Reimbursement For Travel Expenses in Pennsylvania Workers' Compensation Cases

During times when gas prices are so high, the question is often raised as to why claimants cannot receive mileage reimbursement for travel to their treating doctors for work related injuries.

Insurance companies are required to pay for mileage, or provide transportation, when they send the claimant to be examined by their medical expert (DME or IME). However, if you're driving 20, 30 or even 50 miles one way to go to your own doctor every two weeks, why don't you receive travel expenses? As is often the case, the law in this area is not very clear.

The controlling case law is fairly straight forward and only involves primarily three Commonwealth Court cases. The first, *Harbinson-Walker Refractories v. WCAB (Huntsman)*, 513 A.2d 566 (Pa.Cmwlth. 1986), created various factors to be considered in assessing the reasonableness of travel expenses for medical treatment:

1) whether the employer was aware of the long distance treatments;

2) whether the claimant was specifically referred to the distant location for the treatment;

3) whether the treatment was available at a closer location; and

4) whether the long distance treatment comprised an integral part of the ongoing medical treatment.

In *Helen Mining Co. v. WCAB (Tantlinger)*, 616 A.2d 759 (Pa.Cmwlth. 1992), the court summarized the *Harinson-Walker* elements into three distinct rules:

1) if treatment is available locally, the claimant is not entitled to reimbursement for travel expenses except in exceptional circumstances;

2) if treatment is available locally and the claimant chooses a physician outside the local area, the claimant is not entitled to reimbursement for travel expenses;

3) if treatment is not available locally, the claimant is entitled to reimbursement for travel expenses as long as the claimant travels to a facility where others are or would be referred.

Finally, in *Holly v. WCAB (Lutheran Home)*, 735 A.2d 153 (Pa.Cmwlth. 1999), the court addressed the *Helen Mining* elements and created another distinct rule. In *Holly*, the court summarized the holdings in the previous cases. The court further stated that the initial inquiry in any case involving reimbursement for travel expenses is whether the treatment sought is available locally. *Id.* at 155. After an in-depth analysis, the court made the general rule that under *Helen Mining*, "travel exceeding 100 miles one way for medical treatment is "long distance" travel, not "local" travel" as a matter of law. *Id.* at 156.

In no way did the court ever state that the general "100 mile" rule is to be applied in every case no matter what the facts. Actually, in reading the *Holly* decision, you can tell that the court attempted to limit the issue depending on the facts. If the travel was over 100 miles one way, then the general rule would apply. However, if the travel was less than 100 miles one way, then a court would have to filter the facts through the three elements in *Helen Mining* to make a decision on whether to grant travel expenses.

So, the first argument you have to make is that the 100 miles rule doesn't even apply. Then, you have to convince the judge that your particular facts are an extraordinary case, i.e., you have to travel 50 miles one way and that type of treatment cannot be found in your local area. However, every case is different and every Workers' Compensation Judge has a different philosophy on this issue. But it can't hurt to ask.