



This is Thomas F. Miller Jr., a husband, father, son, and brother. After working extremely hard to build his own electrical company, Switch Electric Inc. was born in 2006. After only four years, the hopes of growing this hard-earned company were crushed by a devastating traumatic brain injury endured on the job. The closure of a prosperous company Tom dreamed of that could finally provide financial stability for us and our three young children was upsetting, but not nearly as physically, mentally, emotionally, and financially painful the thirteen year journey has been. For a family enduring so much loss in the last thirteen years, an uphill battle for proper access to medically necessary services and equipment for an injured loved one should be the least of their concerns. Unfortunately, Workers Compensation is just that. An uphill battle.

On October 18, 2010, as Tom finished a last-minute job requiring him to take down a satellite dish off of a roof without being informed of a tie off by the plaza owner, he slipped backwards when attempting to transition down the ladder. Initially, Tom was brought to Albany Medical Center where he was given less than a 1% chance at survival. Tom was intubated and induced into a coma due to severe organ issues as a result of the fall. Tom was diagnosed with several heart attacks, seizures, strokes, brain swelling, a broken left wrist, damage to his kidneys, collapsed lungs and has not spoken. Even thirteen years ago, it was obvious these issues required immediate and continued monitoring and treatment for the remainder of his life. Clearly, this notion is completely ignored by Workers Compensation that continues to deny therapies to treat these complex injuries, despite progress notes.

Similarly, secondary and tertiary diagnoses have been refuted for being “non-injury related.” But, despite only a few primary injuries, secondary injuries are even more extensive. Heart pressers given for high blood pressure caused Tom’s fingers and toes to become necrotic and even fall off; the brain injury caused an inability to eat orally, making it necessary for gastrostomy tube placement; being immobile has caused a stage four pressure wound, constipation issues, kidney stones, and other urinary issues; and brain swelling made medical stitching of the eyelids necessary and caused damage to his eyes. Additionally, the primary diagnosis of a traumatic brain injury has caused immobility of his entire body for most of the first ten years, the years without physical, massage, occupational, chiropractic, and craniosacral therapies. This issue alone requires 24-hour care by two certified nursing assistants and a visiting nurse to conduct g-tube feedings and medication administration, bathing, stretching, and

assistance with urinary and bowel regiments and transportation via a hooyer lift or out of the home to appointments; the use of a medical bed, wheelchair, hooyer lift, and ADA accessible transportation; and doctors visits with a physiatrist, neurophysiatrist, and neurologist. While some of these requirements maintain his abilities, the advancement of his capabilities are gained through his visits with specialists and therapies.

After leaving Albany Medical Center, Tom was placed in several different nursing and rehabilitation centers, some twenty minutes to an hour away from home in New York and up to three hours away in Massachusetts, each of which were understaffed and caused several emergency department visits due to negligence. During the pandemic, Tom was brought home and cared for solely by his wife and three children for the first 18 months before discovering, on our own, CNAs and LPNs to assist Tom. Since coming home, Tom has had reduced visits to the emergency room for neglect-related harms such as dehydration or bowel obstruction and newfound abilities such as using thumb-raising to answer questions, increasing periods of standing in a standing frame, balanced sitting on an exercise ball, increased concentration and awareness, and the even the simplest ability to endure dental cleanings. If these improvements don't sound miraculous or may sound simple for abled individuals, please reference his medical history and less than 1% prognosis.

For clients and their families enduring such pain inflicted onto them by such tragedies, such as to Tom and our family, approval by Workers Compensation and access to their approved treatments should be the least of their worries. Working with Workers Compensation, our family has endured three major issues that have resulted in the neglect of clients including the denial of treatments, limited access to in-network providers, and denied access to out-of-network providers. These challenges have been unfair to navigate and have forced our family into a stressful, ongoing legal battle, therefore I am asking for your help with these three main issues.

Despite drastic improvement with proven-necessary treatment, Workers Compensation continues to deny treatments prescribed by Tom's doctors that they deem medically necessary. Typically, these treatments are denied as a result of not being "related to injury," as they are secondary and tertiary conditions, or not deemed necessary by Workers Compensation case managers who disobey doctors' orders. Not only should all conditions, directly and indirectly, related to one's post-injury condition be covered, but it should be mandated that doctors' orders be obeyed regardless of opinions by a case manager who has little knowledge of the client.

Additionally, treatments that are approved, are almost impossible to access. The list of in-network providers, especially for specialists that Tom requires including urologists, gastroenterologist, neurologist, ophthalmologist, pulmonologist, and various other specialists, is extremely limited or nonexistent. Furthermore, providers for some of these specialties are far in proximity and the closest ones are three hours away. As you may suspect, this travel is nearly impossible considering his g-tube feed and medication schedule that requires certain head elevation and time buffers due to motion sickness and the issues in coordinating transportation. Not to mention, this type of travel requires a full day of assistance by family and caregivers. Therefore, I request that the in-network providers clients can access be forced to expand, ensuring that all clients have accessible care.

The expansion of in-network providers will require legal changes that make accepting Workers Compensation more appealing to providers. All providers detailing their opposition to

acceptance of Workers Compensation Insurance argue that the payment window is prolonged between visit and insurance payment to the provider and endless paperwork requirements. Therefore, legal change must be conducted to establish a fair payment schedule that will encourage providers to accept such insurance. Not only should this law apply to providers, but to families, like ours, that has not been reimbursed for out-of-pocket expenses for treatments, care, and supplies that these insurance companies request be made by clients first before reimbursement.

Due to the impossibility of accessing in-network providers, either because there are none or because they require impossible travel conditions, I have sought out-of-network providers to meet Tom's needs. If in-network providers are lackluster, proper care should be accessible, even if it requires out-of-network care. If Workers Compensation cannot offer a provider, they should be willing to cover out-of-network providers as inaccessible in-network care is a result of their own procedures. Since visiting these out-of-network providers, reimbursement for such has been refused, despite urgent needs for such care that forced us into the care of out-of-network providers. These piling bills have caused our family financial-related stress and continuation of legal battles.

After reading these struggles, I ask each of you to listen with an open mind and understand the hardships of the injured. Please, for the sake of our families physical, emotional, and financial needs, make Workers Compensation accountable for their clients that have paid for such worst-case scenarios. Place yourselves in the shoes of Tom, myself, and our family that continuously fight for fair coverage and reflect on the ways you would want your family helped.