

September 26, 2014

Chairman Orange and Distinguished Members of the Committee,

Thank you for the opportunity to participate in and address this roundtable of the Committee on Business, Consumer and Regulatory Affairs regarding the D.C. Workers compensation system.

By way of background, I started representing employers and insurance companies in workers compensation matters in the District over 20 years ago. For the last 17 years I have represented only injured workers. I have written a book on D.C. workers compensation and have lectured and taught a Continuing Legal Education program on the subject.

I have handled cases at every level in the workers compensation system.

In the context of oversight, there is a wide spread problem, that if addressed, would solve many other problems, in my view. That is the issue of delay, or the length of time it takes to receive a decision from the Agency's Administrative Hearings Division.

I have spoken to colleagues who represent injured workers, like I do, and those who represent only employers and insurance companies. My sense is there is a consensus that delay is a wide spread problem. Every lawyer practicing before the Department of Employment Services will tell you that he or she has had a case that has been pending for at least a year or more, or they have a case that has not been scheduled for a hearing for many, many months.

We already have laws and regulations on the books that require a Formal Hearing to be scheduled within 90 days from the date of the application (7 DCMR 220.2) and requiring a Compensation Order (the ALJ's written decision) be issued within 20

working days (7 DCMR 223.8). And it's not just implementing regulations - the D.C. Workers Compensation Act requires this (D.C. Code Section 32-1520).

Can this be done? Of course. There are a small number of judges at AHD and the CRB who have consistently issued timely decisions throughout their careers, and there have been others in the same position who have issued decisions years after the case was heard.

An example of administrative efficiency in the same Agency is the Office of Workers Compensation. That's the level that holds informal conferences, issues recommendations, approves settlements handles the initial filings in a workers compensation claim, etc. They obviously have a system of internal rules or policies in place that everyone follows to get the work done without delay.

Simply enforcing the rules - the existing law and regulations – is a common sense solution that will benefit the entire workers compensation system – injured workers, employers, insurance companies and the public. Claims will be moved through the system efficiently. Deserving claimants will receive benefits they are entitled to when they need them and employers and insurance carriers will know that they will receive a timely decision and can act and plan accordingly.

It seems to me that once these well-established rules are followed, that will carry over to every aspect of the workers compensation system. How many people (myself included) never questioned Mr. Verma when he didn't issue a timely decision? When the status quo is delay, people won't question it. If the rules were enforced and Mr. Verma was consistently issuing decisions that were untimely, would his status have been discovered sooner? And the same can be said for any issue – when the rules are followed

and the expectation is that they be followed, bigger problems are prevented all together or are identified and resolved.

The first basic step is simply to focus on accountability and responsibility by following the rules.

Thank you.

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