



CLIENT NEWSLETTER



THE LAW OFFICE OF RICKY D. GREEN, PLLC

February 13, 2013

Hello Readers,

Thank for you reading our newsletter. Our law office gets the occasional question on entitlement to lifetime income benefits. The Division has stated in several decisions that lifetime income benefits (LIBs) begin to accrue on the date of disability and are payable retroactively from the date of disability. Texas Workers' Compensation Commission Appeal No. 991293, decided July 30, 1999, and APD No. 020786, decided May 14, 2002.

In *Insurance Co. of State of Pennsylvania v. Muro*, 347 S.W.3d 268 (Tex.2011), a jury found that a claimant was entitled to LIBs. On appeal, the court of appeals affirmed the jury verdict. Later, the Texas Supreme Court stated that the claimant was not entitled to LIBs. The question before the Supreme Court was whether an injury to a body part not listed in the LIBs provision of Texas Labor Code Section 408.161 entitles a claimant to LIBs if that non-listed injury results in the claimant's total and permanent incapacity.

In the *Muro* case, the claimant injured her hips, a body part that would not entitle a claimant to LIBs under the LIBs provision of the Texas Labor Code. The hip injuries limited the use of her feet and prevented her from working. The LIBs provision provides that a claimant is entitled to LIBs if she/he "has loss of both feet at or above the ankle." The claimant stopped working and sought LIBs as she was experiencing difficulty walking from the parking lot and sitting at her desk.

The Supreme Court stated: "The evidence in this case indicates that physical injuries to Muro's hips, shoulder, back, and neck limited or impaired her ability to use her feet and right hand. There was no evidence, however, that these physical injuries extended to the hand or feet..."

The Supreme Court noted that while the evidence indicated that physical injuries had "impaired [the claimant's] ability to use her feet and right hand," there was no evidence presented that these injuries extended to the hands or feet, either directly or indirectly. The Texas Supreme Court held: "The Legislature has limited the award of lifetime income benefits to the specific injuries and body parts enumerated in section 408.161; nothing in the statute authorizes the substitution of other injuries or body parts for those enumerated. TEX.LAB.CODE § 408.161. The injury to the statutory body part may be direct or indirect... but the injury must extend to and impair the statutory body part itself to implicate section 408.161."

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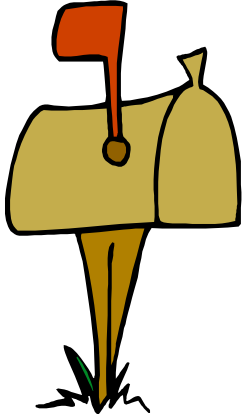
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QUESTIONS? COMMENTS? Have questions or comments about any of the stories in the newsletter or general questions about a workers' compensation matter? Drop us a line at questions@rickydgreen.com, or give us a call at (512) 280-0055. We look forward to handling all of your workers' compensation needs.

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