

TESTIMONY OF Lydia Mele for (COMM) BILL H.B. No. 5249: AN ACT CONCERNING TIMELY MEDICAL TREATMENT FOR INJURED WORKERS

Madam Chair Senator Prague, C0-Chair Kevin Ryan, and distinguished members of the Labor Committee

My name is Lydia Mele and I thank for the opportunity to testify before this committee to give voice to all other injured workers who are, or have experienced the same frustration and health consequences of undue delay in obtaining medical treatment. In my particular case medical treatment has been delayed for approved injuries and necessary assistive devices prescribed by my board certified physicians.

I would encourage the committee to consider the sanctions in this bill to be retroactive for those who have suffered throughout 2008, as this penalty and sanction would finally send a strong message to those perpetuating this injustice and compromising injured workers health, that it will no longer be tolerated.

This is the third year I have testified for bills for undue delay. Last year bill No 5334 passed judiciary 24 to 2 but was defeated in the insurance committee with an 9 to 9 vote. Senator Frey was absent for the vote, it would have been the deciding vote. This year if it is at all possible I would like to testify before the insurance committee in the hope my testimony would give a better understanding of the injured workers dilemma, and why it is important to pass this bill. I sincerely hope in sharing my experiences of the last three years, and the effect the undue delays have had on my health and well-being, the legislature will affirm a change in the law is long overdue, and no change would have a profound negative effect on their constituents.

Many injured workers who have active WC cases are afraid to come forward for fear of retaliation from their employers/ WC insurers. They are overwhelmed by a broken dysfunctional system they have trouble navigating through, where many have experienced the loss of their home, job, depression, and a sense of powerlessness. I am told some have committed suicide in their desperation.

I hope the sharing of my experiences of the last 2 years will be persuasive and move the legislature to pass the bill for undue delay this year. My condition has deteriorated due to the undue delay of medical treatment , pain management prescribed in 2007, needed modifications for the wrong wheelchair I was given in 2007,(that did not follow my doctor prescription), denial of shoulder surgery for my dominant arm, and a brace improperly made for my right ankle injury which has been diagnosed with subluxation (a partial dislocation), impingement, nerve entrapment, and other diagnoses I will not mention for sake of brevity. The medical treatment and assistive devices are for accepted workers' comp injuries for which I have voluntary agreements. There is no reasonable rationale for denying treatment. The insurance company has successfully manipulated the system in an attempt to wear me down and break my spirit, so I will walk away from my claim, and relieve them of their responsibility to provide the medical care I am entitled to

by law. This is a tactic used by insurance companies to wear down all injured workers and unfortunately the laws as presently written, allow them to successfully do so.

I testified last year to the undue delay in providing the prescribed medically needed modifications to my wheelchair. The attorney general's office investigated and proposed a solution to provide the lumbar support my board certified physician prescribed. The insurance company refused to comply, and have continued to delay. As I testified to in January of 2008 to this committee, this was scheduled for a formal hearing. The Commissioner does not have the power to sanction or order what is medically needed, unless it is brought to a formal. We had a formal in January of 2009. The insurance carrier delayed the process by saying all their witness were out of town all at the same time, which is not credible. They wanted to proceed, get my testimony, and then have the advantage of my written testimony, to prepare their witnesses, giving them an unfair advantage.

Despite that, I did not delay the process, gave my testimony and the formal was continued for the Insurance carrier to later bring their witnesses. We are now awaiting the transcripts so the briefs can be submitted. Once the briefs are submitted the commissioner has four months to render his decision. I have been in the wrong chair, with no lumbar support, for two years.

As a result my back condition has deteriorated. I have been diagnosed with denervation (pinching of the nerve) of L 4-5. I also have problems with my discs from S1, L2-3, L3-4, & L4-5, a compression injury on T 12, T3 thoracic disc all documented as work related and accepted with voluntary agreements. The fact that I do not have the lumbar support prescribed by my physician and the insurer has delayed for the past two years, is unconscionable. I am resubmitting the rehab evaluation outlining the need for the modifications and my doctors letters recommending the same..

Unfortunately I sustained more than one injury in the course of my employment as a teacher/ Guidance counselor in the inner City. Most of the injuries were sustained breaking up fights, and exacerbated by my employers failure to accommodate post injures, the undue delay of necessary medical treatment. Despite all this I loved my job and the students I served. I have voluntary agreements for all injuries referred to in this testimony. I was prescribed pain management in February 2007. It is now two years later and I have not received it. Please refer to my testimony last year.

I injured my shoulders breaking up a fight between two students threatening to kill each other. I injured the rotator cuffs, lumbar & thoracic spine, forearms and wrist. I need right shoulder surgery (my dominant arm & hand). I needed the surgery after the injury and it was denied. The injury was found to be a compensable accepted work injury with voluntary agreement. The last MRI (attached) shows I have severe supraspinatus tendonitis, the labrum is torn, the bicep tendons are frayed, there is impingement and spur. I have trouble reaching, lifting my arm, opening door etc. Treatment was repeatedly delayed from the time it was prescribed. I went to a formal hearing won. The surgery is still being denied for that same injury with a voluntary agreement. The pain has been

intolerable over the years and the MRI's indicate the injury has exacerbated since the surgeon proposed the surgery several years ago. There have been several opinions stating the surgery is necessary from the most respected shoulder surgeons in the area. Yet the Insurance company can deny the surgery based on one IME from a doctor they repeatedly use to deny claims. If I don't agree to the IME, go to the orthodic places they want me to go to ,see the physicians they approve ,my disability payments can be discontinued. Yet they can deny and delay treatment, and there is no consequence for them, short of going to a formal hearing which can take a year to complete. The Commissioner should have the power to sanction them at and informal hearing especially for continued unreasonable undue delay. The WC system can not protect the worker form the insurance companies abuse and manipulation of the present laws to their advantage. The result is higher cost to the insurance companies in legal feels, as they pay these high priced lawyers hundreds of dollars per hour to execute these delays. It is to these lawyers financial advantage to continue the delays. It would be more cost effective for the Insurer , the State, and everyone else to just pay for necessary treatment or surgery and let the injured worker heal and move on. This wear down process is not cost effective for the state the insurance company, and is certainly financially, emotionally, and physically damaging to the injured worker.

The Insurers not only attempt to wear down the injured worker ,but also their physicians who have very busy practices, and get tired of having to fight for treatment, cancel surgeries , go to depositions, for every treatment and surgery the physicians deems medically necessary. Especially for accepted cases such as mine with voluntary agreements. This happened to me with one of my physicians. My hip surgery was scheduled, I donated my own blood, had my preop visit (the day before the deposition), there was never any indication at the preop of any errors indictment as to compensability. As a matter of fact his dictation from previous months indicated the surgery and need for treatment was documented as "directly related to the injury": I had been to Yale and other hip specialist, commissioners exams, who confirmed I need the hip replacement, and that it was a compensable work related injury form a fall from a freight elevator at work. At the deposition the surgeon made a complete about flip flop, and the surgery was denied. He claimed his dictation of months earlier confirming the compensability was a mistake, which went unnoticed for months, and at the prop visit, which was highly suspect.

The insurers wear down strategy incurs higher cost to the state with the expense of formal hearings ,court reporters etc., in already a bogged down WC system .Last year I testified to the undue delay for a brace I needed for my ankle injury sustained in breaking up another fight in the course of my employment. The brace was delayed for months, when it was finally approved, the orthodist place WC sent me to kept asking if I knew the expense the insurer had to expend . When I received the boot it was too big and didn't fit properly. I told the orthodist the boot was too big and I couldn't fasten the top strap, which kept my ankle stable. I was told to take it anyway, and get used to it. When WC was made aware they implied I was being uncooperative if I didn't wear the boot as made. I suffered with excruciating pain for months, went back to the orthodist who put pads in to take up the slack of the boot being too large, and ill fitting. After months of excruciating pain from the ill fitting boot and altered gait which affected my hips thigh,

back and shoulders, as I was dependent on my canes in my bathroom, kitchen where my chair doesn't fit, and I have to lift myself up with two canes. The orthodist insisted the boot was made properly and wrote a letter to that effect to WC. The pain was so severe after several months I ended up going to the ER and following up with my ankle doctor. WC would not allow me to go to the orthodist the doctor recommended, so in desperation, I went on my own determined I would pay the bill out of pocket ,no matter how long it took me to pay itThe orthodist the doctor recommended, took one look at the boot, and said the mold was not taken properly, and the boot was too plantar flexed,It was why I could not strap the top strap which stabilized my ankle. He didn't understand how I was able to function at all. It was like waking with a spike heal on one foot, and no shoe on the other, all these months. The altered gait for extended months was disastrous for someone with a back , knee, ankle , and shoulder injuries. I started having severe thigh pain, my back pain increased , I had more pain in my knees, and shoulders. To make along story short I was sent for physical therapy for an adductor tendon sprain from the boot .A recent MRI indicates I have an adductor strain partial tear (see attached MRI and M.D. reports. indicating the boot must be recast to fit properly).

Last year Representative Olson presented a bill for bad faith. I was told it was rewritten by the labor committee and never acted upon in judiciary. That bill which would allow workers the right to file a lawsuit in civil court needs to be resurrected. It is the only recourse injured workers have to hold the insurer accountable, level the playing field, and deter the insurance company from manipulating the present law and perpetuating these abuses. The undue delay has been a pattern with my employer/WC insurer and has been a consequence and retaliation for my testifying and fighting for my rights under the law. The injured worker has no one to appeal to but the WC Commission, which can only issue inconsequential fines. The lawyers interests are protected by the Trial lawyers Association, the insurers have their lobbyists, the injured workers have no one, and are anonymous to each other. Making them unable to lobby as a group , leaving the injured worker powerless to fight the abuse. They only have their legislators they vote in, to pass laws to protect them, and give them the laws and tools they need to protect themselves.

I suggested to Senator Prague and this committee last year, there should be an oversight committee with no ties to the insurance company or the WC Commission, that both would be accountable to, comprised of independent doctors, physical therapists, and injured workers ,who can review cases, and make decisions, that would be carried out and supported by law, that the injured worker could appeal to.

I hope the sharing my experiences especially of the last two years, will help legislators realize the damage to the injured worker financially, emotionally, and physically, that at some point can become irreversible. I hope they will show compassion to their injured constituents who continue to suffer, and pass this long overdue bill. A message needs to be sent to the insurers that such undue delay of treatment and abuses will no longer be tolerated, and justice will served, and give the injured workers the tools to fight the injustice and abuse, get the treatment they need to be productive members of society with some quality of life after their injury Thank you for your time and consideration..

Respectfully + Gratefully
L. Price

Evergreen Imaging Center
An affiliate of Eastern Connecticut Health Network
2800 Tamarack Drive
South Windsor, CT 06074

Phone: (860) 533-4600

Fax: (860) 533-4601

Patient Name: MELE, LYDIA J
MRN: E011927
Visit Type: REG CLI

DOB: 12/17/1945
Account #: L00029809
Patient Location: EMRI
Patient Phone #: 860-289-0437

Ordering Physician: Kenneth R. Alleyne
Consulting Physician: ;
Additional Copies To: ; ;

Report Status: Signed

Exam Date: 02/03/09

Exam Procedures: MR MR Femur wo contrast L L

09-17345

MRI of the left femur

INDICATION: Medial pain and mass, evaluate for abductor tendon tear

Multiple axial, coronal, and sagittal images were obtained without the administration of intravenous contrast. On the T2 weighted axial images there is abnormal high signal in relation to the adductor tendon, along the posteromedial aspect of the proximal femur. There is mild waviness of the tendon as well. There is no frank disruption or retraction of the tendon. The findings are suggestive of a strain or partial tear of the adductor tendon. There is no evidence of an intramuscular hematoma or significant fluid collection.

There are multiple varicosities in the subcutaneous fat and small lymph nodes in the left groin. The bone marrow signal in the femur is normal. There are no fractures. No masses are identified.

IMPRESSION: Findings suggestive of a strain or partial tear of the adductor tendon.

Dictated By: Kravetz, Gary 02/04/09 0903
Signed By: Gary Kravetz 02/04/09 0907
Transcriptionist: PSCRIBE
Technologist: Daniel DeGalio
Routing: Alleyne, Kenneth R. ; ; ;
Report #: 0204-0033 Department's copy

EGWDIAG



Kenneth R. Alleyne, M.D.
Sports Medicine
Knee/Shoulder Surgery

Vipul N. Nanavati, M.D.
Upper Extremity Specialist
Shoulder/Elbow Surgery
Wrist/Hand Surgery

PATIENT NAME: Lydia Mele
DOB: 12/17/1945
DOY: 2/9/2009

CHIEF COMPLAINT: Follow up for adductor strain.

SUBJECTIVE: The patient presents today for followup evaluation in regards to her adductor strain. She continues to have significant pain in the left femur despite physical therapy. In the interval since she was last seen, she has obtained an MRI and presents today with those films for discussion and evaluation.

Past Medical History, Family History, Medications, Allergies, Review of Systems, and Past Surgical History: Reviewed.

MRI: Review of the MRI reveals evidence of a proximal left medial adductor strain. There is increased signal noted in the region of the musculotendinous junction proximally seen on several views of the MRI that presented today.

It is my impression based on these findings that the issues with plantar flexion of the boot on the other side is continuing to provide strain to left thigh. Further physical therapy in an unstable situation like this would likely not be helpful. In addition, secondary to this discomfort, the patient is ambulating more, utilizing her upper extremities with canes and this appears to be exacerbating her right upper extremity concern at the shoulder.

IMPRESSION: Adductor strain.

PLAN: At this point, I believe that the patient should have the boot recasted in the appropriate flexion as per the orthotist recommendations. In addition, she is continuing to work through issues with her chair, which apparently is poor fitting based on an evaluation that was carried out by Dr. Paul Zelinski, a local physical therapist. Going further in regards to the adductor, we will continue to watch this. She will utilize her home exercise program, judicious use of ice and heat in this area, and we will continue to followup on these other issues as noted above.

Kenneth R. Alleyne, MD
(Dictated, but not read)

Tel. 860-648-4480 Fax 860-648-2132 www.cosm.net

South Windsor
2800 Tamarack Ave.
Suite 104
South Windsor, CT 06074

Bloomfield
701 Cottage Grove
Suite E230
Bloomfield, CT 06002

Tolland
6 Fieldstone Comm. Suite C
Rte 195
Tolland, CT 06084

10/05/07

Lydia Mele is seen in followup. She continues to have thoracic pain status post work injury. She is currently using a motorized chair but the current back on the chair is inappropriate in that it does not provide her significant support. I have previously prescribed a lumbar support for her but the current chair does not provide the support that she needs. She does use her RX stimulator with some degree of success.

On examination there is tenderness in her thoracolumbar region. Her back muscles are quite tight. There is little support posteriorly in her chair. Neurologically she is unchanged.

It is my impression that Lydia Mele has ongoing back pain status post injury. She does not require surgery. She does require chair modification. She requires continued exercise. She will also use Flexeril as a muscle relaxant. I shall see her back in four or five months.

Gerald J. Becker, M.D.

(Dictated but not read)

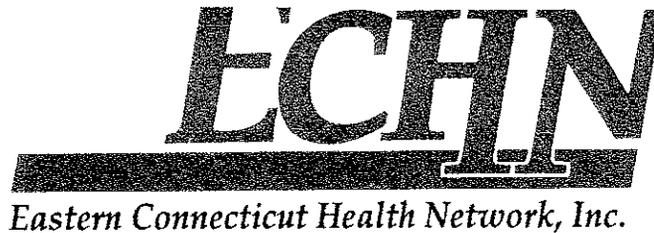
GJB: MEDQ 3

DD: 10/05/2007 17:15:15

DT: 10/08/2007 12:36:12

cc: Lydia Mele

Received for Gerald J Becker MD Oct 8 2007 1:03PM Eastern Standard Time



11/15/07

Dear Dr. Gerald Becker

Re: Lydia Mele

I was asked by Connecticut Rehab to consult on Ms. Mele's motorized scooter modifications. It is essential to identify Ms. Mele's multiple orthopedic problems in order to justify the aforementioned modifications. Ms. Mele has diagnosis' existing but not limited to:

1. Bilateral Knee OA
2. Lumbar DJD disc prolapsed S1, L2-3, 3-4, 4-5
3. Compression fx thoracic and lumbar spine
4. Bilateral Rotator Cuff tendonitis/tear
5. Bilateral Shoulder labral tear, OA
6. Polyosteoarthritis
7. Post right ankle surgery, post bilateral knee surgery, post left shoulder surgery
8. Edematous bilateral lower leg/feet

After thorough review of the existing configuration of the scooter (in consultation with representative from CT Rehab) we have identified the following problems:

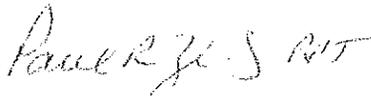
1. Captain chair that does not have a lumbar support and is concave, forcing Ms. Mele into a kyphotic position causing lumbar flexion and posterior pelvic tilt.
2. The back of the seat and the seat do not meet, leaving a void behind Ms. Mele's sacrum. This allows her pelvis to migrate back too far in the chair causing her to be forced again into a flexed position with her pelvis in an extreme posterior pelvic tilt.
3. The existing seat length is too long for Ms. Mele which exerts excessive pressure to her posterior knees and calves. This causes an improper sitting position where her knees are higher then her hips and her knees are not at a proper 90 degree bend but rather at a 70 degree flexed position. This position further exacerbates her edematous lower legs.
4. Non- moveable leg rests which will force Ms. Mele to be in a dependent position for long periods, potentially exacerbating her bilateral lower leg edema.

5. A manual mechanism for reclining the seat back, which due to her multiple orthopedic problems becomes impossible for her to operate.

As noted above, I have been asked to assist in the modifications to Ms. Mele's new motorized scooter. With the diagnoses listed above, I believe that the following is needed to ensure proper seat positioning and support:

1. A linear seat with lumbar support (without concave features).
2. The seat back that extends fully to meet the seat cushion.
3. A seat that is the proper thigh length to ensure proper leg positioning.
4. A mechanical assist reclining feature that will allow repositioning of lower spine and pelvis (Note - Ms. Mele spends several hours at a time in this chair and I have personally witnessed her sitting and waiting for American Disability ride services for up to 3 hours).
5. Proper leg rests that fit Ms. Mele with adjustment parameters that will allow full leg elevation and all angles in between.

Sincerely,



Paul Zelinsky, P.T., MS
Manager, Rehab Services @ Evergreen Walk



ORTHOPEDIC ASSOCIATES OF HARTFORD, PC
85 Seymour St Suite 607 Hartford, CT 06106

Tel: (860) 549-3210 Fax: (860) 247-3803 www.oahct.com

499 Farmington Ave, Suite 300, Farmington, CT 06032 / 2928 Main St, Glastonbury, CT 06033
1111 Cromwell Ave, Unit 301, Rocky Hill, CT 06067 / 1060 Day Hill Rd, Windsor, CT 06095

LYDIA MELE
233 ELLINGTON RD APT #208
EAST HARTFORD, CT 06108

MR: 12135

Dec 17, 1945

December 11, 2007

RE: MELE, LYDIA

To Whom It May Concern:

Lydia Mele is currently under my care for her back condition. She was recently evaluated by Paul Zelinsky, a physical therapist, with regard to seating modification. She does have problems with her current chair. The problems are of an increased magnitude because of the amount of time that she does spend in her chair, including time waiting for rides to transport her to and from appointments, as well as activities of daily living. Her specific problems deal with the degree of lumbar support that she has, the fact that she is in a kyphotic position when she sits, and the fact that her pelvic tilt is not appropriate when she is sitting in the chair. She requires a change in her seat length to avoid pressure on her knees, and she requires moveable leg rests so that her legs will not be in a dependent position, as she has edema of her lower extremities.

I reviewed the recommendations made by Mr. Zelinsky. I believe that her chair should be modified such that she will have a linear seat with lumbar support, without concave features. I believe that she should have a seat back that extends fully to meet her seat cushion. I believe that her seat should be the proper thigh length to ensure that her popliteal area is not compressed.

I agree with the need for a mechanical assist reclining feature that will allow her to reposition her lower spine and pelvis when she is sitting in the chair for prolonged periods of time. She should also have leg rests that are adjustable to allow elevation to decrease her leg edema. I believe that all of these modifications are necessary for her.

*Peter R. Barnett, M.D., Gerald J. Becker, M.D., Ross A. Benthien, M.D., Kevin J. Burton, M.D., Andrew E. Caputo, M.D., Thomas W. Dugdale, M.D.,
John P. Fulkerson, M.D., John C. Grady-Benson, M.D., Donald R. Kelly, M.D., Charles B. Kime, M.D., W. Jay Krompinger, M.D.,
Christopher J. Lena, M.D., Courtland G. Lewis, M.D., Richard M. Linburg, M.D., Michael A. Miranda, M.D., Pietro A. Memmo, M.D.,
Durgesh G. Nagarkatti, M.D., John F. Raycroft, M.D., Steven F. Schutzer, M.D., Raymond J. Sullivan, M.D., Gordon A. Zimmermann, M.D.*