

Brown & Carlson Insight

Sayler v. Bethany Home: Vacating Stipulations for Settlement

By Stephanie P. Edmonson

On June 11, 2021, the Minnesota Supreme Court denied the employee's petition to vacate a Stipulation for Settlement in *Sayler v. Bethany Home*, 960 N.W.2d 574 (Minn. 2021), affirming the W.C.C.A.'s decision that the evidence presented did not establish good cause under the statute to vacate the award on stipulation.

The employee sustained an admitted injury to her right foot and right big toe on January 19, 1997. She was initially diagnosed with a right toe contusion. When the employee's pain continued, she was diagnosed with reflex sympathetic dystrophy (RSD). By September 1998, the employee's RSD had spread into her right ankle and right knee.

In December 1998, the parties entered into a Stipulation for Settlement for all past, present, and future workers' compensation benefits. Future medical expenses remained open. However, the parties closed out chiropractic, pain clinic treatment, and rehabilitation.

The employee petitioned to vacate the Stipulation and Award. The MN Supreme Court applied the *Fodness* factors to determine whether the employee had provided good cause to vacate the Stipulation. *Fodness v. Standard Café*, 41 W.C.D. 1054 (W.C.C.A. 1989). The *Fodness* factors are as follows:

Change in Diagnosis

The employee claimed that her diagnosis had changed because her RSD condition had spread since the time of settlement from her right foot and ankle to her right hip, low back, left foot, and left leg. The MN Supreme Court determined that the employee did not meet her burden of proving a change in diagnosis because she had not experienced changes in her diagnoses, but only worsening of previously diagnosed conditions leading to additional treatment.

Change in Ability to Work

The employee had been working part time for the employer before settlement in 1998 and contended that she experienced a change in her workability since the settlement. She worked part time intermittently in 2002 and 2003 and further admitted that she provided intermittent childcare services and manicures for friends and family since 2011. The MN Supreme Court held that the employee's ability to work had not substantially changed since the time of settlement.

Necessity of More Costly and Extensive Medical Care

The implantation of a spinal cord stimulator was recommended and referenced in the 1998 Stipulation for Settlement. Since that time, the stimulator had been implanted, and the employee had complications resulting in eight surgeries. The employee's medical expenses were paid under the terms of the settlement and the Court noted that, when medical benefits are left open, more costly and extensive medical care is a less significant factor. The MN Supreme Court held that the medical expenses related to the spinal cord stimulator were not unanticipated at the time of settlement since the implantation was recommended and referenced in the original settlement documents.

Additional Permanent Partial Disability

Following settlement, the employee received additional PPD ratings from her treating physicians relative to the RSD/CRPS that had spread through both the right and left leg. While the MN Supreme Court agreed that these new ratings represented additional PPD, the Court determined that the additional PPD could have been anticipated since the CRPS had already spread at the time of the initial settlement.

In sum, *Sayler v. Bethany Home* demonstrates that good cause is not established under Minn. Stat. §176.461 to set aside an award where an employee's condition has worsened without any new diagnoses, the ability to work has not substantially changed, medical expenses have been mostly paid and additional PPD ratings were anticipated at the time of settlement.

If you have questions about the applicability of the treatment parameters, or any other workers' compensation matter, please feel free to contact me or the Brown & Carlson Hotline at (855)844-7070.

Stephanie P. Edmonson
763-252-6384
sedmonoson@brownandcarlson.com



Visit our Website

Brown & Carlson, P.A.
300 Highway 169 S.,#500
Minneapolis, MN 55426-1113
763-591-9950
F: 763-591-9202