

In the past few months, several appellate decisions have been released concerning mental impairment benefits and death benefits under the Workers' Compensation Act.

1) Mental Impairment

In Dillard v. Industrial Claim Appeals Office, the Colorado Supreme Court decided that a claimant's mental impairment cannot be combined with his physical impairment rating for purposes of the benefit cap. The court found that entitlement to benefits for mental or emotional stress is limited to 12 weeks. The court further held that a mental impairment rating cannot be combined with any physical impairment ratings when calculating the overall whole person impairment rating for purposes of determining whether the cap applies.

In City of Loveland Police Department v. Industrial Claim Appeals Office, the Colorado Court of Appeals found that the dependents of the deceased claimant who committed suicide due to a work-related psychologically traumatic event were not limited to the statutory twelve weeks of benefits for mental impairment. The court awarded the dependents benefits under the statute that entitled them to two-thirds of the decedent's average weekly wage. The court also found that a claimant seeking mental impairment benefits based on a psychologically traumatic event does not have to show that the traumatic event would cause *identical* symptoms of distress or reaction in another similarly situated employee, only that the event would cause *significant* symptoms of distress or reaction in a similarly situated employee.

2) Death Benefits

In Subsequent Injury Fund v. Industrial Claim Appeals Office, the Court of Appeals decided that survivors are entitled to death benefits when an occupational disease is one of several proximate causes of death. For a death to proximately result from a compensable injury or occupational disease there must be a nexus between the death and the injury or disease. The nexus must be a significant, direct, and consequential causative factor, not a remote factor. In addition, the significance of an injury must be determined based on the facts of each individual case. Accordingly, survivors are entitled to benefits if the decedent's death proximately resulted from more than one condition, even if one of those conditions was a non-work-related condition, so long as one condition was the compensable injury or occupational disease.