

North Dakota Legislative Council  
Workers Compensation Review Committee  
April 30, 2008

**12/16/81** I was employed by the City of Fargo as a firefighter.  
I am a non-smoker. We did not have SOP and SOG at that time. These have come about over the last 10 to 15 years.

**05/02/90** I was diagnosed with bicuspid aortic valve / aortic insufficiency. I had Periodic echocardiograms.

**11/11/98** I had an emergency room visit for evaluation of chest tightness and shortness of breath. I was diagnosed with non-specific chest discomfort, history of bicuspid valve disease, my EKG and labs were normal.

**11/20/98** I was seen by Dr. David Clardy for evaluation of a bicuspid aortic valve and aortic insufficiency.

**01/05/99** I filed an application for Workers Compensation Benefits.  
This was months prior to my heart surgery.

**02/09/99** WSI dismissed my claim due to "preponderance of evidence of my prior medical history stating it was caused by non-employment factor, specifically bicuspid valve, a congenital condition.

WSI's decision was based upon pre-surgery information. The medical findings of my surgery were never reviewed until 2006.

**11/21/99** I had open heart surgery.  
I did not look at my medical records until 2006.

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**03/07/06** I filed a claim with WSI for an enlarged aorta, leaking valve, and hypertension.

52 DAYS

**04/27/06** WSI accepted liability for hypertension. They did not accept liability for my aortic valve condition as they felt that had been addressed in their 02/09/99 claim dismissal.

I ordered and reviewed my own medical records.

28 DAYS

**05/24/06** I requested reconsideration of the 04/27/06 liability decision due to my 1999 post-operative diagnosis. I had had a tricuspid valve. I did not have a congenital bicuspid valve as previously diagnosed.

After reviewing my medical records I consulted with my Cardiologist for medical interpretation of my pre-surgery and post-surgery medical records of November 1999.

15 DAYS

**06/07/06** Dr. Cooper, with WSI, did a records review of my claim and supported the non-congenital issue and determined I met the criteria for presumption afforded firefighters (NDCC 65-01-15, 1) and re-opened my claim.

13 DAYS

**06/20/06** WSI issued a notice of Decision Reversing Benefits. They reversed the Dismissal dated 02/09/99 finding that I did not have a congenital heart Condition.

This is where I feel, under NDCC 65-01-15, 1, my family and I should never have endured what we were put through in the following events.

120 DAYS

**10/17/06** WSI ordered me to undergo an Independent Medical Exam by Dr. Richard Brody, Cardiologist. Dr. Brody's report indicated, in part, the following: "I do not believe that Mr. Walter's valvular heart disease is a congenital condition. Rather, the fact that it is a trileaflet valve, as well as the fact that pathologically it was shown to have calcification, suggests to me that the valvular abnormality was related to healing of the endocarditis. Another possibility is that he had had subclinical rheumatic fever as a child; although, this, to me, seems somewhat less likely because his mitral valve was unaffected."

I questioned WSI as to why I was being sent for this medical evaluation. I was told I was chosen possibly in a random audit for review. I would be very interested in seeing the process of how and why I was chosen.

21 DAYS

**11/06/06** Dr. David Clardy agreed with Dr. Brody's Independent Medical Exam findings, indicating that "there is no way to pinpoint the exact cause of Mr. Walter's aortic valve disease. It is clear however based on the pathology report and other imagining tests that his condition was most likely not congenital."

Dr. David Clardy is a Cardiologist with MeritCare Health Systems. MeritCare's Heart Center is one of this nation's top 100 hospitals. Dr. Clardy is one of their most respected Cardiologists. As a city employee, when injured, we are required by WSI to seek treatment with MeritCare Health Systems. Why then does WSI not trust MeritCare's medical expertise?

10 DAYS

**11/16/06** WSI issued a Notice of Decision Denying Further Liability finding  
My valvular heart disease was caused by a prior infection of rheumatic  
fever and not any work related activity.

Let me quote from Dr. Brody's Independent Medical Examination: "I do not believe that Mr. Walter's valvular heart disease is a congenital condition. Rather, the fact that it is a trileaflet valve, as well as the fact that pathologically it was shown to have calcification, suggests to me that the more likely scenario that he had developed sometime in the distant past subclinical endocarditis (valvular infection) and that the valvular abnormality was related to healing of the endocarditis. Another possibility is that he had had subclinical rheumatic fever as a child; although, this, to me, seems somewhat less likely because his mitral valve was unaffected."

All of my benefits were stopped (with the exception of hypertension) on 12/07/06.

I had personally submitted pharmacy receipts totaling over \$1,300.00 dollars to the Fargo WSI office in July of 2006, which were never processed. Were they planning on denying me coverage all along with or without the Independent Medical Review ordered on 10/17/06?

16 DAYS

**12/01/06** WSI was in receipt of my Attorney, Jasper Schneider, request for reconsideration of WSI's 11/16/06 decision. Jasper stated, "WSI has shown no objective medical evidence that Noel's heart condition was not a result of his work as a firefighter.

75 DAYS

**02/13/07** WSI revoked the 06/20/06 acceptance of my claim and further benefits were denied.

It took WSI 75 days to determine my appeal decision. Repeatedly, the injured worker has very strict timeline guidelines for submission of appeals, namely "30" days. If we do not comply, our claims and appeals, are null and void.

0 DAYS

**02/13/07** My attorney, on my behalf, requested a hearing on WSI's order dated 02/13/07.

8 DAYS

**02/20/07** I requested the assistance of the Office of Independent Review regarding the 02/13/07 order.

31 DAYS



**03/23/07** OIR addressed a letter to me stating they closed out the request for assistance without any recommended change to the order, and a Certificate of Completion.

An Advocate from OIR phoned me on 3/22/07 and reviewed my appeal with me via telephone. The Advocate felt my claim was legitimate. He stated he would contact WSI to review the claim. The Advocate phoned me on 3/23/07. He stated WSI was not going to reverse their decision, therefore, there wasn't anything he could do for me. Please reference OIR response dated 3/23/07. WSI claims that the OIR is there to help the injured worker. What did this office do on my behalf? We strongly feel OIR should be entirely independent of WSI; they need to operate with complete objectivity. They need to strongly support the injured worker.

**193 DAYS**

**4/8/07** I was admitted to St. Mary's Health Center ER in Detroit Lakes, Mn. After having what was referred to as a TIA (mini-stroke).

After the Doctor performed several tests there and more over the next few days at MeritCare, Dr. Clardy felt that I had formed a clot on my valve and that it broke loose and when it lodged in the brain it dissolved out after a few minutes. This is just one of the possible problems I face the rest of my life do to this heart condition.

**10/01/07** WSI entered into a Stipulation Agreement with me in an effort to resolve the dispute without a formal hearing.

My claim should have fallen under the presumption clause for firefighters. This claim never should have been the issue it was.

We do not feel that the injured worker should have to endure the "roller coaster ride" my family and I endured. Let alone the length of time it took for this process.

Need I remind you, I do have a heart condition. We endured emotional, physical, and financial duress.

Our home was placed on the market (and we all know what has happened to the housing market during this time period).

Financially, to meet our monthly financial budget / obligations, we were forced, twice, to tap into our retirement account therefore enduring severe penalties for early withdrawal. We did so to keep a positive credit history.

We had to continuously communicate with our medical providers for consideration of payment of our medical bills. Our insurance would not continue to pay my medical claims while awaiting our WSI appeals, reversals, and delays.

Even with the settlement we do not have the security in knowing that another "reversal" another "issue" is forthcoming. We do not have a TRUST relationship.

We feel WSI should not be allowed to use threats of claim termination in their correspondence. They should use kinder verbiage. If someone does not abide by their requests then issue compliance orders with consequences clearly stated.

The injured worker should be shown respect. WSI should be kind and professional. EXAMPLES: Corvel Meeting letter, Six Month Heart / Lung Scan (approved but not guarantee payment?).

Mileage: Could that be changed to address to address from the present city limit to city limit. I have been told they use "Mapquest.com" for the mileage and it would only take a couple of seconds to put the whole address in to pay full mileage. The difference to me in one month is about \$17.00 to \$20.00 and every dollar counts with the high cost of fuel!

**FROM FIRST CLAIM IN 2006 TO DECISION - 582 DAYS / 19.4 MONTHS**