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Ewing v. Print Craft: QRCs Beware...

By Kathryn L. Hammers

On January 2, 2019, Gina Uhrbom, Senior Shareholder at Brown & Carlson, received a favorable decision from the Minnesota Supreme Court regarding compensability of rehabilitation services.

In *Ewing v. Print Craft*, the Employee slipped and fell on ice while he was leaving work in December 2015. He suffered an ankle sprain, and later claimed CRPS, as well as a concussion. The Employee was evaluated by a qualified rehabilitation consultant (QRC) and found qualified to receive rehabilitation services. Print Craft notified the QRC in September 2016, that they would not approve any further medical treatment or rehabilitation services pending the results of an independent medical examination. The independent medical examiner determined the Employee only sustained a left ankle sprain. A Claim Petition was filed shortly after in November 2016. On April 6, 2017, Print Craft formally filed a Rehabilitation Request to terminate the rehabilitation plan.

Following a Hearing on April 6, 2018, the Compensation Judge determined the Employee's work-related injury resolved by April 20, 2016, and denied all claims for benefits, including rehabilitation services, after that date. The Employee did not appeal this determination. However, the QRC appealed to the Workers' Compensation Court of Appeals (WCCA) and argued the Compensation Judge made an error by denying the claim for reimbursement for rehabilitation services provided through the date of the Hearing. The WCCA reversed the Compensation Judge and ruled Print Craft had to pay for rehabilitation services until the Rehabilitation Request to terminate rehabilitation services was filed. In other words, the WCCA awarded payment of rehabilitation services through April 6, 2017, even though the injury resolved by April 20, 2016.

The Minnesota Supreme Court then reversed the WCCA and determined the QRC was not entitled to reimbursement for rehabilitation services provided after the Employee's injury resolved. In reaching this determination, the Court analyzed prior determinations by both the Minnesota Supreme Court and WCCA, finding that an employer's liability for workers' compensation benefits ends when an employee is no longer disabled. The Court noted a QRC bears the risk of nonpayment for disputed services when there is an adverse determination as to primary liability.

The Court also stated that the Minnesota Rules specifically state "[a] party's failure to sign a plan amendment *shall not constitute a waiver of any right to*

subsequently dispute it or to dispute whether the rehabilitation fees relative to it are *reasonable*.” Emphasis added by the Court referring to Minn. R. 5220.0510, Subpart 2d.

Take away: An employer and insurer are not responsible for payment of rehabilitation services after a judicial determination that a work injury has resolved, regardless of when a Rehabilitation Request to terminate services was filed.

Should you have any questions regarding this decision or any other rehabilitation issue, please contact me or any of my colleagues at Brown & Carlson with any questions you may have.

Thank you.

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