

in fact, I don't think you should do that. The guy says, no, I do have pains, pins in the back should be removed and, in fact, has a doctor that says, yeah, pins ought to be removed.

SENATOR HALL: One minute.

SENATOR LANDIS: Under normal circumstances in that situation, there will be a request for a preauthorization for the removal of the pins by the doctor that...by the employee and the doctor who supports the employee that the pins should come out. We've already gone through a line of treatment, that's come to an end now, and now this new condition is starting up for which there is this preauthorization for surgery and the question is...and the two arguments are, no, it shouldn't because this is not called for, it's not reasonable treatment, and the second line is, yes, this is the appropriate treatment response, this should be done. A request for a preauthorization for surgery is denied. I would treat that as a denial of compensability and, to me,...

SENATOR HALL: Senator Landis, Senator Hohenstein's time is up but your light is on next.

SENATOR LANDIS: ...I regard that a denial of compensability which triggers this mechanism. That is to say somebody is saying, look, I'm not going to give you dime one on this thing that you claim I'm responsible for. That's what the denial of compensability means to me. It's not an argument about how much of the treatment there is going to be, it is an argument whether or not the treatment is the employer's responsibility. Once you answer the threshold question and the employer answers the threshold question, yes, I am responsible in some measure, the answer how much is the issue of litigation for the court, it's not a denial of compensability. Denial is where the employer says, I'm not going to pay you, you don't get dime one. And, to me, that's what that phrase means and that's what I think Chris's and my discussion was. For example, you could have a situation where the second injury fund, which is managed by the court, denies someone some kind of treatment. That, I don't think is a denial under this amendment either. But what I would like to have happen is for you to very specifically write out for me and for Chris the factual situation you want answered and I will try to give you an answer as best I can. But I've got to...since this is legislative history, I don't want to do it off the top of my head.