

## TESTIMONY OF LYDIA MELE FOR SENATE BILL NO. 986

I would like to thank Senator Prague and the Labor Committee for your efforts on behalf of injured workers, and the opportunity to testify today.

There are many good things about bill 986 which addresses undue delay for medical treatment. I hope this committee will allow me to share only a couple of experiences pertaining to portions of the language in this bill, I have some concern about.

In 1990 I was injured breaking up a fight. As a result I injured my cervical thoracic and lumbar spine. This was not the first injury in the course of my work. It took 3 years to get my voluntary agreements.

IN 1993 After 3 years of conservative treatment my doctor recommended surgery for my injured shoulder. The insurance company denied the surgery despite 3 opinions that concurred, and sent me to an IME. I was naive enough to think that an IME was what it said it was, an Independent Medical Examination. I have since discovered IME's are not always independent from the influence of the insurance company. My surgery was denied not based on all the medical evidence, but on that IME, despite 3 other opinions from shoulder doctors that concurred with my physician. An MRI paid for through my health insurance in 1996, confirmed a rotator cuff tear. I continued working in severe pain for several years with the limitation in my shoulder ,back and knees and from a ankle injury breaking up another fight in 1988.

In 1996 was transferred to a school where I had to use an old freight elevator which required pulling down a strap that would close the concrete doors. When I went to reach for the strap my shoulder gave way, due to the severe pain. I fell out of the freight elevator on to the concrete floor re-injuring my back, shoulder right knee and hip. The insurance company continued to contest treatment, even though I had voluntary agreements and my injuries were accepted.

IN 1997 I had to have surgery on my right knee as a result of that fall. MY back shoulder kept getting progressively worse and I had to endure the pain. As a self supporting person I had to work, and therefore endure the pain.

In 1999 I had to have ankle surgery due to my 1988 injury from breaking up the fight.

The shoulder kept getting worse. I had to go to hearings and fight to get MRI's 2005 and 2008 , which showed my shoulder was getting progressively worse. Showing the rotator cuff tear, torn labrum, bicep tendon fraying near rupture .

In 2008 my treating physician again recommended surgery. I went to a couple of second opinions of the best shoulder specialists, using my health insurance. All 3 physicians agreed the surgery was necessary. I saw three of the best board certified orthopedists . The insurance Co then sent me for an IME to the same group Of doctors who denied me the of surgery in 1993. I had to go through informal( December of 2009) a formal hearing which took a year and a half then to a commissioners exam, the Commissioner decision came June of 2010, approving the surgery. I had been trying to get the shoulder surgery before my right hip surgery, so I would better able to do the hip rehab. I was in such severe pain, and the approval for the shoulder surgery took o long, I had to have the hip surgery first towards the end of the summer of 2010.

In 2007 I was given my present wheelchair without lumbar support. The technician who was sent from the wheelchair company to evaluate me for the chair was not certified, therefore not qualified, and gave me the wrong chair, without lumbar support with a gap in the bottom of the chair that didn't support my spine. My doctor has and continues to document the need for modification since 2007. The insurance Company would not correct the error even after the wheelchair company offered Travelers to take back the chair and fully reimburse them, so I could get the right chair with the correct support.

In March 2008, The insurance company refused the offer, ignored the medical evidence I had to go through a formal hearing from 2009 to 2010. Commissioner ignored the evidence which he can do, and substituted his own opinion for the medical evidence. I had to file an appeal with Compensation Review Board. On September 13, 2010, three Commissioners at the CRB, after reviewing all the evidence, found the Commissioner who dismissed my case, erred, and made improper inferences, & reversed the decision

At the end of September 2010 despite that decision, the insurance company further delayed in giving me the lumbar support I need, and filed an appeal with the Appellate court. I had to write a brief with no legal training, there were no accommodations made for my disability by the court. I had to hire someone to type it. The stress and physical strain of having to do this has had profound effect. The insurance company can further delay by taking it to the supreme Court. This began in 2007, it is now 2011 and I am still in a chair my physician and physical therapist say need modification and lumbar support

From my vast experience the insurance companies are manipulating the law to their advantage. The IME doctors are a problem and are often used to delay or deny surgery and treatment. They are not often independent or unbiased. It took me from 1993 when my orthopedist first recommended shoulder surgery to 2010, after countless hearings and a formal, to get it approved. It is the same of my other work injuries. These delays result with the injured workers injury becoming worse over time, in re-injury, or in permanent disability. It is not cost effective, detrimental to the injured worker, and can result in further injury or disability. I am not the only injured worker with this experience

\* The insurance companies are rarely sanctioned for these undue delays even though the Commissioners have the power to sanction under the present law. There must sanctions imposed or some other deterrent or changes in the law so they can't manipulate the law to their advantage and delay and destroy the injured worker's health and well being in the process. If the injured worker is given the treatment they need they would/ could return to work. Those of us in the course of their employment, who are not given the treatment in a timely matter get worse and become incapacitated unnecessarily. The employers are willing to spend fortunes in legal fees fight a claim rather than the more financially responsible and less cost of giving the treatment without delay, and letting the worker heal and get back to work. I worked for 30 years severely injured, and now have to pay for it in later life, with restricted mobility and a lesser quality of life.

My concern about this bill is that it does not address the loopholes in the law that allow the employer or insurance carrier to manipulate it.

\* I would like to see a stronger deterrent that is already in the law that not only gives the Commissioner the power to use sanctions, but requires him to do so when it is evident in the injured worker's file, that the injured worker has been there multiple times for where

treatment the physician deems necessary has been delayed, especially if they have been through more than one hearing or formal, trying to get necessary treatment approved. As I understand it now, the Commissioner can only impose sanctions through a formal hearing. If the insurance company had to incur fines for repeatedly delaying treatment I would think that would deter them, save time of formal hearings and excessive legal fees, save the State lot of money, the injured worker, pain & heart ache

The only thing that keeps me going are the students that I have run it into who tell me I played a part in their success, and how grateful they were for my support and advocacy. If it wasn't for that I would be as so many injured workers, deponent, frustrated they can't get treatment, many have lost homes, spouses, and get to the point where they wonder is life is worth living.



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