



LEVY
SIBLEY
FOREMAN
& SPEIR, LLC

ATLANTA - ALBANY - AUGUSTA
COLUMBUS - MACON - SAVANNAH

October 22, 2019

Nathan C. Levy
nlevy@lsfslaw.com
229-854-4399

Phillip A. Sibley
psibley@lsfslaw.com
478-742-8300

Casey B. Foreman
cforeman@lsfslaw.com
229-449-7419

Kelly R. Speir
kspeir@lsfslaw.com
706-728-0896

John D. Blair
jblair@lsfslaw.com
229-854-7141

Brett C. Tyler
btyler@lsfslaw.com
706-987-2487

William R. Merchant
wmerchant@lsfslaw.com
706-442-0505

Austin M. Hammock
ahammock@lsfslaw.com
706-527-0901

Karen J. Gibson
kgibson@lsfslaw.com
478-960-5178

Kent J. Miller
kmiller@lsfslaw.com
770-561-4017

Of Counsel
R. Napier Murphy
rmurphy@lsfslaw.com
478-742-8300

James M. Elliott, Jr.
jelliott@lsfslaw.com
478-747-3399

**STATE BOARD OF WORKERS' COMPENSATION EXPANDS WC-PMT
PROGRAM TO COVER FAILURE TO ATTEND MEDICAL TREATMENT**

Nathan C. Levy
Partner, Workers' Compensation

The State Board has recently expanded the PMT program to cover failures and refusals of Claimants to attend employer-provided medical treatment with the Authorized Treating Physician (ATP). As we are all aware, enforcement on this issue in the past has required multiple motions with the Board, obtaining Orders from an ALJ and then suspension of TTD in a process taking a month or more to conclude. Employers and Insurers everywhere should be very pleased with the introduction of the PMT process to compel Claimants to attend employer-provided medical treatment in an efficient manner. The WC-PMT(b) form (attached hereto), generally mirrors the WC-PMT form that we are accustomed to. However, there are some procedural nuances that you should be aware of regarding the PMT(b) process.

From the outset this process requires an initial Show Cause Petition. In "Part B" of the PMT(b) form, the Employer/Insurer must reference the date of the medical appointment or testing that was scheduled and missed. Documentation regarding the scheduling and notification to the "employee, or the employee's attorney" must be attached indicating the date of prior notification. At the time of this Show Cause Petition, the employee must have actually failed to attend the appointment and evidence of the scheduling of that appointment must also be attached. After the initial PMT(b) filing, the Board will automatically issue a Notice of Telephonic Conference requiring the employee, or counsel for the employee, to "show cause" as to the failure to attend the appointment or testing. As is standard in the PMT process, this Notice of Telephonic Conference will be scheduled within 5 business days of the Petition filing. Finally, "Part C" of the form clearly indicates that a new date for appointment is needed to be obtained and communicated to the employee or counsel for the employee such that there can be agreement to attend thereby avoiding the Telephonic Conference.

Once filed and with "Part C" executed, should the employee fail to attend the ordered or agreed upon scheduled appointment or testing, a final WC-PMT(b) is filed selecting "Suspend Benefits Petition" as the basis for the Telephonic Conference request. The process begins with a Telephonic Conference to be scheduled again within 5 days. At the time of the Telephonic Conference, the issue to be addressed is a suspension of TTD until such time as the employee returns for the appointment or testing. This would again presumably require a follow-up appointment to be scheduled at the time of the Telephonic Conference, or in the alternative, a directive that the employee can schedule the follow-up directly with the provider. As a reminder, benefits cannot be suspended until such time as an Order is generated by the Board.

In closing, this form should bring about much needed changes in our procedures regarding compelling Claimants to attend treatment and testing that is recommended by the ATP. Frequently, we have seen a patent refusal for follow-up with the ATP or avoidance of needed diagnostic testing or PT especially when a regular duty release is imminent. This form will expeditiously and efficiently address this issue for the benefit of everyone in our workers' compensation system. As always, if you have questions regarding this update, do not hesitate to contact one of our attorneys for clarification. As with all new forms there will be a curve in the application of this new Rule and we will keep you updated on modifications and important observations as received.

GEORGIA STATE BOARD OF WORKERS' COMPENSATION

Check One Only: SHOW CAUSE PETITION AGREEMENT SUSPEND BENEFITS PETITION

Board Claim No.		Employee Last Name		Employee First Name		M.I.	Date of Injury
A. CLAIM INFORMATION							
EMPLOYEE	Birthdate	Body Part Injured		Address		Phone Number	
Employee E-mail				City	State	Zip Code	
EMPLOYER	Name		INSURER/ SELF-INSURER	Name		SBWC# (five digit #)	
Address			CLAIMS OFFICE	Name			
City	State	Zip Code		Address		Phone Number	
Phone Number				City	State	Zip Code	
Employer E-mail				Claims Office E-mail			
ATTORNEY FOR EMPLOYEE/CLAIMANT		Name		ATTORNEY FOR EMPLOYER/INSURER		Name	
Address				Address			
City	State	Zip Code		City	State	Zip Code	
GA Bar Number		Phone Number		GA Bar Number		Phone Number	
Attorney E-mail				Attorney E-mail			

B. PETITION TO SHOW CAUSE REGARDING EMPLOYEE'S FAILURE TO ATTEND MEDICAL APPOINTMENT WITH AN AUTHORIZED TREATING PHYSICIAN

An appointment was scheduled for the employee with an authorized treating physician, _____, (name of physician)
 on _____ (date of appointment) _____ (time).

An authorized treating physician, _____, (name of physician) recommended testing and the appointment for testing was scheduled
 on _____ (date of appointment) _____ (time).

On behalf of the employer/Insurer, the undersigned affirms that an appointment was scheduled with an authorized treating physician and/or testing was recommended by an authorized treating physician, as set forth in the attached documentation and further affirms that the employer/insurer or authorized treating physician gave notice to the employee, or the employee's attorney, on _____.

At the time of this petition, employee has failed to attend the appointment for the follow-up evaluation or attend the appointment for the testing. Supporting documentation regarding the appointment/testing is attached.

Petitioner requests the Board to issue a notice of a telephonic conference during which the employee, or his/her representative, shall be directed to show cause as to the reason the employee failed to attend the appointment for evaluation with an authorized treating physician and/or attend the appointment for the testing recommended by an authorized treating physician.

C. AGREEMENT TO ATTEND MEDICAL APPOINTMENT

The employee and/or the employee's attorney affirm that the employee will attend the following medical appointment:
 _____ (name of physician) _____ (date of appointment) _____ (time)

Upon filing of this agreement with the Board and service on all parties, the scheduled Telephonic Conference is cancelled.

FAILURE TO ATTEND THE APPOINTMENT MAY RESULT IN THE SUSPENSION OF DISABILITY BENEFITS

IF YOU HAVE QUESTIONS PLEASE CONTACT THE STATE BOARD OF WORKERS' COMPENSATION AT 404-656-3818 OR 1-800-533-0682 OR VISIT <http://www.sbcw.georgia.gov>

WILLFULLY MAKING A FALSE STATEMENT FOR THE PURPOSE OF OBTAINING OR DENYING BENEFITS IS A CRIME SUBJECT TO PENALTIES OF UP TO \$10,000.00 PER VIOLATION (O.C.G.A. §34-9-18 AND §34-9-19).

GEORGIA STATE BOARD OF WORKERS' COMPENSATION

D. PETITION TO SUSPEND BENEFITS FOR FAILURE TO ATTEND MEDICAL APPOINTMENT WITH AN AUTHORIZED TREATING PHYSICIAN

The employee has failed to attend a medical appointment as agreed or as directed by a previous order of the Board. Petitioner requests the Board to issue a notice of telephonic conference during which the employee and/or the employee's attorney shall be directed to show cause why the employee's disability benefits should not be suspended.

E. CERTIFICATE OF SERVICE

This section must be completed.

I hereby certify that today I have served a copy of:

SHOW CAUSE PETITION AGREEMENT SUSPEND BENEFITS PETITION

to all of the parties and the authorized treating physician, as appropriate, and have filed this form with the State Board of Workers' Compensation, 270 Peachtree St., NW, Atlanta, Georgia 30303-1299.

Print Name		Signature	Date
Phone Number	E-mail		

IF YOU HAVE QUESTIONS PLEASE CONTACT THE STATE BOARD OF WORKERS' COMPENSATION AT 404-656-3818 OR 1-800-533-0682 OR VISIT <http://www.sbwc.georgia.gov>

WILLFULLY MAKING A FALSE STATEMENT FOR THE PURPOSE OF OBTAINING OR DENYING BENEFITS IS A CRIME SUBJECT TO PENALTIES OF UP TO \$10,000.00 PER VIOLATION (O.C.G.A. §34-9-18 AND §34-9-19).