

KWORCC Select Claims Report

Presented May 27, 2021



Claim Summary – Reserve Advisory

Employer:	Gove County	Date of Injury:	04/26/2021
Claim No.:	21848647	Job Description:	Custodian
Employee Age:	63	Updated:	5/19/20021
AWW:	752.30	TTD Rate:	501.55
Attorneys:	Phillip Slape	Employer:	Ron Laskowski
Adjuster:	Amanda Chamberland		

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
Reserves:	\$132,500.00	\$ 9,400.00	\$ 0.00	\$ 6,550.00	\$ 18,125.00	\$ 166,575.00
Amount Paid:	\$ 0.00	\$ 1,504.65	\$ 0.00	\$ 0.00	\$ 15.00	\$ 1,519.65
Outstanding:	\$132,500.00	\$ 7,895.35	\$ 0.00	\$ 6,550.00	\$ 18,110.00	\$ 165,055.35

Accident Description / Nature of Injury:

- The employee was requested to assist the Sheriff’s Department in rounding up cattle in an abuse and neglect case. While roping a large bull, he let go of the rope and the bull charged him, bucking him with his head and then trampling him in the chest and facial region. The bull weighed approximately 800 lbs.

Investigation / Compensability:

- The claimant is an employee of the county, however at the time of the event he was not under direct payroll as part of his normal job. The Sheriff tasked an individual to find other workers in the county to assist in the roundup of the cattle for the case as they were short staffed. The Sheriff confirmed that these volunteers, who would be paid a small sum per head of cattle they would catch, were in fact duly authorized by him though his agent to "work" for the county and perform duties through the Sheriff's office in this case. The case is accepted as compensable pursuant to the following provision in the Kansas Workers Compensation Act: K.S.A. 44-508. Definitions. As used in the workers compensation act: ... (b) "Workman" or "employee" or "worker" means any person who has entered into the employment of or works under any contract of service or apprenticeship with an employer. Such terms shall include, but not be limited to: ... persons serving on a volunteer basis as duly authorized law enforcement officers, ..., but only to the extent and during such periods as they are so serving in such capacities; ...
- Although the claimant is recognized as an employee, there are additional compensability issues to consider, such as prior and underlying conditions to his left foot which will require a prevailing factor opinion to be conducted.

Medical Management:

- The employee treated at Gove Medical Center where a breathing tube was placed as his face and neck began swelling extensively. He was air lifted to Wesley Medical Center in Wichita where he remained inpatient for one week. His injuries include acute vs chronic lisfranc fracture to the left foot, acute left facial hematoma with hemorrhage to the left submandibular and parotoid glands, acute airway compromise secondary to edema, left rib fractures at 4 and 5, upper lip laceration and multiple chipped teeth. He is now treating with multiple specialists in Great Bend and Wichita to monitor his medical progression. His foot fracture is questionable and likely pre-existing and degenerative, additionally the claimant remembers no specific injury to the same foot at time of event and only assumes it must be as a result of the injury. A prevailing factor opinion will be performed this month to determine the same with Dr. Boone.

.Periods of Disability:

- The claimant is currently off of work and anticipated to be off of work for a period of approximately 8 weeks.

Permanent Partial Impairment / Permanent Disability:

- The PPI estimation is premature at this time as it is unclear if the foot will be determined related which is the primary ratable injury. As medical reports are received, and litigation analysis reviewed this figure will be set.

Subrogation / Other Issues:

- The claimant's wife and the local Sheriff are key parties in another high exposure file with the same county. The claimant had an attorney for both civil damages and the worker's compensation claim before we had received the claim report to investigate.
- The claimant has also hired DeVaughn James, Injury Lawyers for a third party suit against the ranch owner. We have entered our interests in this case and will file a lien under the worker's compensation file through counsel Ron Laskowski.

Plan of Action:

- Once the prevailing factor opinion is received regarding the left foot injury, we will authorize medical care as needed or deny if applicable
- Once the claimant is able to return to work, we will work with his employer to locate an accommodated position for the claimant
- Authorized care will be monitored until the point of MMI at which time a settlement will be negotiated through counsel
- All attempts will be made to settle the file full and final



Claim Summary – Settlement Request

Employer:	McPherson County	Date of Injury:	08/29/2019
Claim No.:	19784912	Job Description:	Maintenance
Employee Age:	81- deceased	Updated:	5/19/2021
AWW:	335.13	TTD Rate:	223.43
Attorneys:	Melinda Young	Employer:	Ron Laskowski
Adjuster:	Amanda Chamberland		

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
Reserves:	\$362,200.00	\$ 304,021.74	\$ 0.00	\$ 9,500.00	\$ 48,225.00	\$ 723,946.74
Amount Paid:	\$231,145.29	\$ 4,021.74	\$ 0.00	\$ 0.00	\$ 26,250.85	\$ 261,417.88
Outstanding:	\$131,054.71	\$ 300,000.00	\$ 0.00	\$ 9,500.00	\$ 21,974.15	\$ 462,528.86

Accident Description / Nature of Injury:

- The claimant was injured as he was in the breakroom ready to clock in when he tripped over a co-worker's feet. He then reached for the handle of a refrigerator door to break his fall which caused it to swing open throwing him around and then to the ground. He hit both the front and back of his head on the floor.

Investigation / Compensability:

- The employee was found to be in the course and scope of his employment and on the employer’s owned and maintained premises. The accident has been accepted as compensable.
- During the course of the file his multiple underlying comorbidities became the prevalent cause of his continued medical care vs. the initially accepted worker’s compensation injury, ultimately his medical care under the work comp claim ceased in approximately November 2019.

Medical Management:

- The patient was treated at Wesley Medical Center for multiple injuries to include an occipital skull fracture, subarachnoid hemorrhage and subdural hemorrhage. This was a life-threatening injury. The claimant received conservative care for the head injury which resulted in progressive resolution of the bleed. The claimant had extensive pre-existing medical conditions including congestive heart failure, chronic kidney disease, COPD, atrial fibrillation, among others prior to the accident. During the acute phases of his treatment for the work-related injury, the claimant developed worsening of many of his pre-existing medical conditions which was, in large part, considered secondary to the head trauma, discontinuation of blood thinners and inactivity. Following his work-related injury he never fully recovered and was either hospitalized or in a nursing facility. By mid-November 2019, a better distinction existed between claimant’s non-work-related conditions and the work injury, however, much of the diagnoses continued to run together. By late November 2019, claimant was suffering from severe gout and developed cardiac complications. Claimant was again hospitalized in late November and early December with exacerbation of underlying cardiomyopathy with congestive heart failure versus a contribution from steroid use for gout. The claimant further declined leading to additional hospitalization in December with diagnoses of congestive heart failure, bilateral lower extremity swelling, acute on chronic kidney disease, COPD, atrial fibrillation, C Diff and urinary tract infection. The

claimant was ultimately transferred to Wesley Medical Center, hospitalized for two (2) days and died from respiratory failure and cardiac shock. Following the work injury, the claimant never returned to independent living. During the claimant's stay at the skilled nursing home, he suffered a fall resulting in an L1 fracture. The claimant did demonstrate a progressive downhill clinical course with many medical complications.

Periods of Disability:

- The claimant was unable to return to work following his injury at work until his death in December of 2019.

Permanent Partial Impairment / Permanent Disability:

- The widow has alleged a death claim as a result of the worker's compensation accident. Maximum death benefits available equal **\$295,978.26**. This would include an upfront payment of **\$60,000.00** followed by weekly payments at the rate of **\$441.14**. The balance of **\$235,978.26** would pay out over **534.92** weeks or approximately **10.5** years. Death benefits would include a **\$10,000.00** funeral allowance.
- An impairment has been received by Dr. Koprova ordered by claimant's counsel with a 60% rating to the body as a whole. We have multiple pending records reviews scheduled with Doctors Stein and Fevurly for possible counter ratings and causation opinions

Subrogation / Other Issues:

- The work accident, more probably than not, **was not** the prevailing factor for chronic deterioration and major organ failure in December 2019. There is, however, in counsel's opinion, a very real exposure that the Administrative Law Judge would agree that the overall system organ failure was the natural probable consequence of the significant head injury and convalescence following the injury leaving an exposure to both death benefits and coverage of any and all medical bills denied November and afterwards which total around \$200,000
- The claimant was a medical beneficiary and Medicare has paid for some of the medical costs under this file. They have asserted a lien for recovery.

Plan of Action:

- It is counsel's opinion that the maximum settlement value of this case is **\$150,000.00** for indemnity payments. There are many leveraging factors in KWORCC's favor, which would be utilized to negotiate the lowest possible settlement. Those factors include the numerous pre-existing medical conditions, the age of claimant's widow (77), the delay associated with litigation including multiple appeals, and the anticipated opinions from at least two (2) if not three (3) defense experts. It is noted that there are approximately 7,000 pages of medical records for specialists to review and those defense opinions will come at a significant cost. Counsel is optimistic the case could settle for less than **\$150,000.00**, however, given the facts of the case, \$150,000 is a realistic number.
- The plan of action on the case would be to reach an agreement on an indemnity number as well as an agreement to submit an Award written by Attorney Laskowski to the Administrative Law Judge wherein it is found that medical expenses, in large part, incurred after late October of 2019, were unrelated to the work accident. This Award should operate to protect the claimant's heirs and KWORCC from further liability. Only if there are medical expenses ultimately actually unpaid would there be a need for any further medical payment on the claim. It is presumed that any such medical bills would be significantly reduced or negotiated.
- Counsel has requested settlement authority of up to \$150,000 to settle the file, full and final He will need the authority to have the option to potentially settle the file via an award as described, to reduce medical exposure on the file and Medicare recovery.



Claim Summary – Reserve Advisory

Employer:	Rawlins County	Date of Injury:	05/06/2021
Claim No.:	21849468	Job Description:	Heavy Equipment Operator
Employee Age:	70	Updated:	5/19/2021
AWW:	To be determined	TTD Rate:	To be determined
Attorneys:	n/a	Employer:	n/a
Adjuster:	Amanda Chamberland		

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
Reserves:	\$ 60,250.00	\$ 17,597.31	\$ 0.00	\$ 450.00	\$ 9,037.50	\$ 87,334.81
Amount Paid:	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Outstanding:	\$ 60,250.00	\$ 17,597.31	\$ 0.00	\$ 450.00	\$ 9,037.50	\$ 87,334.81

Accident Description / Nature of Injury:

- The employee was in the process of climbing down a large work truck after pulling log papers out of the glove box when he fell. The tread of his work boot caught on the grating of the running board, he lost his balance and landed on his left hip, fracturing it.

Investigation / Compensability:

- The claimant was in the course and scope of his employment, his event was acute and accepted as compensable

Medical Management:

- The claimant was taken via private vehicle to Rawlins Health Center. It was determined he had a fracture of the left hip requiring pinning and repair. He was transferred to Hays Medical Center for surgery with Dr. Timothy Wright, afterwards he was placed inpatient for three days. He is now home and has the assistance of family for his care. He is also participating in PT at Rawlins Health Center. He will recheck with the orthopedic specialist in two weeks.

Periods of Disability:

- The employee is anticipated to be off of work a period of at least 12 weeks

Permanent Partial Impairment / Permanent Disability:

- I expect an impairment to the body as a whole as a result of this injury of appx 9% with additional funds needed to settle the medical full and final/Medicare interests

Subrogation / Other Issues:

- The claimant is an active Medicare beneficiary and their interests will be considered at time of file conclusion

Plan of Action:

- I will monitor the claimant’s medical care for progression and the possibility of any intervention needed such as second opinion, nurse case management assistance, et cetera
- I will work with the employer to return the claimant to a position once capable within his restrictions
- Once the claimant is at MMI I will obtain a rating and attempt to settle his file full and final
- Due to Medicare interest a Medicare set aside may be required for closure



Claim Summary – Reserve Advisory

Employer:	Stevens County	Date of Injury:	04/20/2021
Claim No.:	21847564	Job Description:	Heavy Equipment Operator
Employee Age:	54	Updated:	5/19/2021
AWW:	880.85	TTD Rate:	587.12
Attorneys:	N/A	Employer:	N/A

Adjuster: Amanda Chamberland

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
Reserves:	\$ 23,300.00	\$ 15,411.90	\$ 0.00	\$ 550.00	\$ 3,745.00	\$ 43,006.90
Amount Paid:	\$ 615.14	\$ 2,348.48	\$ 0.00	\$ 0.00	\$ 31.08	\$ 2,994.70
Outstanding:	\$ 22,684.86	\$ 13,063.42	\$ 0.00	\$ 550.00	\$ 3,713.92	\$ 40,012.20

Accident Description / Nature of Injury:

- While changing tires the breaker machine being used slipped out of the employee’s hand. He reached to try and grab it and overextended his left arm resulting in a pop in his shoulder.

Investigation / Compensability:

- The employee was in the course and scope of employment; his claim is accepted as compensable. No pre-existing injuries to the same arm are known of at this time.

Medical Management:

- The employee treated at the local Stevens Co Clinic where he was taken off of work and told to stay in a sling until seen by orthopedics. He was referred to Dr. Do at Mid America Orthopedics who requested an MRI of the shoulder. His MRI showed a full thickness tear in his rotator cuff and tendinosis of his biceps. Surgery was requested to repair the same which has been authorized and will be performed next week.

Periods of Disability:

- The employer has limited light duty available in any department and has been unable to accommodate the claimant. He is expected to be off of work an additional 12 weeks.

Permanent Partial Impairment / Permanent Disability:

- The claimant is expected to receive a PPI rating of 5% to the left shoulder and the file is reserved for the same.

Subrogation / Other Issues:

- There was no confirmed mechanical failure of the machine used therefore there is no subrogation applicable.

Plan of Action:

- I will work with the employee to ensure all of his medical needs are met until the point of MMI
- As restrictions are decreased, I will continue to work with the employer to try and locate accommodations.
- Once the claimant is at MMI I will request rating and attempt to settle the file with the claimant full and final