oklahoma gets a New Workers' Compensation Law

Oklahoma has passed significant amendments their workers' compensation law. Oklahoma Governor Fallin touted the changes as providing a better business environment in Oklahoma. The 220-page measure passed unanimously in the Senate, 48-0, and comfortably, 88-8, in the House of Representatives. It takes effect in late August.

The new provisions were characterized as assisting with retention of jobs, attracting new business, and protecting the injured worker. Rep. Dan Sullivan, House author of SB 878, said costs associated with workers' compensation in Oklahoma are job-killers. "Workers' compensation is a huge cost factor of doing business," he said. "We want to be competitive there so we can stay in the discussion on new business and retaining what we have now." Sullivan said he estimates SB 878 will save businesses tens of millions of dollars through lower judgments and premiums.

Rep. Richard Morrisette, one of the eight House members to vote against SB 878, said the measure may be great for doctors, lawyers and insurance companies, but it doesn't really help injured workers. "Everybody talks about protecting the injured worker and they're the last person ... that anybody thinks about," said Morrisette, D-Oklahoma City. "It's always about these other interests, whether they be insurance companies, doctors or lawyers." He said SB 878 shortens the time period that workers can file a claim, from two years to 90 days.

It also encourages workers to settle their claims without involving attorneys, said Morrisette, an attorney who doesn't handle workers' compensation cases. "Even though the insurance company has lawyers and the doctors have lawyers, they want to get to the injured worker before they get a chance to talk to a lawyer about their rights under the law," he said.

The measure also would eliminate death benefits for spouses of workers killed on the job if the spouses remarry, he said. "That has nothing to do with workers' compensation," he said. "That is purely an insurance protection measure."

The House and Senate also passed SB 761, a so-called "trailer bill" to SB 878, which would increase the reimbursement rate for doctors who sell medical equipment, prosthetics, orthotics and "implantables," either directly or through associated businesses in which they have a financial interest. The maximum charge for the items would increase from 10 percent above cost to 90 percent of the amount allowed by Medicare.

Sullivan said the idea came up after work on SB 878 was finished and lawmakers hurried to get the proposal introduced to meet legislative deadlines. Changes outlined in SB 761 were done without consulting Fallin.

Sullivan said he hopes SB 878 will be given time to work and that no major changes, other than tweaks, will be considered in the next year or so.

But Dr. George Caldwell, president of the Oklahoma State Medical Association, said his group wants to work with the governor on looking at other changes in the system. One change the medical group supports is changing workers' compensation from a judicial system to an administrative system.

Governor Fallin held a public bill signing on May 24, 2011. She signed the law noting that it reflected her goal of reforming the "inefficient workers' compensation system."

Florida Legislature Passes House Bill 7095, in Attempt to address "Pill Mills"

The Florida legislature passed HB 7095, which is intended to address "the problem of prescription drug abuse in Florida." House Staff Analysis. According to the Staff Analysis:

The bill bans dispensing of Schedule II and Schedule III controlled substances by a physician and makes such dispensing both a third degree felony and grounds for licensure discipline. Dispensing physicians must return existing inventories of these controlled substances to the wholesale distributors from which they were purchased within 10 days of enactment of the bill, or turn in all inventories to law enforcement to be destroyed. Wholesale distributors are required to buy back the controlled substances at the practitioner's purchase price.

According to the [Drug Enforcement Agency](#), Schedule II includes medications such as codeine, Hydrocodone, Dilaudid, Methadone, Oxycodone and others. Schedule III includes codeine compounds, Hydrocodone compounds and others.

The bill awaits Governor Scott's signature or veto.

The NAWCJ thanks WorkCompCentral for their support of this newsletter and the ideal of promoting professionalism and collegiality among the nation's workers' compensation adjudicators.

Pennsylvania Considers Adding Cancer to its Firefighter Disease Presumption

In late April, Pennsylvania HB 797 cleared the Veterans Affairs and Emergency Preparedness Committee. This provision is focused on amending the workers' compensation act to address cancer suffered by certain firefighters.

The provisions of this statutory amendment are focused on firefighters who have been exposed to "a known carcinogen which is recognized as a Group 1 carcinogen by the International Agency for Research on Cancer," and is limited in scope to "those firefighters who have served four or more years in continuous firefighting duties."

The provision requires that such firefighters may be entitled to compensation and care for cancer if they establish:

1. direct exposure to a carcinogen referred to in section 108(r) (for volunteer firefighters, exposure must be "substantiated by "reports filed pursuant to the Pennsylvania Fire Information Reporting System.")
2. have successfully passed a physical examination prior to asserting a claim under this subsection or prior to engaging in firefighting duties, and
3. the examination failed to reveal any evidence of the condition of cancer

HB 797 notes that "disability or death" must generally occur within 300 weeks (about 6 years) of last employment in order to be compensable, but extends that limitation period to 600 weeks (almost 12 years) for the cancer claims under the proposed new section.

Although the limitation period provides a significant additional time for filing such claims, the proposal also provides that the "presumption provided for under this subsection shall only apply to claims made within the first three hundred weeks." Thus, while claims do not expire after 300 weeks, it is probable that the claims filed after 300 weeks of the end of employment would remain far simpler to prove by operation of the presumption.

The outcome of this legislative proposal remain to be seen.

Wage and Hour Litigation

Wage and Hour litigation has become a focus of the United States Department of Labor ("USDL"). Last year, it began a "Bridge to Justice" program that connects workers with lawyers. More recently, the USDL began offering a free Smartphone app called "DOL-Timesheet" that helps workers calculate their hours, breaks and overtime pay. See the whole story: http://www.msnbc.msn.com/id/43128963/ns/technology_and_sci-ence-tech_and_gadgets/t/smartphone-app-lets-workers-track-wages/

Washington's New Workers' Comp. Law

The Washington Legislature has passed reforms of the workers' compensation system. The Governor is expected to sign the bill into law.

In a statement, Governor Gregoire said, "Without action, our workers' compensation system faces double-digit rate increases and serious questions about its long-term health. Among several provisions, the agreement reached today promotes getting workers back on the job faster, freezes COLAs to ensure parity with others and provides the option of a structured claims settlement. This option will be one of three available to injured workers and is voluntary, negotiated and allows legal representation. All parties came together to agree to some of the largest reforms in the system's 100-year history."

According to the Governor's Office: Injured workers 55 years and older would be eligible for a structured settlement. This provision is worded to include workers 50 years and older by 2016. This will allow workers to resolve their claim by taking structured periodic payments consistent with a formula, until the settlement is paid in full. The Board of Industrial Insurance Appeals and a judge must decide such a settlement is in the best interest of an unrepresented worker. Medical care is not included in the settled benefits.

The legislation focuses on improved medical care. Doctors who treat injured workers are required to possess certain credentials, and are encouraged to follow occupational health practices to return workers to work as safely and quickly as possible.

The new law expands the number of Occupational Health and Education centers. According to the Governor's Offices, these centers offer proven and effective treatment of injured workers. With the expansion of this program, such a center should be an option for every Washington employee regardless of where they live.

The Washington Stay-at-Work program offers wage subsidies to employers who bring workers back to a job quickly. The reform legislation provides for half of an injured worker's wages to be covered for up to 66 days when an employer immediately offers transitional or light-duty work.

PMSI Reports Drop in Prescription Cost for 2010

Pharmacy benefit manager PMSI announced that an analysis of its drug cost trends in 2010 show a 2.3% reduction in the average pharmacy cost per worker, compared with a 6.5% increase in 2009. The findings are similar to those published last week by another pharmacy benefit manager, Express Scripts, which reported an overall decline of 1.6% in pharmacy spending for 2010.

Overall, PMSI said in its 2011 Drug Trend Report the average cost per day for prescription drugs dropped 2% to \$4.93 from \$5.03 in 2009. The report attributed this decline to 6.2% decline in the average daily cost for generic medications, which offset a 5.5% increase in the average daily cost for name-brand medications. "One of the biggest drivers of overall pharmacy spending is the brand vs. generic mix of transactions," the annual report says. "Since 2008, the difference in the brand vs. generic cost per day of supply has increased as brand medication cost per day of supply has continued to rise at a greater pace than generic rates."

PMSI also reported a 1.8% decrease in the average number of doses injured workers are prescribed per day, which it attributed to an increase in the use of extended-release drugs that require fewer doses per day. Narcotic analgesics accounted for 34.2% of prescription costs in 2010, down slightly from 34.7% in 2009. PMSI reported that OxyContin alone accounted for 9.2% of all prescription drug costs last year despite accounting for only 4.1% of all transactions. The average days of supply for narcotic analgesics increased by 3.7%, while the number of injured workers being prescribed these drugs decreased 1.5%, PMSI reported. PMSI further reported that including narcotic painkillers, the top six therapeutic classes of drugs accounted for 75% of all spending in 2010. The report stated:

- Spending on anticonvulsants also declined slightly from 11.2% in 2009 to 10.8% in 2010.
- Non-steroidal anti-inflammatory drugs (NSAIDs) increased to 8% in 2010 from 7.8% in 2009.
- Skeletal muscle relaxants accounted for 7.5% of spending compared to 7.9% in 2009.
- Spending on antidepressants accounted for 7.2% of costs in 2010, compared to 7.4% the previous year.
- Dermatologics accounted for 7.5% of spending, up from 6.7% in 2009.

PMSI said in its report that additional savings could be achieved if states tackled costs related to physician repackaging and dispensing and the use of compound medications. PMSI said there are legitimate situations when a physician needs to be able to dispense drugs, such as a first fill of painkillers or antibiotics. However, many times, physician dispensed drugs and repackaged drugs are given new National Drug Code (NDC) numbers and billed with an average wholesale price (AWP) that greatly inflates the actual cost of the drug.

The report pointed to the success in California in addressing these problems when it passed reforms in 2007 that reduced the prevalence of repackaged drugs to 10.5% of prescriptions, compared to 54.7% of prescriptions in 2006. Observers in California noted that as they closed the loophole on repackaged drugs, the use of compound medications increased. A report by the California Workers' Compensation Institute (CWCI) found payment for compounded drugs, medical foods and convenience packs grew from 2.3% of medical expenses in the first quarter of 2006 to 12% in the first quarter of 2009.

Lawmakers in California are currently looking at establishing a fee schedule to cover reimbursement for prescription drugs. The PMSI report, however, highlights the approach by lawmakers in Texas who approved a closed formulary that goes into effect in September. Under Texas' closed formulary, all compounds that contain a non-formulary medication require prior authorization.

PMSI said that states could further control costs by creating medical provider networks and pharmacy benefit networks. Pharmacy networks have helped control costs and utilization, PMSI said. Additionally, regulatory changes in California allowing the addition of pharmacies medical provider networks should have similar results. "PMSI anticipates that New York will finally formalize their pharmacy network rules, clearly recognizing the cost savings delivered by networks," the report says. "Continued success in New York and positive results from California will likely cause policymakers in other large states to look to networks to control pharmacy and related health care costs."

WCRI: States Adopt Varied Cost-Containment Strategies

By Bill Kidd, Central Bureau Chief

A report released by the Workers' Compensation Research Institute outlines a variety of cost-containment strategies that states have employed to hold down medical costs, with fee schedules and treatment guidelines the most frequent tools employed by cost-conscious state lawmakers. Containing medical costs plays prominently in the current debate over reform of Illinois' workers' compensation system, the third most expensive in the nation, according to a biennial benchmark study released last year by the Oregon Department of Consumer and Business Services.

In its report, "Workers' Compensation Medical Cost Containment: A National Inventory, 2011," the Cambridge, Mass.-based think tank says that cost containment "became a focus for many states in the early 1990s when the medical portion of the workers' compensation benefit dollar began to grow more quickly than other claim costs." That situation led to adoption of a variety of cost-containment strategies from 1992 to 1997 – after which activity slowed, WCRI says. The institute's new report updates a 2009 report, but doesn't provide analysis of the changes made since that report was issued.

The report also cautions that medical cost-containment strategies are "constantly evolving," and that it is "inherently difficult to summarize complex laws" which may contain multiple strategies. Ramona Tanabe, WCRI deputy director and counsel, told WorkCompCentral Thursday that

fee schedules and evidence-based treatment guidelines appear to have been the most frequently adopted strategies by states within the past few years. "Compared to five years ago, there are more states adopting fee schedules ... and there have been debates in others about whether to adopt them," Tanabe said.

Tanabe said the other notable movement recently is toward use of treatment and impairment rating guidelines such as those offered by the American Medical Association (AMA), the American College of Environment and Occupational Medicine (ACOEM) and the Work Loss Data Institute, which publishes the Official Disability Guidelines. There have been no new strategies developed recently on medical-cost containment,

Tanabe reported. "The focus really has been on evaluating the effects of the changes which have been adopted," she said.

Use of pharmaceutical regulation, and urgent care and ambulatory surgical center fee schedules also are "growing areas" and are included in the new report. While many states -- most notably California, Florida and Texas, have already implemented cost-cutting reforms, Illinois is only now grappling with how to hold the line on rising medical costs. Earlier this month, Illinois Chamber of Commerce President Doug Whitley, sent a letter to members urging them to support efforts to reform the state's workers' compensation law.

One change the chamber is seeking is the use of the AMA's Guides to the Evaluation of Permanent Impairment for determining disability ratings, and in turn, the size of awards. Whitley said 37 states already require use of the AMA guides when rating impairments. In Illinois an arbitrator, not a doctor, determines the extent of the impairment, and the arbitrators' rulings "are neither consistent nor uniform," Whitley said.

Whitley also said that 21 states require the employee seeking care for a workers' compensation case to use the physician selected by the employer from among a list of "authorized" physicians.

Nineteen of the remaining 29 "employee choice" states limit the employee's options to physicians within a managed care-type network, Whitley said. "Securing health care networks and managing care for workers has proven to help secure better medical outcomes and lower employer costs," he said. The chamber also wants to strengthen utilization review provisions, to make review applicable to all medical treatments. Whitley said that although Illinois law was changed in 2005 to allow utilization review, "it is not mandatory and has been inconsistently applied by the Workers' Compensation Commission and the courts."

In addition to medical cost-containment initiatives, Illinois business are seeking other changes, including changes in the causation standard for determining whether an injured worker's injury should be paid under workers' compensation. Whitley said 29 states have a higher standard than Illinois for determining whether workers' compensation claims are attributable to workplace accidents or injuries. "Illinois' current threshold for the cause of a workplace claim is deemed to be as little as 1%," Whitley said. An Illinois employee is required to show only that a work accident or duties "could or might have been a cause of the injury, or could or might have been a cause in aggravating, accelerating or exacerbating a preexisting condition to any extent or degree," he said.

Other states also are battling over major reform proposals, including Maine, Missouri, Montana, North Carolina and Washington. While the details of the issues vary, the reform proposals are aimed at reducing costs to employers and insurance carriers, who contend that changes are needed, particularly in current economic conditions.

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NAWCJ College 2011 Scholarship Application

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Required Information:

I certify that I have contacted the agency for which I work and have accurately reflected the funding available below.

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I am requesting financial assistance from the NAWCJ for the following:

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Program _____ Date _____

Program _____ Date _____

Judge's Signature _____ Date _____

Mail your application to: John J. Lazzara
Email: JLL@NAWCJ.org

THE NATIONAL ASSOCIATION OF WORKERS' COMPENSATION JUDICIARY

APPLICATION FOR MEMBERSHIP

THE NAWCJ MEMBERSHIP YEAR IS A FOR 12 MONTHS FROM YOUR APPLICATION MONTH. MEMBERSHIP DUES ARE \$75 PER YEAR OR \$195 FOR 3 YEARS. IF 5 OR MORE APPLICANTS FROM THE SAME ORGANIZATION, AGENCY OR TRIBUNAL JOIN AT THE SAME TIME, ANNUAL DUES ARE REDUCED TO \$60 PER YEAR PER APPLICANT.

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Tallahassee, FL 32302
850.425.8156
Email: kathy@fzwiweb.org

THE NATIONAL ASSOCIATION OF WORKERS' COMPENSATION JUDICIARY

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Email: kathy@fzwiweb.org

THE NATIONAL ASSOCIATION OF WORKERS' COMPENSATION JUDICIARY

There are opportunities for sponsorship of the 2011 NAWCJ Judicial College August 21 through 24, 2011, in Orlando, Florida. If you are interested in sponsoring any of the following:

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NAWCJ Judiciary College 2011!

August 21 through 24, 2011, in Orlando, Florida

Sunday, August 21, 2011

2:30 – 5:00 PM E. Earle Zehmer Moot Court Competition, Preliminary Rounds

Monday, August 22, 2011

11:30 – 1:40 PM **NAWCJ WELCOME LUNCH AND MULTI-JURISDICTION COMPARATIVE LAW PANEL**

Honorable Ellen Lorenzen, NAWCJ President, welcoming remarks
Honorable John Lazzara, Florida, introduction of speakers

This panel discussion will bring perspective on how our statutes are different, and how they are similar. Dealing with statutory interpretation is part of our daily routine. Despite the diversity of our particular statutes, we share a multitude of concordant issues and challenges, which this program illuminates.

Moderator,

Honorable Melodie Belcher
Atlanta, GA
State Board of Workers' Compensation

Speakers,

Honorable Karl Aumann
Baltimore, Maryland
Maryland Workers' Compensation
Commission

Honorable Diane Beck
Sarasota, Florida
Florida Office of Judges of Compensation
Claims

Honorable Jennifer Hopens
Austin, Texas
Texas Department of Insurance,
Division of Worker's Compensation

Honorable David Torrey
Pittsburg, Pennsylvania
Pennsylvania Department of Labor and
Industry

1:50 – 2:00 PM **BREAK AND TRANSITION**

2:00 - 2:50 PM **THE POWER OF ADDICTION**

Honorable Robert Judge Cohen, Florida, introduction of speakers

Moderator:

Nat Levine
Broward Orthopedic Specialists
Ft. Lauderdale, FL

Speaker:

Marc Gerber, M.D.
MRG Rehabilitation and Pain Medicine
Orlando, FL

With Florida having the dubious distinction of the pain “pill mill” capital of the nation, claimants often find themselves depending on those medications. What causes addiction? What causes a claimant to abandon all sensibilities for Opioids such as Oxycodone or Hydrocodone? What are the psychological effects of addiction? Do ALL opioids prevent a claimant from performing their job function? Ever want to ask a question on addiction? Red flags in medical reports adjudicators should look for when overutilization is an issue. Don't miss this one.

Monday, August 22, 2011, Cont.

2:50 - 3:00 PM BREAK

3:00 – 3:50 PM THE ANATOMY OF THE INJURY

Honorable David Torrey Judge Torrey, Pennsylvania, introduction of speakers

Moderator:

Nat Levine
Broward Orthopedic Specialists
Ft. Lauderdale, FL

Speakers:

Michael T. Reilly, M.D.
Center for Knee, Shoulder and Hip
Ft. Lauderdale, FL

Tim Joganich
ARCCA Inc.
Penns Park, PA

The orthopedic said what? How did the injury cause that? Case management personnel and Judges often question causality based on the orthopaedic surgeon's diagnoses. We will explore the biomechanical forces necessary to produce injuries to the spine and joints. We will review how the objective findings on MRIs combined with the study of the biomechanics allow us to determine the causality and age of an injury.

3:50 - 4:00 PM BREAK

4:00 – 4:50 PM THE AGING WORKFORCE

Honorable David Imahara, Georgia, introduction of speakers

Moderator:

Nat Levine
Broward Orthopedic Specialists
Ft. Lauderdale, FL

Speaker:

Jesse A. Lipnick, M.D.
Southeastern Rehabilitation Medicine
Gainesville, FL

With the Dow tanking and IRA's rolling over dead, millions of otherwise retired and older workers aren't retiring. The nation's workforce grows older as does the concept that all injuries are treated the same. If you believe that the 60 yr old and 25 yr old claimant heal at the same rate, or the frequency of injuries in these age group are similar, this breakout might open your eyes. Older claimants often have unrelated and pre-existing conditions such as hypertension, diabetes and heart problems. How do those conditions affect their claims for temporary total or permanent total disability? What about "major contributing cause" or "apportionment" issues? Take a sneak peak at the future of claims as our working population gets older.

4:50 - 5:00 PM BREAK

5:00 - 5:30 PM NAWCJ ANNUAL BUSINESS MEETING

7:00 - 11:00 PM RECEPTION AND ENTERTAINMENT

8:45 - 9:45 AM LIVE SURGERY

Moderator:

Steven E. Weber, D.O.
From Orlando Orthopaedic Center, Orlando, Florida

Surgeon

G. Grady McBride, M.D.
From Orlando Orthopaedic Center, Orlando, Florida

Get Ready to be “FUSED” to your seats as Orlando Orthopaedic Center presents yet another thrilling Live Surgery... Dr. G. Grady McBride, a board certified spine surgeon and author of numerous spine related publications with over 25 years of experience will be performing a minimally invasive lumbar fusion called TLIF (Transforaminal Lumbar Interbody Fusion). This new procedure and technology allows for a less invasive placement of hardware decreasing patient’s hospital stay, blood loss and allowing an early return to work versus the traditional open fusion. Dr. Steven Weber, a fellow board certified spine surgeon at Orlando Orthopaedic Center who specializes in Adult Spinal Reconstruction will be on location at the World Center Marriott to assist with questions from the audience.

9:45 - 10:00 PM BREAK AND TRANSITION

10:00 – 11:50 AM EVIDENCE, THE COMMAND PERFORMANCE

Honorable Michael Alvey, Kentucky, introduction of speaker

Speaker:

Charles W. Ehrhardt
Emeritus Professor
Florida State University College of Law

One of the evidence greats, in a command performance! Professor Ehrhardt will address issues troubling all adjudicators. Despite the differences between state evidence codes, this speaker’s thirty plus years of study, reflection, lecture and publication bring evidence questions into sharp focus. Professor Ehrhardt brings and enthusiasm for the subject, and presents with such force and humor that the audience is always left wanting more.

11:50 - 12:00 PM BREAK

12:00 -1:00 PM FLORIDA BAR WORKERS’ COMPENSATION SECTION JUDICIAL LUNCHEON
All NAWCJ Judges invited!

1:00 - 2:00 PM ORAL ARGUMENT

An actual workers’ compensation appeal will be argued live before a panel of Judges of the Florida First District Court of Appeal. The briefs will be made available to attendees prior to the conference and the Court’s Opinion will be posted on the Court’s website several weeks after the oral arguments take place. The Court’s decision will also be published in the NAWCJ’s *Lex and Verum* newsletter.

Tuesday August 23, 2011, Cont.

2:15 – 4:10 PM NEUROSCIENCE AND PSYCHOLOGY OF JUDICIAL DECISION- MAKING FOR WORKERS' COMPENSATION ADJUDICATORS

Honorable Melodie Belcher, Georgia, introduction of speaker

Speaker:

Kimberly Papillon

San Francisco, CA

California Judicial Council, Administrative Office of the Courts

All Judges recognize that bias has no place in a trial. What many do not recognize is that bias can be implicit in everyday life, and as a result this may accompany the adjudicator to the hearing room. Kimberly Papillon is leading national expert on the subject of implicit bias. She has been a pioneering force in the quest to identify, dismantle and overcome these biases using proven methods. She has conducted this training for the California Judicial Council, various state and federal court conferences, and state and local bar associations. This program will not only change how you think about bias, it will help you first understand how you think about bias.

2:00 – 2:10 PM BREAK

4:20 – 5:10 PM CODE OF JUDICIAL CONDUCT FOR WORKERS' COMPENSATION ADJUDICATORS

Honorable Jennifer Hopens, Texas, introduction of speakers

Speaker:

Honorable Rick Thompson

Atlanta, GA

State Board of Workers' Compensation

Honorable David Langham

Pensacola, FL

Florida Office of Judges of Compensation Claims

Can there be a more perplexing (or frankly sometimes onerous) topic? Various states are struggling with the disqualification and recusal process; refinements and revolutions have been proposed, discussed, and found wanting. This program will address the focus of the Code of Judicial Conduct on the specifics of unbiased adjudication, and on the ever-ubiquitous "appearance of impropriety." This highly interactive "point/counter point" presentation will illuminate the subject, make you think, and entertain.

5:15 - 6:15 PM RECEPTION

Non-judicial (Associate) and members of NAWCJ are cordially invited to attend this reception in honor of the Judges.

Wednesday August 23, 2011 Option One, Mediation

8:00 - 8:50 REGISTRATION AND CONTINENTAL BREAKFAST

8:50 - 9:00 WELCOME AND INTRODUCTIONS

9:00 - 10:40 GENERAL SESSION, KEYNOTE PROGRAM, DESIGNING THE MEDIATION

Rod Max, *Attorney and Mediator*
Miami, Florida

If you don't know where you are going, how do you know when you get there? Planning is an essential element of every successful endeavor in the professional world, why should a mediation be any different? It is critical to make a careful plan, identify the route you will take and understand the obstructions that may impede your progress. Rod Max and a panel of veteran attorneys will help you with the preparation techniques that will make your mediations successful for you and your clients. This session is two credit hours of "GENERAL."

10:45 - 11:35 BREAKOUT SESSION ONE, SELECT FROM THE FOLLOWING:

"ETHICAL ISSUES IN CLOSING THE DEAL."

Michele Riley, *Attorney and Mediator*
New York, New York

Every mediation presents ethical considerations. The perspectives and conflicts of multiple parties and their representatives make each mediation a unique challenge. Michele is familiar with the challenge from years of experience as a mediator and as an instructor at the International Center for Cooperation and Conflict Resolution, Columbia University. Michele brings an understanding of recognizing and avoiding ethical conflicts while guiding the parties to resolutions. This session is one credit hour of "ethics."

"APPLYING DALE CARNEGIE TO MEDIATION."

Dr. Beverly Pennachini, *Dale Carnegie of Central Florida*
Orlando, Florida

The Dale Carnegie method is a time proven communication and presentation process. This process focuses on applying foundational principles to reduce stress, measurably improve confidence, communications, and interpersonal skills of individuals and teams. The successful mediator must effectively communicate and works in an environment that requires effective formation of relationships and consensus. This session is one credit hour of "general."

"CONFLICT RESOLUTION"

Dr. Deri Joy Ronis, *Mediator*
Sarasota, Florida

This program will provide practical approaches to working with situations involving anger and violence issues. Attendees will understand methodologies for identifying the presence of these issues, and effectively interacting with the individuals who are affected by them, with a focus on navigating these critical obstacles and accomplishing resolution despite them. A successful mediator recognizes impediments to the process and perseveres. This program reinforces the skills to do so effectively. This breakout is one credit hour of "General."

10:45 - 11:35

BREAKOUT SESSION ONE, CONTINUED

“MEDIATOR ETHICS.”

Ross W. Stoddard, III, *Attorney-Mediator (civil & probate)*
Irving (Las Colinas), Texas

Mediators often experience ethical dilemmas and difficult situations during mediations, putting them between the proverbial “rock and a hard place.” This *highly interactive* session will cover some of the challenging issues which confront mediators during mediations – from the beginning of the day to the final caucus. The objective is to provide each participant with some useful and usable tips which will be available to them in their next mediations. This session is one credit hour of “ethics.”

11:35 - 12:35

GENERAL SESSION

LUNCHEON PROGRAM, DEVELOPING RAPPORT WHEN THE MEDIATOR IS CROSS-CULTURALLY CHALLENGED

Robert Dietz, *Attorney and Circuit Civil Mediator,*
Orlando, Florida

How does a mediator develop rapport with ethnic parties and attorneys when the mediator is too male, too pale, and too stale? Gender and cultural issues arise in more and more mediations, and some mediators are ill-prepared to maximize the chance for success by developing rapport. Robert Dietz will share anecdotes from his own and other mediators' and attorneys' experiences, and from some popular movies, to illustrate the necessity of cultural fluency in today's mediations. There's nothing trivial about building rapport with disputants and their representatives from other cultures. This session is one credit hour of “diversity.”

12:40 – 2:20

SESSION TWO, SELECT FROM THE FOLLOWING:

“DIFFICULT CONVERSATIONS.”

Kim Kern, *Attorney and Mediator,*
St. Louis, Missouri

The practice of mediation is filled with difficult conversations—things the parties do not want to hear and certainly do not want to credit with any merit. The best-seller “Difficult Conversations,” initially published in 2000, has just released a second edition with even more practical suggestions for understanding why those conversations are so tough and how to prepare for them. While there is some soul-searching to be done to determine why a conversation is causing you anxiety, the remainder of the presentation will focus on new ways to analyze the parties and their behavior, thus enabling you to move them towards settlement. The book has great ideas for making difficult conversations a bit less difficult. The presentation will apply the principles detailed in the book to real life mediation situations and give mediators advice for meeting the challenges of those very difficult conversations. This session is one-hour of “general” credit.

12:40 – 2:20

SESSION TWO, CONTINUED

“AVOIDING PESSIMISM IN MEDIATION.”

John Trimble, *Attorney and Mediator,*
Indianapolis, Indiana

All of us who attend mediation on a regular basis soon come to realize that pessimism is one aspect of mediation that occurs in *every* mediation session. We learn that if we let pessimism cause us to quit, we would never settle anything. However, pessimism on the part of the parties and their counsel (coupled with impatience) can prevent success. Parties frequently come to mediation with a pessimistic view of the potential for success. Even optimistic or neutral parties can become pessimistic after the first demand and offer or as the negotiation proceeds toward apparent impasse. John will provide guides, principles and tools for addressing pessimism and getting past it. This session is one-hour of “general” credit.

THE ABUSIVE USE OF TECHNOLOGY WITHIN DOMESTIC VIOLENCE

Haley Cutler, *Manager of Professional and Community Education,*
Ft. Lauderdale, Florida

The presence or history of domestic violence may compromise the integrity of the mediation process. This workshop will identify the effects of modern technology on domestic violence. Recognizing the impact when these otherwise benign tools are used in inappropriate, threatening, and intimidating ways is an important tool for any mediator in the Twenty-First Century. Mediators will leave this training greater understanding of the tools themselves, and the spectrum of potential misuses and abuses that can effect mediation participants and diminish probabilities of success. This session is one-hour of “domestic violence” credit.

“MEDIATOR ETHICS PANEL.”

Moderator: Ross W. Stoddard, III, *Attorney-Mediator (civil & probate)*
Irving (Las Colinas), Texas

Panel: Donna Doyle, *Attorney and Circuit Civil Mediator, Orlando, Florida*
Clem Hyland, *Attorney and Circuit Civil Mediator, Orlando, Florida*
Juliet Roulhac, *Attorney and Circuit Arbitrator, Miami, Florida*

Mediator ethics may be the last topic any of us want to study, but the unique and “neutral” role of the modern mediator is rife with challenges that are waiting to ambush even the most conscious and ethical mediator. This panel brings to the subject almost 100 years of legal practice, and perspectives of the litigator, the corporate counsel, and the mediator. Panels of this breadth and depth are rare and exceptional. Come discuss those thorny issues and your perspectives with an incomparable panel of experts. This session is one-hour of “ethics” credit.

Wednesday August 23, 2011 Option One, Mediation, Continued

2:25 – 3:15 BREAKOUT SESSION THREE, SELECT FROM THE FOLLOWING:

“ETHICAL ISSUES IN CLOSING THE DEAL.”

Michele Riley, *Attorney and Mediator*
New York, New York

Repeat of 10:45 a.m. session, see above.

“APPLYING DALE CARNEGIE TO MEDIATION.”

Dr. Beverly Pennachini, *Dale Carnegie of Central Florida*
Orlando, Florida

Repeat of 10:45 a.m. session, see above.

“CONFLICT RESOLUTION”

Dr. Deri Joy Ronis, *Mediator*
Sarasota, Florida

Repeat of 10:45 a.m. session, see above.

“MEDIATOR ETHICS.”

Ross W. Stoddard, III, *Attorney-Mediator (civil & probate)*
Irving (Las Colinas), Texas

Repeat of 10:45 a.m. session, see above.

3:20 – 5:00 BREAKOUT SESSION FOUR, SELECT FROM THE FOLLOWING:

“DIFFICULT CONVERSATIONS.”

Kim Kern, *Attorney and Mediator,*
St. Louis, Missouri

Repeat of 12:40 p.m. session, see above.

“AVOIDING PESSIMISM IN MEDIATION.”

John Trimble, *Attorney and Mediator,*
Indianapolis, Indiana

Repeat of 12:40 p.m. session, see above.

THE ABUSIVE USE OF TECHNOLOGY WITHIN DOMESTIC VIOLENCE

Haley Cutler, *Manager of Professional and Community Education,*
Women In Distress of Broward County, Inc., Ft. Lauderdale, Florida

Repeat of 12:40 p.m. session, see above.

“MEDIATOR ETHICS PANEL.”

Moderator: Ross W. Stoddard, III, *Attorney-Mediator (civil & probate)*
Irving (Las Colinas), Texas

Repeat of 12:40 p.m. session, see above.

Wednesday August 23, 2011 Option Two, Medicare Set-Asides - ADVANCED

9:00 - 3:00 PM BREAKOUT ON MEDICARE SET-ASIDES, THE BOLD NEW WORLD OF TAKING MEDICARE'S INTERESTS INTO ACCOUNT

With millions of baby boomers about to become retirees, an unstable economy and 10% unemployment, continued higher costs for medical services, an unknown and untested federal legislation, and studies indicating Medicare is projected to be insolvent by 2019, the federal government has turned to the Medicare Secondary Payer Act to force litigants to take Medicare's interests into account when monetary funds are being provided to the injured party to cover past and future medical expenses associated with the claimed accident and resulting injuries. This breakout will explore when and how litigants must take Medicare's interests into account, including in-depth panel discussions on mandatory insurer reporting, Medicare conditional payments, and Medicare set asides. The breakout will also explore Medicaid related issues, including resolution of Medicaid liens and the creation and administration of special needs trusts.

9:00 AM INTRODUCTIONS AND REMINDERS, RAFAEL GONZALEZ

9:15 – 10:05 AM TAKING MEDICARE'S INTERESTS INTO CONSIDERATION: MANDATORY INSURER REPORTING

John Williams, President and CEO, Gould & Lamb
Mark Popolizio, JD, Vice-President, NuQuest
Todd Belisle, Vice-President, The Center for SNT Administration, Inc.

The panel will go through a comprehensive overview of the current and projected mandatory insurer reporting landscape as set out by Section 111 of the Medicare/Medicaid SCHIP Extension Act of 2007. The panel will discuss the contextual background of the Act, which entities are required to report to the government, what information is necessary for reporting, the penalties for incomplete submissions or non-compliance, as well as the effects of such reporting on the litigants and their case.

10:05 – 10:20 AM BREAK

10:20 – 11:10 AM TAKING MEDICARE'S INTERESTS INTO CONSIDERATION: MEDICARE CONDITIONAL PAYMENTS

Roy Franco, Esq., Vice President, Safeway
Rochelle Lefler, Esq., Corporate Counsel, PMSI
Floyd Faglie, Esq. The Law Office of John Staunton, PA

The panel will discuss Medicare conditional payments. Panel members will go through a comprehensive overview of Medicare conditional payment subrogation rights. Within this context, the panel will review the governing articles of the Medicare Secondary Payer Act concerning payment subrogation, the conditional payment process and payback timeline, entity responsibility, and the applicable waiver and appeals process.

11:10–12:00 PM TAKING MEDICARE'S INTERESTS INTO ACCOUNT: MSA ALLOCATIONS, APPROVALS, AND ADMINISTRATION

Angela Wolfe, RN, Esq., Med-Fi
Jacqui Green Griffin, Esq., Eraclides, Hall et al
Danny Alvarez, Esq., The Center for MSA Administration, LLC

The panel will go through a comprehensive overview of Medicare Set Aside ("MSA") allocations, the MSA approval process, and MSA professional administration. Within this context, the panel will discuss the Medicare Secondary Payer Act and CMS Memorandums. The panel will address the benefits and drawbacks of private and professional administration and what they mean to the Medicare beneficiary, the employer/carrier, and the attorneys representing the parties.

Wednesday August 23, 2011 Option Two, Medicare Set-Asides – ADVANCED

12:00–1:00 PM LUNCH, ON YOUR OWN

1:00 – 1:10 PM AFTERNOON INTRODUCTIONS AND ANNOUNCEMENTS, RAFAEL GONZALEZ

**1:10 – 2:00 PM PROTECTING SUPPLEMENTAL SECURITY INCOME AND MEDICAID ELIGIBILITY:
SPECIAL NEEDS TRUSTS**

Jana McConnaughay, Esq., Waldoch & McConnaughay, PA
John Staunton, Esq., The Law Office of John Staunton, PA
Leo Govoni, The Center for Special Needs Trust Administration, Inc.

Supplemental Security Income (SSI) is a cash assistance program administered by the Social Security Administration, providing financial assistance to needy, aged, blind, or disabled individuals. Medicaid is the federally funded but state run program designed to provide medical benefits to needy, aged, blind, or disabled low income people. The panel will provide liability and workers' compensation professionals with basic information about both programs. The panel will also provide those in attendance with key information that will assist the parties to resolve claims in which such benefits are at stake, while maintaining eligibility for SSI and Medicaid, when appropriate.

2:00 – 2:15 PM BREAK

**2:15– 3:00 PM THE UNKNOWN FRONTIER OF MEDICARE SET ASIDES: MSAs AND LIABILITY
CLAIMS**

Michael Wescott, NAMSAP President, Moderator
Tom Basserman, CMS San Francisco Regional Office
Sally Stalcup, CMS Dallas Regional Office

Since 2001, CMS memos have made it very clear that in workers' compensation cases, an approved MSA will satisfy the parties' burden to take Medicare's interest into consideration when settling future entitlement to medical care as a result of the claimed accident. However, without any such CMS memos on liability cases, the litigants in liability matters have been left to decide for themselves what the thresholds are for liability MSAs, whether MSAs are at all necessary in such matters, and if so, whether they need to be approved by CMS. The panel, made up of CMS regional office managers, will venture into the unknown frontier of MSAs and liability claims.

Wednesday August 23, 2011 Option Three, Multistate Program

8:45 - 3:00 PM BREAKOUT ON MULTI-STATE WORKERS' COMPENSATION LAWS

The Multi-State Workers' Compensation Laws Breakout Session at the Workers' Compensation Educational Conference in Orlando is more than just another program on Wednesday of the Conference—it is a mirror of how the workers' compensation claims world now works. The Multi-State Workers' Compensation Laws Breakout Session focuses on the workers' compensation laws of Alabama, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas.

8:00 – 9:00 AM

CONTINENTAL BREAKFAST IN THE EXHIBIT HALL

Program Moderator:

R. Briggs Peery, *Attorney*

Swift, Currie McGhee & Hiers

Atlanta, GA

The Multi-State group continues to grow each year. With the addition of Kentucky for 2011, the group is now comprised of legal experts from nine (9) different jurisdictions. In addition to Kentucky, represented jurisdictions are Alabama, Georgia, North Carolina, Mississippi, South Carolina, Tennessee, Louisiana, and Texas. Our experts present on the latest jurisdictional trends, case law, cost saving techniques and litigation strategies to assist claims' handlers and employer management groups conducting business in the Southeast and Texas. The format offered throughout the day encourages audience questions and participation in a manner that should not be missed.

The Breakout will begin with an opening general session to include an introduction of our participants. These participants are legal experts, workers' compensation judges, and state board regulators. The introduction will be followed by a panel discussion in which our experts will discuss significant legal issues and trends affecting employers and carriers within our nine jurisdictions. The incredible value of the general session is that it offers actual state board representatives discussing what is currently going on in their particular jurisdiction. You get the information directly from the source. Among the topics to be covered by our panel will be tips on how to identify and avoid getting in hot water with the judicial branches of our participating states, where each locale is on the electronic filing horizon, and what, if any, future legislative changes are being considered.

Following the conclusion of our general session, the special state breakout presentations will begin. This has proven to be a hugely successful way to present state specific law in detail in a fashion that encourages interaction between attendees and presenters. Each of the participating states will have presentations covering the uniqueness of their respective workers' compensation systems, some as stand-alone sessions, and others combined in a compare/ contrast type of presentation. Sample topics to be covered will vary depending on the state; however, the presentations will be sure to include state specific forms and form filing requirements, litigation pitfalls, tips on controlling medical expense, and much more. Some attendees choose to move from session to session to get specific information about each jurisdiction being presented. Questions from the attendees are not only welcomed, but encouraged. Where applicable, state forms and presentation outlines will be available in each breakout room.

The conclusion of the morning state breakout sessions will be immediately followed by a complimentary lunch for our attendees provided by the Multi-State Committee members. After lunch, a repeat presentation of the individual state breakout sessions will be offered thereby affording claims' handlers yet another opportunity to attend different breakouts.

To build on the success with which the 2009 and 2010 programs were met, the Multi-State Committee is once again offering a second afternoon program to run concurrently with the afternoon state breakout sessions. This year, we are offering something entirely different in the format of a panel discussion addressing a hypothetical workers' compensation case/fact pattern.

Specifically, we will ask our panel (and the audience) to dissect our hypothetical case in terms of settlement value. The presentation is designed to highlight how different, and in some cases similar, our jurisdictions view the same facts. What is a deal breaker in one state may not be viewed the same way in another. Following the conclusion of the afternoon state breakout sessions and settlement value panel discussion, the Multi-State program will end with a final, general session. Learning has never been more entertaining than how it is offered via our "Workers' Compensation Jeopardy." Back by popular demand, this game show/interactive format will include

our “celebrity” host leading and testing our competitors through a multitude of cross jurisdictional workers’ compensation issues.

At the conclusion of the afternoon general session, the 2011 Multi-State Book of Workers’ Compensation Laws will be provided to all break-out attendees. This book is extremely helpful for those conducting business in more than one state. The book includes the laws from each of our nine (9) participating jurisdictions. Due to high demand, please note, only one book can be offered per attendee.

8:45 – 9:30 AM

**OPENING GENERAL SESSION:
LEGAL TRENDS AND ISSUES FOR 2011**

State Regulators:

Gerald Stringer

Ombudsman, Department of Industrial Relations for the State of Alabama

Honorable Melodie Belcher

Director & Chief ALJ, Georgia State Board of Workers’ Compensation

Honorable David Imahara

Administrative Law Judge, Georgia State Board of Workers’

Honorable Rick Thompson

Chairman & Appellate Division Judge, Georgia State Board of Workers’ Compensation

Honorable Tasca Hagler

Administrative Law Judge, Georgia State Board of Workers’ Compensation

Honorable Sheral Kellar (invited)

Chief ALJ, Louisiana Office of Workers’ Compensation Administration

Liles Williams

Chairman, Mississippi Workers’ Compensation Commission

T. Scott Beck

Chairman, South Carolina Workers’ Compensation Commission

Honorable Rod Bordelon (invited)

Texas Commissioner of Workers’ Compensation

Administrator of the Workers’ Compensation Division of the Tennessee Dept of Labor and Workforce Development (invited)

9:30 – 9:45 AM

BREAK IN THE EXHIBIT HALL

9:45 – 11:30 AM

INDIVIDUAL STATE OVERVIEWS WITH Q&A

Individual State Presenters:

Alabama:

Kyle L. Kinney, *Attorney*; Michael P. Barratt, *Attorney*

Gaines Wolter Kinney, Birmingham, AL

Georgia:

Douglas A. Bennett, *Attorney*; R. Briggs Peery, *Attorney*; Michael Ryder, *Attorney*;

Richard A. Watts, *Attorney*; Lisa A. Wade, *Attorney*; Cristine K. Huffine, *Attorney*;

Charles E. Harris, IV, *Attorney*

Swift, Currie, McGhee & Hiers, LLP, Atlanta, GA

Individual State Presenters:

Kentucky:

Philip J. Reverman, *Attorney*
Boehl, Stopher & Graves, LLP, Louisville, KY

Louisiana:

Jeffrey C. Napolitano, *Attorney*; Dennis Paul Juge, *Attorney*; Matthew M. Putfark,
Attorney; Keith E. Pittman, *Attorney*
Juge, Napolitano, Guilbeau, Ruli, Frieman & Whiteley, Metairie, LA

Mississippi:

James M. Anderson, *Attorney*; David B. McLaurin, *Attorney*
Timothy D. Crawley, *Attorney*; J. Michael Traylor, *Attorney*
Anderson, Crawley and Burke, PLLC, Gulfport/Ridgeland/Tupelo, MS

North Carolina:

Trula Mitchell, *Attorney*; Sally Moran, *Attorney*
McAngus Goudelock & Courie, PLLC, Charlotte/Raleigh, NC

South Carolina:

Regan Ankney, *Attorney*; Mark Davis, *Attorney*; Mikell Wyman, *Attorney*
McAngus Goudelock & Courie, LLC, Columbia/Charleston, SC

Tennessee:

Terry L. Hill, *Attorney*; David J. Deming, *Attorney*; James H. Tucker, Jr., *Attorney*;
John W. Barringer, Jr., *Attorney*; Heather H. Douglas, *Attorney*
Manier & Herod, Nashville, TN

Texas:

Robert D. Stokes, *Attorney*; Steven M. Tipton, *Attorney*
Flahive, Ogden & Latson, Austin, TX

11:30 – 12:30 PM LUNCH (PROVIDED FOR ATTENDEES BY MULTI-STATE COMMITTEE)

12:30 – 2:00 PM REPEAT OF INDIVIDUAL STATE OVERVIEWS WITH Q & A (CONCURRENT SESSION)

12:30 – 2:00 PM WHY CAN'T WE ALL BE THE SAME?: A CASE/ FACT SETTLEMENT ANALYSIS BY EXPERTS FROM THE NINE MULTI-STATE GROUP JURISDICTIONS (CONCURRENT SESSION)

2:00 – 2:15 PM BREAK

2:15 – 3:00 PM CLOSING GENERAL SESSION:
WORKERS' COMPENSATION JEOPARDY/DOOR PRIZES/RELEASE OF 2011 MULTI-STATE STATUTE BOOK

NAWCJ College 2011 Registration Form

Name _____ First Name for Badge _____

Agency Name (as you wish it to appear on name badge) _____ Title _____

Business Mailing Address _____

City _____ State _____ ZIP _____

Telephone Number _____ Fax Number _____ Email Address _____

Continuing Legal Education License Number State/Association _____

Hotel Accommodations:

For your convenience a block of sleeping rooms has been reserved at the Marriott Courtyard at Marriott Village for this event. Complimentary shuttle service will transport attendees to the Marriott World Center Convention Center (approximately 3 miles). The Marriott Village has a food court and is convenient to a variety of restaurants and attractions. Please complete the following information and a reservation will be processed for you. The sleeping room rate is \$69.00. Cut-off July 30, 2011.

Number of Rooms _____ Arrival Date 08/_____/2011 Departure Date 08/_____/2011

Check here if you have special needs that require attention.

College Registration Fee:

NAWCJ Members:

\$200.00 if paid on or before July 31, 2011

\$225.00 if paid on or after August 1, 2011

Non-Members

\$240.00 if paid on or before July 31, 2011

\$265.00 if paid on or after August 1, 2011

Method of Payment: Check Mastercard VISA American Express Discover

Credit Card Account Number _____ Expiration Date _____ CVV _____ Signature _____

Make Checks Payable To: The National Association of Workers' Compensation Judiciary, Inc.

FEIN # 26-4598530

Online Registration Is Available on June 15, 2011 At www.nawcj.org.

Registration: To register, mail the completed registration form, along with credit card information (VISA/MC/AmX/Discover) or a check made payable to: The National Association of Workers' Compensation Judiciary, Inc., P.O. Box 200, Tallahassee, Florida 32302-0200; fax form to (850)521-0222; or register online at www.nawcj.org. Registration for the Judiciary College will include conference handout materials, access to the exhibit area, Monday night reception, and participation in the Annual Workers' Compensation Educational Conference. Onsite Registration is \$225.00 for NAWCJ members, or \$265.00 for non-members. For more information, contact the National Association of Workers' Compensation Judiciary at (850) 425-8156 or 425-8155.

YOU MUST BE AN ADJUDICATOR OR ADJUDICATION ADMINISTRATOR TO ATTEND.

Contributions, gifts, or dues to the NAWCJ are not deductible as charitable contributions for federal income tax purposes.