



Could This Be You?
Employers Unaware of TPA's Limitations at Workers' Compensation Hearings

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An employee files a workers' compensation claim because of an alleged work injury, but there were no witnesses to the injury. The employer refuses to certify the claim and challenges the claim at a hearing in front of the Industrial Commission of Ohio (IC). Rather than hire legal counsel, the employer sends its third-party administrator (TPA) to provide representation at the hearing. When the employee testifies at the hearing and lies about the injury, the TPA does nothing to counteract this testimony. As a result, the hearing officer finds in favor of the employee.

Frustrating, right? Many employers are not aware of the restrictions on TPAs during IC hearings. TPAs and other non-attorney representatives are bound by the IC's unauthorized practice of law rules. These non-attorneys are not permitted to do the following in an IC hearing:

- Cross-examine the claimant or any witnesses;
- Comment on or give opinions regarding evidence or credibility of witnesses;
- Question the qualifications of a treating physician; or
- Argue statutory and administrative provisions or case law.

These limitations make it nearly impossible for TPAs and other non-attorney representatives to challenge workers' compensation claims on legal or evidentiary grounds. In contrast, an attorney is permitted to fully represent an employer in all of these respects in an IC hearing. As a result, employers should carefully consider whether to retain legal counsel when challenging a workers' compensation claim.

