

U.S. Department of Labor

Employment Standards Administration
Office of Workers' Compensation Programs
Longshore & Harbor Workers' Compensation
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April 21, 2009

Kath A. Walker, Esq.
Galichon & MacInnes
1650 Hotel Circle North #120
San Diego, CA 92108

File Number: 02-141985
Claimant: Terry Marshall
D.O I: 5/8/05
Carrier #: D900-32227

Dear Ms. Walker:

The employer/carrier has controverted Mr. Marshall's further entitlement to compensation and medical care apparently on the basis that he failed to appear for two defense medical evaluations scheduled by the employer/carrier.

Based upon the attached evidence provided by Mr. Marshall he had clearly advised the employer/carrier of a scheduling conflict related to his 2/24/09 appointment with Dr. Knoebel and that appointment was cancelled. In addition, an email from Kari Malone, Sr. Medical Case Manager, to Mr. Marshall, dated 2/24/09 stated that "per the industrial carrier's request, the rescheduled IME evaluation with Dr. Knoebel for March 4, 2009 has been canceled".

In addition it appears that the employer/carrier has indicated that Mr. Marshall has failed to pursue prescribed medical care. However, the medical records you provided clearly support that the on 2/4/09 the claimant was advised by Jeffrey Smith M.D. to discontinue formal physical therapy (see attached).

In consideration of the above there would appear to be no basis for the employer/carrier to have terminated Mr. Marshall's entitlement to compensation and medical treatment. Medical treatment as well as compensation fro temporary total disability at the rate of \$812.77 per week should be reinstated retroactive to 3/17/07 and continuing.

You are requested to respond within 10 days.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ken Janicke", is written over a horizontal line.

Ken Janicke
Claims Examiner
206-398-8276