Shaw Chiropractic Group

A MEDICAL-LEGAL NEWSLETTER FOR PERSONAL INJURY ATTORNEYS BY DR. STEVEN W.SHAW

The Guides Casebook, 3rd Edition Just Released

In my last newsletter I wrote that I would be devoting the upcoming newsletters to a review of the 2008 published literature as presented at the SRISD Annual Scientific Conference. However, this morning when I arrived at the office I was greeted by the UPS delivery man with a package from the AMA. It was my copy of the just released **"The Guides Casebook" 3rd** edition that I ordered in December 2007. I immediately started reviewing some of the cases and wanted to share some thoughts. So, while I am temporarily changing course for this topic, I will get back on track in January. By the way, thanks to those of you who provided feedback and requested research copy requests on the last newsletter. It's rewarding to know that the newsletters are read and are applicable to your practice.

One year after the release of the 6th edition of the "Guides" we have a case study book with examples of how to determine impairment. The new book is well done and reviews a wide variety of cases. It then analyzes for impairment using the 4th, 5th and 6th editions of the guides. This is particularly helpful in demonstrating what I have said in the past about the inconsistency between the 6th edition and all prior editions. It clearly shows that impairment values for the most common injuries are significantly less, and only because of methodology. I will demonstrate with a typical example as outlined below.

Cervical Strain/Sprain (Case 17-2): This is representative of the typical MVA case that presents to our office. This 55 year old woman was involved in a rear end impact. She was in a small vehicle struck by a SUV. Her vehicle had $9,000 property damage. She was taken to the ER and x-rays demonstrated some prior degenerative changes and loss of the normal curve. She developed headache, neck pain and left arm pain. She treated with a chiropractor for 5 months. She then saw an orthopedic surgeon and had 4 weeks of PT with NSAIDs. She was improving and was discharged but her symptoms returned and she was seen again. She then saw a neurosurgeon who ordered home traction and more NSAIDs, but not surgery. Her findings and complaints 2 years post trauma, at the time of the impairment rating evaluation included: daily headaches and neck pain, intermittent (2x/wk) radiating neck pain to the digits in a dermatomal pattern, dysmetria (asymmetric range of motion), Pain Questionnaire value of 80, negative neurologic and root tension signs, taught and tender muscles in the neck. No MRI.

Using the 4th edition of the Guides, she was assigned a 5% WP DRE Category II impairment.
Using the 5th edition of the Guides, she was assigned a 6% WP DRE Category II impairment.
Using the 6th edition of the Guides, she was assigned a 1% WP DBI Class I impairment

How could this be? Same patient. Same findings, Same history. Same complaints. Here's why. Using the 6th edition, ranges of motion are not used in impairment calculations. Radicular symptoms without EMG or clinical support don't count anymore. Injury category I, without a disc AND resolved radicular complaints has an impairment value range of 1-3 with a default starting impairment of 2. Since this patients findings were mild, there is a "non-key factor" adjustment of -1 resulting in a 1% impairment.

That's it. No room for additional adjustment or doctor input. It's a 1% impairment regardless of which type of doctors does the evaluation.

A strong point on the new methodology is that there is better consistency between examiners. The challenge is that there is no consistency between editions of the guides and our patients/clients seem to be under-rated when compared to the historical numbers. Here are some more examples summarized by guide edition.

Traumatic Lower Back Pain (Case 17-3)
Using the 4th edition of the Guides, 20% WP.
Using the 5th edition of the Guides, 23% WP.
Using the 6th edition of the Guides, 6%

Recurrent Lumbar Radiculopathy (Case 17-5)
Using the 4th edition of the Guides, 10% WP
Using the 5th edition of the Guides, 23% WP
Using the 6th edition of the Guides, 12% WP

These examples are representative of the harm done to injured people by using the 6th edition of the Guides. I believe the 5th edition more accurately represents my patients' actual impairments and only because it is consistent with historical impairment rating methods. The 6th edition method accomplishes the task of making ratings more uniform between examiner but, deviates from existing systems so much that it changes all the rules. Let's be honest, the entire concept of impairment ratings is one that is industry based and built on a false assumption that a diagnosis or injury can be assigned numerical values. They exist so we can determine financial awards and government support, not for patient management decisions. Loss of function must be individualized and cannot be summed up in a number. Yes, there are rules and methods but so what? The result means nothing until we relate it to the patient's life. After all, what is a 5%, 10%, 20%? Just a number with no real crossover validity to the patients experience and life loss. Impairment rating systems are better than nothing, but not much.