

Pre-Existing and Degenerative Conditions

Some conditions may be considered to be pre-existing, degenerative or a normal disease of life and these may be disputed by the insurance carrier as not related to the injury. Typically, a PLN-11 is filed by an insurance carrier which disputes these conditions. This has been a source of confusion and frustration for many patients who have been working for many years, and in laborious occupations. In order to better understand this issue, it is important to understand certain language and requirements in the Texas Workers Compensation for pre-existing, degenerative or a normal disease of life conditions to be included as an accepted condition, if possible. In the event that one or more disputed conditions are 'pre-existing' or 'degenerative' such as Degenerative Joint Disease (DJD), Degenerative Disc Disease (DDD) in the spine, Hypertrophic or sclerotic changes, osteoarthritis of the shoulder or knee, and other such conditions, it must be determined if a particular condition was aggravated. Based on TDI-DWC Rules and legal requirements, a condition must be causally correlated (proven, not assumed) to the work-related injury in order to be considered as part of the injury. A pre-existing condition can become aggravated and, therefore, be included as part of the injury but certain elements must be met in order to meet the substantial contributing factor requirements.

An **aggravation** of a pre-existing or degenerative condition is defined as:

"A claimed injury that causes additional damage or harm to the physical structure of the body and can include any naturally resulting disease or infection; and can include an enhancement, accelerative or worsening of an underlying condition."

For a pre-existing condition to be included as part of the injury, one must consider Appeals Panel Decision (APD) No. 94428 in which the Appeals Panel declared that to prove an aggravation of a pre-existing condition there must be an "**aggravation**", which is some enhancement, exacerbation, acceleration, or worsening of the underlying condition from the injury, and not just a mere recurrence of symptoms or pain inherent in the etiology of the pre-existing condition that has not been completely resolved and not a permanent condition, which would be termed an "**exacerbation**". So it must be proven that the pre-existing condition(s) was/were aggravated as opposed to exacerbated. Without the benefit of prior medical records such as x-rays, MRIs or CT scans that were taken of the same area prior to a work injury, it is extremely difficult to meet this burden. The mere recurrence of symptoms or pain inherent in the etiology of the pre-existing conditions that has not been completely resolved or the presence of pre-existing findings themselves is insufficient to justify the inclusion of the condition(s) as part of the extent of the injury.

Although this is a difficult task, there are strategies that you as a Treating Doctor can do along with the Radiologist and other medical specialists involved in your case. It is important that your Treating Doctor perform a very detailed and uniquely designed initial evaluation and patients must provide as much detail of what happened during and after the injury. Your Treating Doctor should:

- Take a **detailed and accurate description of the history** of how the injury happened and what body areas were injured as a result of the injury as well as the effects of those injuries.
- Provide an **explanation of the mechanism of the injury** that accurately describes and relates the forces involved in the injury and how those forces were a substantial contributing factor that were significant to the degree to produce or result in the injury. If the doctor can explain to a reasonable medical degree that there was an aggravation of any pre-existing or degenerative conditions, then the Treating Doctor should provide this explanation with any correlating medical evidence.
- Perform a **complete initial evaluation** including:
 - Range of motion (ROM) measurements using appropriate measuring devices as well as passive ROMs to differentiate potential joint, muscle and ligament injuries or pathologies. Remember, a sprain is an injury to a ligament and a strain is an injury to muscles. If you diagnoses either or both of these conditions, your clinical findings should support them.
 - Perform appropriate Orthopedic Testing.

- Inspect and palpate the areas involved and make note of any joint or muscle pathologies and describe them specifically – muscle spasms, muscle guarding, muscle rigidity, myofascial trigger points (with referred pain patterns), etc.
- Perform neurological testing including:
 - CNS tests
 - Deep Tendon Reflexes (DTRs)
 - Sensory testing
 - Strength testing (using the Wexler Muscle Strength Grading Scale)
 - Circumferential measurements of extremities of the involved muscles / joints to document swelling, edema, atrophy, etc.
- List any **confounding factors or complicating factors** that may have a detrimental affect on their recovery and treatment, which are based on the Official Disability Guidelines (ODGs) and MD Guidelines that are required by the State of Texas to utilize and consider. These include:
 - Diabetes
 - Hypertension
 - Depression
 - Surgery / hospital Stay
 - Substance Abuse
 - Delay in initiating appropriate medical care
 - Opioid usage
 - Legal Representation
- Be sure to properly **diagnose all conditions** that correlate with the injuries that are sustained and are supported by the examination findings.

Note: When requesting x-rays, MRIs, CT scans or NCV/EMG tests, request the Medical Radiologist or Other Medical Provider to differentiate between acute/recent findings from chronic findings, also identifying any findings that support aggravations of the pre-existing or degenerative conditions to help to provide a casual relationship between the etiology and nature of the injury to the incident.

Functional Outcomes: It is essential that objective measurements are provided to document progress, regression or when treatment reaches a plateau. Functional Outcomes are supported by the ODGs, which state, *“A significant and fundamental goal of any medical treatment in the workers’ compensation system is to restore the injured worker’s previous level of function, allowing a return to the life prior to injury, especially return-to-work. The provider should demonstrate how significant functional improvement is expected following the requested treatment based on previous outcomes, mechanism of injury, and specific effects of the treatment, documenting measurable points of future benefit.”* So it is important to perform periodic measurements such as ranges of motion, grip strength testing, outcome questionnaires and strength testing.