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Workers' Compensation Report

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Workers' Compensation Settlement Contract Requires Employer to Pay for Unpaid Disputed Medical Bills

In *Hagene v. Derek Polling Constr.*, No. 5-07-0225, 2009 Ill. App. LEXIS 84 (5th Dist. February 24, 2009), the Illinois Appellate Court Fifth District, not the workers' compensation division of the appellate court, considered a Section 19(g) petition that had been filed by a petitioner after agreeing to a lump-sum settlement with the respondent. Section 19(g) of the Illinois Workers' Compensation Act (820 ILCS 305/19(g) (West 2006)) is the section that allows a party to a workers' compensation settlement to have a court judgment entered in accordance with a settlement contract approved by the Illinois Workers' Compensation Commission.

In June of 2003, the petitioner was injured in a work-related accident when he fell from scaffolding at a construction site. He received medical benefits as well as temporary total disability benefits and then returned to work. In July of 2005, the arbitrator approved a workers' compensation lump-sum settlement between the petitioner and his employer. The settlement contract prepared by the respondent contained a section called "medical expenses." In that section, there is a space to place a check mark on a line indicating whether the employer has or has not paid all the medical bills. In that space, the employer checked that it had paid all the medical bills. Following that section, there is an instruction to "list unpaid bills in the space below." On the settlement contract, this space was empty. The first page also contained a section entitled "temporary total disability benefits," and that section provided spaces on which the parties can indicate the beginning and termination dates of the period for temporary total disability. Both of these spaces were filled in with "disputed – see terms of settlement."

On the second page of the settlement contract, there was a section entitled "terms of settlement." The settlement terms identified a settlement amount and also stated that the lump sum was in full and final settlement of any and all claims including, but not limited to, temporary total disability compensation, "past, present, and/or future medical and hospital bills . . . ." Further settlement terms provided that the petitioner expressly represents and agrees that prior to the approval date of the contract, the petitioner did submit to the respondent all reasonable, necessary, and causally related medical and hospital bills and that the respondent has fully satisfied these bills prior to the approval date of the contract.

In January of 2007, approximately one and a half years following the approval of the settlement contract, the petitioner filed an application for entry of judgment pursuant to Section19(g) of the Workers' Compensation Act. The petition alleged that the settlement required the respondent to pay all the petitioner's medical bills incurred prior to the date of the settlement agreement, and identified three unpaid bills for medical services that totaled $19,977.25. The respondent filed a motion to dismiss the Section 19(g) petition and argued that the terms of the settlement contract prohibited the petitioner from requesting the payment of the bills. The trial court held a hearing on the matter and granted the respondent's motion to dismiss. The petitioner appealed.

The appellate court noted that "when interpreting settlement contracts, Illinois courts routinely look to the intent of the parties in order to ascertain the scope and extent of the claims released." *Hagene*, 2009 Ill. App.

LEXIS 84 at *6, citing *Ainsworth Corp. v. Cenco Inc.*, 107 Ill. App. 3d 435, 440-41, 437 N.E.2d 817, 822, (1st Dist. 1982). The appellate court determined that it was "able to examine the circumstances surrounding the transaction without changing the terms or creating an ambiguity." *Hagene*, 2009 Ill. App. LEXIS 84 at *6-7, citing *First Bank and Trust Co. of Illinois v. Village of Orland Hills*, 338 Ill. App. 3d 35, 46, 787 N.E.2d 300, 310 (1st Dist. 2003).

With respect to workers' compensation claims and settlements, it was noted that workers' compensation "is considered a humane law of remedial nature and should be liberally construed to achieve its purpose." *Hagene*, 2009 Ill. App. LEXIS 84 at *7, citing *Shell Oil Co. v. Industrial Comm'n*, 2 Ill. 2d 590, 596, 119 N.E.2d 224, 228 (1954). The court noted that the right to be compensated for medical costs associated with a work-related injury "is at the very heart of the Workers' Compensation Act." *Hagene*, 2009 Ill. App. LEXIS 84 at *7, citing *Martin v. Kralis Poultry Co.*, 12 Ill. App. 3d 453, 460, 297 N.E.2d 610, 615 (5th Dist. 1973).

An employer is required to pay for medical care that is reasonably required to treat injuries that are actually caused by the work-related accident. If there is a dispute over whether any of the petitioner's injuries are, in fact, causally connected to his or her on-the-job accident, then the parties may choose to resolve the dispute as a part of a settlement. The appellate court in *Hagene* noted that if the parties agree that only some of the medical bills are causally related, there may well be disputed unpaid bills from which the employer is, by agreement, not obligated to pay. The appellate court noted, however, that unlike the "dispute" over the length of temporary total disability benefits, the settlement agreement which was prepared in *Hagene* does not indicate a dispute regarding whether any of the bills were causally related. Instead, the medical expense section on the front of the settlement contract indicated that the employer had paid all the medical bills. The appellate court also noted that the respondent at oral argument conceded that the bills at issue were, in fact, causally connected to the accident. However, the respondent argued that because the settlement contract was unambiguous, the actual facts surrounding the settlement agreement are immaterial because any reviewing court should, under contract law, be foreclosed from any extraneous consideration.

The appellate court stated that "'[n]o form or words, no matter how all-encompassing, will foreclose a court's scrutiny of a release or prevent a reviewing court from inquiring into the surrounding circumstances to ascertain whether it accurately reflected the parties' intention.'" *Hagene*, 2009 Ill. App. LEXIS 84 at *9, quoting *Farmers Auto. Ins. Ass'n v. Kraemer*, 367 Ill. App. 3d 1071, 1074, 857 N.E.2d 691, 694 (5th Dist. 2006). The court noted that the amount of the settlement ($20,036.10) does not include any amount for the payment of medical bills. Rather, the settlement amount was calculated from the statutory guidelines for permanent partial disability pursuant to Section 8(e) of the Illinois Workers' Compensation Act. 820 ILCS 305/8(e) (West 2002). The settlement amount equaled 30 percent loss of use of the arm pursuant to Section 8(e) of the Act. No part of the settlement amount included compensation for past unpaid medical bills related to the accident.

The respondent pointed to the "terms of settlement" portion of the settlement contract on the reverse side, which provided that the petitioner's past medical bills were specifically waived. The appellate court noted that the front of the settlement contract agreement indicated that the bills were paid, and it concluded that the parties did not intend to discharge the respondent's statutory obligation to pay the petitioner's past related medical bills. It determined that to find otherwise would provide a windfall to the respondent because it would be absolved from paying medical bills as required by statute without paying the petitioner any real consideration. The appellate court concluded this was a result that the parties never could have intended.

The appellate court reversed the trial court's decision which dismissed the petitioner's application for adjustment of claim in accordance with Section 19(g) of the Illinois Workers' Compensation Act.

It should be noted that this appellate court decision does allow the parties to use specific language to provide that certain medical bills are not being paid in accordance with the settlement agreement. However, practitioners must specifically identify those unpaid medical charges on both the front and the back of the settlement agreement with specific language discussing the obligation of either party with respect to those outstanding medical bills.

About the Author

Kevin J. Luther is a partner in the Rockford office of *Heyl, Royster, Voelker & Allen* where he concentrates his practice in areas of workers' compensation, employer liability, professional liability and general civil litigation. He also supervises the workers' compensation practice group in the Rockford office. Mr. Luther received his J.D. from Washington University School of Law in 1984. He is a member of the Winnebago County, Illinois State and American Bar Associations, as well as the IDC..