

Opinion No. 15

Workmen's Compensation—Ambulance Service—Medical Payments—Statutes, Section 92-706, Revised Codes of Montana, 1947, As Amended by Chapter 41, Montana Session Laws, 1949.

Held: Ambulance charges incurred in the transportation of an injured workman to a hospital in order to afford him proper medical care are reasonable medical charges under Section 92-706, Revised Codes of Montana, 1947, as amended by Chapter 41, Montana Session Laws, 1949.

April 30th, 1951.

Mr. Walter P. Coombs, Chairman
Industrial Accident Board
Sam Mitchell Building
Helena, Montana

Dear Mr. Coombs:

You have requested my opinion as to whether ambulance charges are proper charges under Section 92-706, of the Workmen's Compensation Act.

Section 92-706, as amended by Chapter 41, Montana Session Laws, 1949, reads in part:

"In addition to the compensation provided by this act and as an additional benefit separate and apart from compensation, the following shall be furnished:

During the first 9 months after the happening of the injury, the employer or insurer or the board, as the case may be, shall furnish reasonable services by a physician or surgeon, reasonable hospital services and medicines when needed, and such other treatment approved by the board, not exceeding in amount the sum of five hundred dollars (\$500.00), unless the employee shall refuse to allow them to be furnished, and unless such employee is under hospital contract as provided in section 92-610."

Whether or not the statutory requirement to furnish "reasonable hospital service and medicines" includes the cost of conveying the injured person from the place of injury to the hospital has never been passed upon by the courts of this State. However, the Supreme Court of Minnesota, in *Huhn v. Foley Bros., Inc., et al.* (Minn.) 22 N. W. 2d 3, considered this question. That court held that under the medical hospital service provision of the Longshoremen and Harbor Workers Compensation Act, §907, 33 U. S. C. A. "the purpose of the statute would be defeated if respondent were to be denied reimbursement for expenses incurred in travel reasonably necessary to make medical service available." See, too, *Scruggs Bros. & Bill Garage v. State Industrial Commission*, (Okla.) 221 Pac. 470, 71 C. J. Workman's Compensation Acts, §490.

These cases are somewhat broader than the instant situation, for the expense items therein considered were for travel to and from the point of re-

ceiving medical treatment, throughout treatment. In only one case, *Goliat v. Butler Consolidated Coal Co., et al.*, (Pa.) 38 A. (2d) 727, was such transportation refused, and that on the basis of a specific statutory provision disallowing such payments. Even in that case the court commented: "The law requires the employer to furnish reasonable services and claimant could have objected to the travel as unreasonable. In which case had the employer refused there might have been presented to the board a question whether the services were reasonable."

It is clear that where an injured workman must be transported by ambulance from the scene of the accident to a hospital in order to receive treatment, such transportation is absolutely necessary to such treatment. Moreover, the situation is not one in which the injured workman could be held responsible to make an objection. Thus, even under the specific statutory provision of Pennsylvania as interpreted in the *Goliat* case, such travel would be a legitimate and necessary expense.

It is therefore my opinion that ambulance charges incurred in the transportation of an injured workman to a hospital in order to afford him proper medical care are included within the provisions of Section 92-706, as amended by Chapter 41, Montana Session Laws of 1949, and as such are a reasonable medical charge.

Very truly yours,
ARNOLD H. OLSEN
Attorney General