STATE BAR OF GEORGIA 1964

WORKERS' COMPENSATION LAW SECTION NEWSLETTER

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Workers' Compensation Case Law and Legislative Update

G. Robert Ryan, Jr.
Moore, Clarke, DuVall & Rodgers, P.C.

Any party dissatisfied with the decision of an administrative law judge in a Georgia workers' compensation claim may appeal that decision to the State Board of Workers' Compensation appellate division. The findings of fact made by an administrative law judge must be accepted by the appellate division if supported by a preponderance of the competent and credible evidence of record. O.C.G.A. §34-9-103. An unfavorable decision issued by the appellate division may be appealed to the superior court in the county where the injury occurred. The grounds for review of the decision issued by the appellate division are set forth at O.C.G.A. §34-9-105(c). Findings of fact are subject to an 'any evidence' standard. A party aggrieved by the decision of the superior court may file an application for discretionary appeal to the Georgia Court of Appeals. O.C.G.A. §34-9-105(e); O.C.G.A. §5-6-35(a)(1). An appeal beyond the Georgia Court of Appeals is by petition for writ of certiorari to the Georgia Supreme Court.

This article compiles and briefly analyzes the most recent decisions issued by the Georgia Court of Appeals in workers' compensation related cases, and in addition provides an overview of the 2005 legislative changes to the Workers' Compensation Act.

Davis v. Carter Mechanical, Inc., No.A04A2047, 2005 Ga.App. LEXIS 334 (March 30, 2005)

The dispute involved whether Davis' injury was catastrophic within the meaning of O.C.G.A. §34-9-200.1(g)(6), the so-called 'catch all' provision. The case demonstrates the critical importance of the use of vocational expert testimony in catastrophic claims.

O.C.G.A. §34-9-200.1(g)(6) provides that an injury is 'catastrophic' and thus not subject to the 400 week cap on income benefits, if it is "of such a nature and severity that prevents the employee from being able to perform his or her prior work and any work available in substantial numbers within the national economy for which such employee is otherwise qualified." Id. (But see HB 327 for amendments to this section effective July 1, 2005). In the *Davis* case, the evidence showed that he was unable to perform his prior job. Thus, the dispute arose as to whether Davis could perform any other jobs available in substantial numbers and for which he was otherwise qualified.

Davis suffered a debilitating knee injury resulting in two surgeries. The authorized treating physician found that Davis could only work in a sedentary category, however, an FCE showed he could work in a medium to medium/heavy capacity. Both the claimant and the employer utilized vocational experts. Claimant's expert focused on Davis' low I.Q., limited education, and limited writing and communication skills. The employer's expert performed a job search and located several jobs in the local area for which the claimant was qualified.

The Court of Appeals upheld the finding of the superior court and appellate division that the employee/claimant's injury was not catastrophic.

On appeal, Davis first argued that the employer's vocational expert testimony was not sufficient because it only showed the existence of jobs suitable to the employee/claimant's condition, and did not show the actual availability of any such jobs. The Court of Appeals rejected this contention, finding that the term 'availability' as used in O.C.G.A. §34-9-200.1(g)(6) was satisfied by a showing of the existence of such jobs, and did not require a showing of an actual job opening or job offer.

The Court next addressed the discrepancies between the testimony offered by the dueling vocational experts, and found that any such discrepancies went to the weight to be accorded the employer expert's report,

See **Case Law** on page 2

Case Law

Continued from page 1

and not to the competence of the testimony. Accordingly, the appellate division's determination was upheld under the 'any evidence' standard.

Finally, Davis argued that the employer's vocational expert improperly relied on 'accommodated jobs' in determining that there were jobs available in substantial numbers for which the employee/claimant was qualified.

Since O.C.G.A. §34-9-200.1(g)(6) draws heavily on language from the federal Social Security Act regarding the availability of disability benefits under that Act, the Court of Appeals looked at federal case law addressing this issue. The federal standard states that SSA should not consider 'accommodated jobs', i.e., jobs which may be modified to meet the claimant's restrictions, but should instead consider whether the claimant is able to perform the jobs "as generally required" throughout the national economy. See, *Swanks v. Washington Metropolitan Area Transit Auth.*, 325 U.S. App. D.C. 238 (D.C. Cir. 1997).

While the Court of Appeals apparently found this reasoning to be persuasive, the court determined that the testimony of the employer's vocational expert, taken as a whole, did not indicate that the jobs identified would have to be accommodated in order for Davis to be capable of performing the jobs.

Accordingly, the Court of Appeals upheld the appellate division's determination that Davis was capable of performing light duty work, that such work was available, and that Davis's injury thus was not catastrophic under the Workers' Compensation Act.

Collie Concessions, Inc. v. Bruce, No.A04A1735, 2005 Ga.App.LEXIS 341 (March 30, 2005)

Proving, perhaps, that a fine sense of humor still has its place in the legal profession, the Court of Appeals issued the opinion in this fascinating case a mere five days before the start of the 2005 Masters golf tournament.

Bruce worked for a concessionaire at the Masters and had done so every year since 1981. On April 10, 2002, she rode to work with co-workers and parked in a lot where her employer had secured an allotment of 25 parking spaces. The employer, however, did not own, maintain, or control the lot. After parking, Bruce was required to cross Berckman Road to reach Gate 7, where she was required to enter Augusta National to reach her concession. As Bruce crossed Berckman Road in a temporary pedestrian crosswalk, she was struck and injured by a motor vehicle.

Thus, the decision in this case involved the interplay between the general rule that accidents going to or coming from work are not compensable, the so-called 'parking lot' exception to the general rule, and the employer's contention that the exception did not apply because it did not own, maintain or control the lot.

The ALJ and the appellate division found that the claim was not compensable, citing the general rule that accidents that occur while going to or coming from work are not compensable. The superior court reversed, finding that the temporary crosswalk was part of the employer's premises and that, therefore, the claim was compensable. As is often the case, the Court of Appeals ultimately upheld the findings of the ALJ and appellate division.

The Court of Appeals first addressed the application of the 'parking lot' rule. Generally, injuries occurring during reasonable ingress and egress to/from the employer's facilities to a parking lot owned, controlled or maintained by the employer are compensable. Control over the mere allocation of parking spaces is not sufficient to bring an accident within this rule where the employer neither owns, maintains or controls the lot. See, *City of Atlanta v. Spearman*, 209 Ga.App. 644 (1993). The evidence showed that the lot at issue was owned by Berckman Residential Properties, LLC, the sole member of which was Augusta National. Since the employer did not own and maintain the lot, the parking lot exception did not apply.

The court next considered the superior court's conclusion that the injury was compensable because the temporary pedestrian crosswalk was part of the employer's premises. The court rejected this argument, finding that the crosswalk was part of Berckman Road, a public street, and thus not part of the employer's premises. The court distinguished its decision in *Peoples v. Emory University*, 206 Ga.App. 213 (1992), because the accident in *Peoples* occurred in a street that was owned by Emory University.

Finally, the court addressed the superior court's reliance on the positional risk doctrine and *Johnson v. Publix Supermarkets*, 256 Ga.App. 540 (2002). Finding that the positional risk doctrine did not apply to the facts of this case, and that *Johnson* had been disapproved by the recent Court of Appeals decision in *Chaparral Boats v. Heath*, 269 Ga.App. 339 (2004), the court held that the positional risk doctrine did not apply, and upheld the determination of the ALJ and appellate division denying benefits.

The opinion in this case is physical precedent only, see, Court of Appeals Rule 32(a), because two out of three judges concurred in the judgment only and not in the full opinion. Of particular note, Judge Blackburn wrote a special concurrence arguing that issues of whether the crosswalk and parking lot were part of the premises of Augusta National should not have been addressed, since the employer was Collie Concessions and the evidence clearly showed that Collie Concessions did not own, maintain or control the lot or the crosswalk. Finally, it is worth noting that this decision may be seen as part of a trend, along with the recent decisions in *Chaparral Boats, supra* and *Hill v. Omni Hotel at CNN Center*, 268 Ga.App. 144 (2004) to circumscribe the limits of the exceptions to the general rule that accidents occurring

See **Case Law** on page 4

Kids' Chance Inc. Chatroom

by Cheryl G. Oliver

The new year brought a swarm of activity to the Kids' Chance office. Georgia hosted the Second Kids' Chance of America Conference in Savannah on Feb. 26. Representatives from 12 states met to share information and ideas and went away inspired to continue the effort to ensure that every student in America who can qualify for a Kids' Chance scholarship will have a chance to apply.

Currently, the number of states with scholarship programs for children of injured workers stands at 27! Since the conference, we've had requests for start-up kits from an additional three states. An ad-hoc committee was formed, with representatives from several different states, to develop guidelines for taking the Kids' Chance of America organization forward.

If you didn't attend the Mardi Gras Madness event held in February, you really missed a chance to have some fun and help a good cause at the same time. As Chair Vicki Engel wrote, "At Atlanta's Paris on Ponce in Le Café Moulin Rouge, PRSG hosted a costumed event at which the Kids' Chance Krewe kicked off the evening with a parade led by King Bob Clyatt and Queen Carolyn Hall." The evening included a sumptuous Cajun buffet, silent auction, door prizes, raffle, a special visit from former Kids' Chance recipient Chandra Carswell and her mother, Altemese, and an exciting costume contest won by Ann Bishop. Dr. Larry Empting and his wife, Deborah, showed up in spectacular costume, and were the evening's premier sponsors. The Committee, made up of PRSG members, did a stellar job of planning an extraordinary event and we're grateful to them.

The 2005 Kids' Chance Tennis Tournament, one of our "staple events," took place on April 29 at Stone Mountain Tennis Center. We've come to depend on proceeds from this tournament each year to help us meet our commitments to students like Buck Bryan, who took time from classes at Georgia Tech to play in the tourney. Our deepest thanks go to Bridget Kelly of Restore Neurobehavioral Center, who chaired the event, and her well-oiled committee – Kayla Weekly, Paullin Judin, Patty Conner, Melanie Miller, Stephen Garner, Tim Hanofee, Jan Smith and many others – who came through for Kids' Chance yet again! Thanks, y'all!

Karen Bartlett and crew surpassed our expectations by garnering record proceeds of more than $6,000 from the Silent Auction at the Spring GSIA Seminar in Savannah on May 5. What would we do without our volunteers?

"The check's been cut" — We just received word from Steve Harper at ICLE that we'll again receive a donation of $15,000. We're so thankful for ICLE and the Workers' Compensation Section for their support of Kids' Chance students. This contribution will fund nearly three full college scholarships to deserving young people this fall.

A special note of thanks is due to Ken Donahue, attorney with the firm of Donahue, Hoey & Skedsvold, LLC. Ken created and manages the Kids' Chance website, which provides links to all states with scholarship programs for the children of injured workers. Check it out at www.kidschance.org. **WC**

Subsequent Injury Trust Fund Changes

This year's General Assembly moved the deadline for submitting claims for reimbursement from the Subsequent Injury Trust Fund. No injury occurring after June 30, 2006 will be reimbursable.

Please check the Web site of the Subsequent Injury Trust Fund or contact them if you have questions concerning the implementation of this legislation which will ultimately result in the dissolution of SITF. **WC**

UPCOMING EVENTS

The annual educational seminar put on by the State Board of Workers' Compensation will be held Aug. 28-31, at the Renaissance Waverly Hotel in Atlanta. If you would like additional information regarding this event, please contact Hilary Williams at the Board. Her e-mail address is williamsh@sbwc.state.ga.us.

The annual Workers' Compensation Institute is scheduled for Oct. 6-8, at Sea Palms on St. Simons Island. The chairs this year will be Julie John, Drew Tanner and Judge David Imahara. This is certain to be an enjoyable and worthwhile program. As always, the company will be pleasant and the conversation lively. Please look for the brochure in the mail later this summer. **WC**

Case Law

Continued from page 2

while going to/from work are not compensable. But see, *Longuepee v. Georgia Tech*, 269 Ga.App. 884 (2004).

Eudy v. Universal Wrestling Corp., Inc., 272 Ga. App. 142 (2005)

This is a straightforward case involving application of the exclusive remedy provisions of O.C.G.A. §34-9-11. It deserves mentioning primarily because of its interesting factual background. The claimant, Sidney Eudy, was a professional wrestler who wrestled under the moniker of 'Sid Vicious'. On Jan. 14, 2001, Vicious suffered compound fractures of his left tibia and fibula while performing a choreographed move that required him to jump from the second rope on the ring and land on his opponent. After his contract was subsequently terminated, Vicious sued his former employers under several theories sounding in both contract and tort.

The workers' compensation issue was whether Vicious' tort claims were barred by the exclusive remedy doctrine and a corresponding contractual provision. Interestingly, there was a dispute of fact regarding whether Vicious was an employee or an independent contractor (which would theoretically affect whether the exclusive remedy applied). However, the Court of Appeals found that the contractual provisions limited Eudy's recovery to workers' compensation benefits and that the employer had indeed provided such benefits and, therefore, his tort claims were barred.

An interesting issue would be whether the tort claims would have been barred had the employer failed to provide workers' compensation benefits under the terms of the contract. Under those circumstances, the decision might well have turned on a substantive determination of whether Eudy was in fact an employee or an independent contractor.

Ferqueron v. State Farm Mutual Automobile Insurance Co., 271 Ga. App. 572 (2005)

Ferqueron sought damages under an uninsured/underinsured motorist policy issued by State Farm for injuries suffered in a motor vehicle accident. Since Ferqueron was in the course and scope of his employment at the time of the MVA, his employer paid $33,044.68 in workers' compensation benefits. At trial, the jury awarded $50,000 in damages on a general verdict form, which was reduced by $15,000 previously paid by the other driver's insurance company pursuant to a limited liability release.

State Farm sought to reduce the remaining $35,000 in damages by the amounts paid by workers' compensation, pursuant to a contractual set-off provision contained in the uninsured/underinsured motorist insurance policy. The trial court allowed the set-off, and the plaintiff appealed.

Ferqueron apparently attempted to argue that the contractual set-off was analogous to workers' compensation subrogation under O.C.G.A. §34-9-11.1 and that, therefore, State Farm was not entitled to a set-off unless it was determined that Ferqueron had been fully and completely compensated for all of his economic and non-economic injuries.

The Court of Appeals did not directly address whether the set-off provision was analogous to workers' compensation subrogation and whether the full and complete compensation standard applied. Instead, the court found that the plaintiff consented to the use of a general verdict form and that there was an incomplete record on appeal and that, therefore, the court could not determine whether the trial court committed any error in allowing the set-off.

There is no question that the 'full and complete' compensation rule applies to workers' compensation subrogation liens and can often defeat recovery on the lien. Whether the rule would apply in the opposite situation of a UM carrier attempting to obtain a set-off due to payment of workers' compensation benefits is doubtful. As was pointed out by the Court of Appeals in *Ferqueron*, contractual set-off language like that contained in the State Farm policy is neither precluded by statute nor contrary to the public policy of the State. See, *Northbrook Ins. Co. v. Merchant*, 215 Ga. App. 273, 276 (1994).

Minter v. Tyson Foods, Inc., 271 Ga. App. 185 (2004)

On Dec. 31, 2004, the Georgia Court of Appeals decided three issues in *Minter v. Tyson Foods, Inc.*, which were presented to the court on appeal from the superior court of Marion County. The first issue before the court was whether the superior court erred in remanding the award of TTD benefits to the State Board because it was unclear as to whether or how the standards and requirements of the *Padgett v. Waffle House, Inc.*, 269 Ga. 105 (1998) and/or *Maloney v. Gordon Cty. Farms*, 265 Ga. 825 (1995) decisions were applied. The second issue was whether the superior court erred in affirming the appellate division's decision vacating an award of assessed attorney fees. Lastly, the court decided whether the provisions of O.C.G.A. § 34-9-108(b)(4) regarding assessment of litigation costs would be applied retroactively.

With regard to the first issue, the ALJ found that the employer only offered the employee/claimant employment beyond her physical restrictions and that her injury was therefore reason for her continued unemployment. Therefore, under the reasoning of *Padgett v. Waffle House*, supra, the ALJ found that the injury was the reason for the employee/claimant's continued unemployment and that she was accordingly entitled to recommencement of income benefits. The ALJ also noted that even if Padgett did not apply, the Employee was entitled to benefits under *Maloney v. Gordon County Farms, supra*, because the employee had conducted a diligent job search but was unable to secure suitable employment.

The Court of Appeals stated the evidence arguably did not support the ALJ's conclusion that Padgett applied to the facts of the case. In the decision the court noted that in

Padgett, the employee was terminated from her employment for reasons which were directly related to her job injury. However, in this case, the employee's job loss originally stemmed from a general layoff, rather than termination by reason of her on the job injury.

On the other hand, under the *Maloney* reasoning the court held there was some evidence supporting the findings that the employee sustained a compensable work-related injury, was unable to return to work, and had made a diligent but unsuccessful attempt to find employment elsewhere. Therefore, the award of TTD benefits for the employee was upheld under the 'any evidence' standard.

On the second issue the Court of Appeals held the appellate division was entitled to find an additional award of attorney's fees excessive and not supported by a preponderance of the evidence. The ALJ initially awarded attorney fees under O.C.G.A. § 34-9-108(a) in the amount of 25 percent of the employee's weekly benefits and also awarded a lump sum attorney fee of $3,000 in accordance with O.C.G.A. § 34-9-108(b). The appellate division found the additional award of attorney's fees excessive which was affirmed by the Court of Appeals, again under the 'any evidence' standard of review.

Finally, the Court of Appeals held that O.C.G.A. § 34-9-108(b)(4), which allows for the recovery of litigation expenses, creates a substantive right and therefore may not be applied retroactively to cases with dates of injury prior to its enactment. O.C.G.A § 34-9-108(b)(4) was enacted on July 1, 2001, and there was no right to an assessment of litigation expenses under the Workers' Compensation Act before that date. The employee's injury occurred in September 1999, and, accordingly, she was not able to use the provisions of O.C.G.A. §34-9-108(b)(4) to obtain an award of assessed litigation expenses.

2005 Legislative Enactments

HB 200, signed into law by the Governor on May 10, 2005, moves up the cut-off date for new SITF claims. The amendment provides that "The Subsequent Injury Trust Fund shall not reimburse a self-insured employer or an insurer for an injury occurring after June 30, 2006. The Subsequent Injury Trust Fund shall continue to reimburse self-insured employers or insurers for claims for injuries occurring on and prior to June 30, 2006, which qualify for reimbursement".

There exists some misconception that the law now prevents any claims from being filed after June 30, 2006. However, the statute does not provide such, but instead provides that no claims shall be reimbursed for an injury occurring after June 30, 2006. Thus, any new injuries occurring on or before June 30, 2006 may still be submitted to SITF for a reimbursement agreement, in accordance with the statute and SITF rules.

HB 327, also signed into law on May 10, 2005, contains several provisions amending portions of the Workers' Compensation Act.

O.C.G.A. §33-9-40.2 was amended to remove an eight year cap on premium discounts for certified drug free workplaces.

O.C.G.A. §§34-9-40 and 34-9-60 were amended to clarify the State Board's authority to promulgate rules regarding electronic filing, in anticipation of implementation of an electronic filing program within the next year.

There were three amendments addressing the issue of catastrophic injury.

Most importantly, O.C.G.A. §200.1(g)(6), the 'catch-all' provision, was rewritten so that it now consists of two subsections, (A) and (B). O.C.G.A. §34-9-200.1(g)(6)(A) now provides a rebuttable presumption, within 130 weeks from the date of injury, that an employee released to return to work with restrictions is not catastrophically injured. O.C.G.A. §34-9-200.1(g)(6)(B) now provides a rebuttable presumption that an injury is no longer catastrophic once the employee/claimant reaches the age of eligibility for Social Security retirement benefits as defined at 42 U.S.C. §416(l). However, a determination under this new subsection may only be made by the Board after an evidentiary hearing.

O.C.G.A. §34-9-102(a) was amended to provide that the evidentiary hearing called for in O.C.G.A. §34-9-200.1(g)(6)(B) shall not be scheduled less than 90 days after the hearing is requested.

Finally, a new subsection was added to O.C.G.A. §200.1, subsection (i), which clarifies that either party may, upon reasonable grounds, request a new determination after a decision determining whether a claim is catastrophic.

The remaining changes were to adjust the TTD and TPD rates. O.C.G.A. §34-9-261 was amended to increase the maximum TTD rate to $450 per week and the minimum to $45 per week. O.C.G.A. §34-9-262 was amended to increase the maximum TPD rate to $300 per week.

As with all areas of the law, the workers' compensation laws are constantly undergoing change and refinement, due to legislative enactment and judicial interpretation. Some areas of interest in the upcoming months may include litigation regarding application of the recent amendments to the catastrophic statute, continued refinement of the ingress/egress, parking lot and positional risk doctrines, and continued litigation regarding the circumstances of illegal immigrant workers. A trio of cases decided in 2004, *Earth First Grading v. Gutierrez*, 270 Ga. App. 328; *Wet Walls v. Ledezma*, 266 Ga. App. 685; and *Continental Pet Technologies, Inc. v. Palacias*, 269 Ga. App. 561, made clear that illegal immigrant status, alone, does not foreclose receipt of Georgia workers' compensation benefits. However, these cases did not address every conceivable fact pattern involving illegal immigrant cases, and with the continued influx of immigrants, legal and illegal, into Georgia, there is likely to be more litigation on this issue. **WC**

Going Paperless:

SBWC's Integrated Claims Management System

By Jan Dillard, Ph.D.
ICMS Project Manager

Paper, paper everywhere. Stacked high, spread all over desks, in file cabinets, on the copier, in the courtroom. Everywhere, paper. Each day, thousands of pieces of paper arrive at the State Board of Workers' Compensation (SBWC): First Reports of Injury. Requests for Hearings. Change of Address notices. Change of Physician notices. Rehabilitation supplier applications. In fact, more than 40,000 claims are submitted each year. There are more than 15,000 requests for hearings with 1,400 of those actually going before a judge. Those 1,400 hearings may reference a file that is two to three inches thick with papers. One whole section of the SBWC mailroom is devoted to "Fat Files" – those files that are literally so fat that some are stored in boxes.

In an effort to wrestle this growing behemoth, the Georgia State Board of Workers' Compensation (SBWC; the Board) launched a major initiative in July 2004 to eliminate as much paper as possible and to streamline all of their processing. Yes, all of their processing. This initiative, the Integrated Claims Management System (ICMS), is an automated Enterprise Document Management System and will revolutionize the way SBWC works.

ICMS Goal

The goal of the ICMS initiative is to increase the responsiveness and effectiveness of SBWC staff by shifting the focus of their efforts away from pushing paper. According to Judge Carolyn Hall, SBWC chairman, "This technology initiative will streamline the monitoring of claims, provide the means to measure and monitor workflow, and increase accessibility for all stakeholders." By moving away from paper processing, the Board can concentrate on more important things: ensuring the timely payment of benefits, responding quickly to requests for mediation, conducting hearings efficiently and effectively and expediting the settlement of claims.

This initiative is a major undertaking for SBWC. Every aspect of the Board is undergoing analysis. More than 40 different forms are being revised. Every position is being given new or upgraded computer hardware. Every process is being dissected, evaluated and improved. Every business rule that governs the way the Board works is being researched, confirmed, changed, or eliminated. Every report is being examined to determine its usefulness. In short, it is a huge undertaking.

Implementation – A Phased Approach

As part of the ICMS initiative, SBWC conducted an in-depth review of all processes, forms, business rules, and reports. A Future State Analysis followed that effort. The Future State sessions examined in detail the way the Board wants to work in the future. From these sessions, detailed requirements have been developed for the ICMS and serve as the basis for the system design. SBWC's partner, HCL Technologies, is customizing their document management system, previously implemented in Tennessee, Missouri, and Washington, D.C.

ICMS will be implemented in four phases. The first phase concentrates on the creation and processing of new claims. A database management system is being built to recognize all new claims and to store all pertinent data related to that claim. The new automated system allows for all paper coming into SBWC to be scanned into an electronic folder. The system creates a number unique to that claim and attaches the number to all information that comes to the Board about that claim. The information is processed electronically through the Board according to a streamlined process that quickly routes the information to the most appropriate person.

The second phase will focus on mediations, hearings, and appellate actions. The automated system provides for case assignment, scheduling and docketing of mediations and hearings, the generation of orders, as well as the electronic notification of claim activity to all parties. The system will quickly identify times and locations for possible hearings. Cases will be sent to the appropriate judge via the system and all documents associated with the claim will be viewable on the system.

In the third phase ICMS will offer the on-line submission of claims over the Internet. Attorneys, claimants, insurers, self-insurers, TPAs, physicians, rehabilitations suppliers will be able to submit documents to SBWC over the Web. Also in the third phase ICMS incorporates Managed Care and Catastrophic Disability information and processing for the Information and Referral Division. SBWC will be able to receive and send electronic rehabilitation plans, issue and sign administrative decisions, and to collect performance feedback on rehabilitation suppliers.

The fourth and final phase will provide the capability for Insurers, Self Insurers and Third Party Agents (TPAs) to send claim information via Electronic Data Interchange (EDI). This information will then be processed by the system and incorporated into the claim management database, all with very little handling by SBWC personnel. Also in the final

See **Paperless** on page 7

Paperless
Continued from page 6

phase, the information in the GO (Georgia Online) system will be migrated to ICMS.

Implementation Schedule

Stan Carter, SBWC Executive Director is eager to roll out the ICMS project: "ICMS will make an immediate impact on the efficiency of the Board and will enhance our responsiveness to all stakeholders." Representatives from Claims Processing and Quality Assurance and Licensure as well as other areas of the Board will test system functionality as well as process workflow and business rules. The Board expects a to release Phase 1 functionality of ICMS by July 2005. At that time, all new documents coming to the Board will be scanned into ICMS. Existing files will be scanned as time allows. Over the next year, all open and active files will be scanned into ICMS.

The remaining phases are expected as follows: Phase 2 functionality by Fall 2005, Phase 3 functionality by Winter 2005, and Phase 4 functionality by Spring 2006.

This remarkable new technology system is revolutionizing the work of the Georgia State Board of Workers' Compensation. In fact, it is revolutionizing Workers' Compensation oversight in the United States. Georgia's new system will be the first to include all these aspects of processing: paper scanning, web-submittal, and EDI transmission. ICMS will indeed reinforce Georgia's system as a national leader. This new system will enhance the Board's ability to foster fairness to all workers' compensation parties and to insure that injured employees receive quality care, appropriate income benefits, and return to suitable employment. **WC**

There's still time to get your name in the *History of Workers' Compensation in Georgia*! Don't miss the opportunity to have your name listed in this prestigious publication!

Hurry! We don't want you to miss the press deadline. Please make checks to Kids' Chance/History Book and send to:

Cheryl Oliver
Executive Director
P. O. Box 623
Valdosta, GA 31603

Board Forms Changing

by Kathy Oliver
oliverk@sbwc.ga.gov

Effective July 1, 2005, the State Board forms are changing. Our new ICMS system will assign a claim number to each claim. The claim number will be sent to you by email. All forms will have a place at the top of the form to insert the claim number. All forms will ask for email addresses, as much of our correspondence and notification will be done by email.

We have developed a Change of Address form to use to change the address for the; employee, employer, insurer/self-insurer, attorney for employee, attorney for the employer that was previously reported on a WC14.

The WC 262 has been developed to report to the Board when paying temporary partial benefits. If benefit payments are ongoing, you can report every 13 weeks. Or if benefits are suspended prior to 13 weeks, file the WC 262 at that time.

The WC14A is a new form. This is the Notice to Amend Information on a previously filed WC14. You will be able to amend the employee's name, date of injury, part of body, hearing issues, social security, county of injury, date disabled and mediation issues.

The WC1 has been changed to include the ICMS claim number and email addresses. Both Section B & C ask if the claim was previously a medical only claim. Section D has been added to allow you to file a Medical Only claim if you choose to. You are not required to do so.

The WC 14 has been changed and is no longer a front and back form. Section C allows you to specify your hearing and mediation issues.

The WC26, which was previously used to report the number of Medical Only cases and the amount paid for Medical Only cases in the previous calendar year, has been changed to include and Indemnity section. In this section you will report the number of Indemnity Claims and payments on Indemnity Claim in the previous calendar year.

Rule 104 has been changed to reflect that a copy of the WC104 will only be filed with the Board when you are filing a WC2 to reduce the amount of benefits being paid.

Finally, the new ICMS system will allow us to identify the claim handling office on a per claim basis or per company. The form WC121 has been changed to allow you to file information on this basis.

The State Board is very excited about the new system and we believe that our service to all parties in the Workers' Compensation system will be enhanced. We look forward to working with you. The forms will be posted on our Web site www.sbwc.georgia.gov. Please check the Web site for updates and changes. **WC**

WORKERS' COMPENSATION LAW

Know someone who is interested in joining the Workers' Compensation Law Section?

Tell them to send their name, address and Bar number, along with a $25 check made payable to the State Bar of Georgia, to:

State Bar of Georgia
Membership Dept.
104 Marietta Street, NW
Suite 100
Atlanta, GA 30303

If you received this newsletter then you are a member of the section through June 30, 2006.

State Bar of Georgia
Workers' Compensation Law Section
Staten Bitting, Editor
104 Marietta Street, NW
Atlanta, GA 30303

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