

Case 7 – Stephen

Stephen is an apprentice electrician who works for an unsympathetic boss. Stephen presents to you with a badly bruised and sprained left ankle after a fall from a ladder. You strap the ankle and advise two weeks rest along with physiotherapy. Stephen is very anxious about such a long period of sick leave as he cannot afford the drop in income and knows his boss will be angry if the accident is recorded as a work-related injury.

Best Practice Response

Material facts

- The relevant facts are:
 - Stephen suffered a badly bruised and sprained left ankle. It is assumed that this occurred at work.
 - A recommendation has been made for two weeks of leave from work and physiotherapy. Stephen is very anxious about such a long period of sick leave.
 - Stephen does not want this to be recorded as a work-related injury

Relevant ethical considerations and medico-legal issues

- The Medical Board's Code of Conduct notes that maintaining clear and accurate records is essential for the continuing good care of patients. Medical practitioners are required to keep accurate, legible and up-to-date records that report relevant details of clinical history, clinical findings, investigations, information given to patients, medication and other management in a form which can be understood by other health practitioners.
- The Medicare Benefits Schedule (MBS) claims data are an administrative by-product of the Department of Human Services administration of the Medicare fee-for-service payment system which processes services that qualify for a Medicare Benefit under the *Health Insurance Act 1973* and for which a claim has been processed. The MBS data does not cover all patient activity, such as services rendered under an entitlement conferred by legislation other than the Health Insurance Act, for example services covered by third party or workers' compensation, where an interim benefit has not been paid, or services rendered to repatriation beneficiaries or defence personnel

MDA's recommendations

- The clinical records should accurately reflect the history given by Stephen, and should include that the history that the injury occurred at work. Although Stephen currently maintains that he does not intend to pursue a workers compensation claim, the situation may change if the injury is more extensive than originally thought, or Stephen requires ongoing treatment which is impacting on his earning capacity.
- Whilst it is important to empathise with Stephen's situation with respect to your treatment recommendations, this should not influence you to change your recommendations.
- Stephen cannot be compelled to submit a workers compensation claim so that professional fees are covered by workers compensation legislation. In those circumstances, it is appropriate to raise the appropriate Medicare benefit. However, should Stephen subsequently commence a claim, Medicare may seek recovery of those amounts.
- Stephen should be advised that he should seek independent legal advice regarding possible forfeiture of his entitlements pursuant to workers compensation legislation. For example, in NSW under section 254 of the Workplace Injury Management and Workers Compensation Act, neither compensation nor work injury damages are recoverable by an injured worker unless notice of the injury is given to the employer as soon as possible after the injury happened and before the worker has voluntarily left the employment in which the worker was at the time of the injury.
- Seek advice from your MDO as the specific circumstances of each case should be considered on their merits.

Links to resources:

Medical-Board of Australia Good Medical Practice: A Code of Conduct for Doctors in Australia- March 2014 (Clause 8.4.1)

Medical Records - 2016

http://www.health.gov.au/internet/main/publishing.nsf/Content/PHN-MBS_Data

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