

Nevada

Workers' Compensation Law Blog

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Should I Agree to the Insurer's Rating Doctor?

March 6, 2012 by [Virginia Hunt](#)

If your treating physician on your accepted workers' compensation claim in Nevada reports to your claims adjuster that you may have a ratable impairment, you should be scheduled for an impairment evaluation 30 days later. This evaluation, also called a rating, will be done by one of the 138 doctors and chiropractors who have been tested and authorized by the state agency, DIR, to perform ratings. The purpose of the rating evaluation is to determine your percentage of impairment so that a permanent partial disability award can be offered. (The additional two factors that determine a PPD award in Nevada are the injured worker's average monthly wage at the time of the injury, and the injured worker's age when he or she has the evaluation.)

As of March 1, 2012, the Medical Unit at DIR has 138 physicians and chiropractors on a rotating list. When a claims adjuster requests a rating, the Medical Unit secretary must assign the next one from the rotating list. If the injury is to a musculoskeletal part, such as the shoulder or neck, a chiropractor may be assigned to do the rating. Some of the chiropractors on the rotating list are excellent rating doctors- fair, knowledgeable about the Guides and anatomy, and they correctly explain their findings and conclusions.

Nevada law allows adjusters to suggest and agree with injured workers on a particular rating doctor. If the injured worker, or his attorney, agree to a doctor suggested by the adjuster, the agreed-upon doctor can do it instead of the doctor assigned by DIR. Some adjusters will send unrepresented injured workers a list with the names of about six doctors and ask whether the injured worker will send back an agreement to one. If the agreement isn't returned, the adjuster must use a DIR-assigned doctor from the rotating list. You don't lose your right to [obtain a second rating](#) if you disagree with the rating physician you agreed to rate you.

An injured worker asks me: Should an injured worker agree to a rating doctor suggested by the insurer, or insist that the insurer schedule him with one of the 138 doctors on the rotating list?

The answer depends on whether the injured worker has an experienced attorney. Otherwise, it is likely that the injured worker will not be knowledgeable about each of the doctors on the insurer's short list. If the injured worker, or his attorney, doesn't know anything about the doctors, he should NOT agree. The insurer will likely suggest doctors that find lower or average impairment percentages, or that are aggressive on apportionment and like to subtract percentage points for pre-existing conditions. Despite the objective of the AMA Guides to Evaluation of Permanent Impairment to have rating methods that will easily duplicate results, there can be a significant difference depending on which doctor is doing

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the exam.

If the injured worker has a lawyer, he should hope that his attorney is familiar with how each of the different rating doctors are likely to apply the Guides. Sometimes attorneys for injured workers agree to a rating exam with a doctor suggested by the insurer. Not all doctors suggested by insurers are necessarily a bad choice to rate a particular client. The key is knowing how a particular rating doctor is likely to interpret the Guides. That comes with experience.

There are injured workers, not knowing whether a suggested rating doctor is likely to be better than one assigned from the rotating list, will circle a name anyway and return the agreement. People who do that hope that the adjuster will act in the injured worker's best interests. The reality is that insurers and their employees must act so that they can show a cost savings on claims to employers concerned with premiums. Injured workers should understand that adjusters may be acting within the bounds of the law, but not be acting within the injured worker's best interests. Therefore, my answer to the question is a resounding "NO". Do not make agreements with insurers without knowing the consequences of what you are doing.