

Compensable Consequence Injuries in Workers' Compensation

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Workers' compensation has a principal known as the "compensable consequence" or secondary injuries, where a subsequent injury is the direct and natural consequence of an original industrial injury. The subsequent injury is considered to relate back to the original injury and it is not treated as a new and independent injury.

For example, if the medical treatment for the work injury i.e. pain medications for a back injury aggravates or causes an additional injury-like Gastro-esophageal Reflux, the injured officer may be entitled to additional workers' compensation benefits for the new part of body or condition.

The following are illustrations of injuries covered under the compensable consequence doctrine:

- Employer's physician advised the injured worker to get out and be more active so as to improve the vision in an injured eye. The injured worker amputated a finger while cutting

wood with a power saw. The court held that the fact that the injured worker could not see well and that he was following the doctor's advice was sufficient causal connection with the original injury.

- Workers' compensation benefits awarded where drug addiction resulted from treatment since the addiction would not have materialized but for the injury and the medical treatment furnished in the form of prescriptive medications.
- Where an employer requires an employee to present a return-to-work release from the treating physician, the act of the employee in bringing the report to the supervisor arises out of employment and an injury in that effort is compensable.
- Increased disability due to medical malpractice in surgery to treat industrial injury found to relate back to industrial injury.
- Disability caused by doctor's improper treatment of industrial injury found to relate back to industrial injury.

- Increased disability caused by off-the-job fall from a ladder found to relate back to industrial injury where pain and weakness from industrial injury contributed to the fall.
- Employee's death due to negligent treatment in employer's dispensary following industrial injury found to relate back to industrial injury.
- Injury sustained in car accident on the way to treatment for industrial injury found to relate back to industrial injury.
- Employee's death arising from an accidental overdose of prescribed medication for the original industrial injury related back to original injury.
- Employee's sustained additional internal injuries to the kidneys and pancreas from taking prescribed medication for back and heart injuries related back to the original injury.

The compensable consequence doctrine expands the benefits for an injured officer who sustains additional injuries as a result of the original claim.

The analysis is “but for” the original injury the officer sustained an additional injury. For example, “but for” the original back injury, the officer was required to take prescriptive pain medication that caused an additional injury to the officer’s kidneys. The kidney injury would be covered under the compensable consequence doctrine.

About the Author-John A. Ferrone is a partner in the law firm of Adams, Ferrone & Ferrone. The law firm has been retained by AOCDS for workers’ compensation. The law firm has offices in Westlake Village, Newport Beach, and San Diego. If you have further inquires, please e-mail them to jferrone@adamsferrone.com