

VALUING A CASE

OR

“YOU THINK IT’S WORTH WHAT??”

PANELISTS

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FACTORS TO CONSIDER

- Indemnity Factors
- Medical Factors
- Permanency Factors
- Life Expectancy
- Present Day Value Considerations
- Miscellaneous Considerations

INDEMNITY FACTORS

- Average Weekly Wage/Compensation Rate
 - Calculate an hourly rate
- Likelihood of Return to Work
 - Temporary Partial?
 - Run figures at various hourly rates
 - Vocational Rehabilitation Costs? Likelihood?
 - Job Market/Geographical area
 - Residual work capacity – physical and otherwise (education, experience, etc.)
- Disputed periods of disability

MEDICAL FACTORS

- Current Medical Status
 - Frequency of treatment
 - Date of most recent treatment
- Payments made to date, especially average monthly cost for last year and projected Rx costs
- Recurrent treatment costs (often annual costs of Rx and office visits)
- Possible future treatment and projected cost (surgery).
- Life expectancy
- Use of Fee Schedule
- Present value of medical costs

PRESENT DAY VALUE ISSUES

- How to calculate?
 - Make sure it is set up for weekly payments
 - Various online calculators are available
 - <https://www.constangy.com/resources-workerscomp>
 - http://www.moneychimp.com/calculator/present_value_calculator.htm
- Discount Rate – VWC uses 4%
- Can use for medical benefits too
- Annuitized payments or straight formula?
- Commission uses annuitized payments for PPD lump sum
- Longer period of potential payout, more significant

PERMANENCY

- Permanent Partial Disability
 - AMA Guides
 - Offsetting a high/low rating
- Permanent Total Disability
 - Ratings
 - Gainful employment
 - Life expectancy

CASE VALUE AND SETTLEMENT CLAIMANT'S PERSPECTIVE

- Setting expectations (settlement evaluation)
- Mediation, hearing or both?
- SSDI, VRS, child support, liens, and conditional payments
- Future treatment plans
- Soft factors

CASE VALUATION

A MEDIATOR'S PERSPECTIVE

- Review medical treatment costs/trends
 - Don't discount the value of a lifetime medical award
 - Assess costs of proposed treatment and recurring Rx, therapies, etc.
- Determine current disability status and likelihood of return to work
- Check life expectancy (including rated age if applicable)
- Calculate actual & present day value of remaining weeks
 - Calculate 1-5 years of TTD
- Calculate a TPD rate for comparison
- Calculate projected medical costs @ \$200/month, \$300/month, etc., based on life expectancy and reduced to present value
- Assess possible outcomes of current disputes

CASE VALUATION DEFENSE PERSPECTIVE

- Whether it is an advantageous time to settle
- When to schedule mediation vs. trying to negotiate on your own
- Assessment of pending litigation
- Subrogation potential and timing of workers' compensation settlement
- Medical exposure:
 - Medicare, MSA, and conditional payments
 - Possible meeting with physician to assess exposure
- Indemnity exposure:
 - Statute of limitations
 - Assess best and worst case scenarios
 - Impact of other benefits such as VRS disability retirement
- Resignation and release