

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1998 MT WCC 22

WCC No. 9705-7746

DOUG LOCKHART

Petitioner

vs.

NEW HAMPSHIRE INSURANCE COMPANY

Respondent/Insurer for

LABOR CONTRACTORS

Employer.

ORDER INVITING AMICUS CURIAE BRIEFS
AND DIRECTING WITHHOLDING OF ATTORNEY FEES

Summary: This and other cases raise the significant question whether attorneys fees may be paid from medical benefits obtained through the efforts of a workers' compensation claimant's attorney.

Held: WCC invites amicus curiae briefs on behalf of medical providers and from attorneys practicing before the Court.

Topics:

Briefs: Amicus Curiae. In cases raising the significant question whether attorneys fees may be paid from medical benefits obtained through the efforts of a workers' compensation claimant's attorney, WCC invites amicus curiae briefs on behalf of medical providers and from attorneys practicing before the Court.

¶1 The claimant in this matter has moved for an order directing the respondent insurer to pay the 25% attorney fee which is due his attorney directly to the attorney, single payee. The request contemplates that 25% of medical benefits otherwise payable to medical providers will be deducted from the medical benefits and paid directly to the claimant's attorney. Thus, medical providers would receive only 75% of the payments otherwise specified by section 39-71-704(2), MCA, and ARM 24.29.1501 to 24.29.1581. The Court, without extended briefing or discussion, issued such an Order in *Robert Cheetham, Jr. v.*

Liberty Northwest Ins. Corp., Order Regarding Medical Payments, WCC No. 9612-7675 (July 16, 1997).

¶12 Respondent objects to the motion and has provided the Court with a copy of a January 26, 1993 memorandum of counsel for the Department of Labor and Industry which concludes, based on two Montana Supreme Court cases, that "attorney fees may not be deducted from medical payments without the consent of the medical providers." The two cases cited in the memorandum involve tort recoveries but may arguably apply to workers' compensation recoveries.

¶13 After reviewing the memorandum, and after review of another petition specifically requesting a determination as to whether attorney fees are deductible from medical payments, *Liberty Northwest Ins. Co. v. Nancy Petak*, WCC No. 9711-7872, I find that the matter warrants further consideration. I am therefore requesting further briefing by the parties in this case and by the parties in *Petak*. Further, I invite amicus curiae briefs on behalf of medical providers and from attorneys practicing before the Workers' Compensation Court.

THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

¶14 1. Copies of this Order and its attachments shall be sent to the Montana Medical Association, the Montana Hospital Association, the Division of Occupational and Professional Licensing, attorneys practicing before this Court, the legal unit of the Department of Labor and Industry, and the medical providers in this case.

¶15 2. On or before April 10, 1998, the parties herein, the parties in *Liberty Northwest Ins. Co. v. Nancy Petak*, WCC No. 9711-7872, the medical providers in this case, and groups and individuals wishing to file amicus briefs, shall file opening briefs concerning attorney fees with respect to medical benefits obtained through the efforts of a claimant's attorney. Any answer briefs shall be filed no later than April 27, 1998. No reply briefs shall be allowed.

¶16 3. The briefs shall address whether attorney fees authorized by an attorney fee agreement with a claimant are payable out of medical benefits which are paid as a result of the attorney's efforts, or whether such fees are payable solely out of any non-medical compensation benefits obtained by the attorney.

¶17 4. All briefs in this matter, as well as in *Northwest Ins. Co. v. Nancy Petak*, WCC No. 9711-7872, shall bear the caption of this case.

¶18 5. Any party or amicus curiae wishing to orally argue the matter shall file a written request for oral argument on or before April 27, 1998. If the Court finds that oral argument is warranted, it will then schedule a hearing for the argument.

¶19 6. Pending a final determination concerning attorney fees, the respondent shall forward payment for 75% of the amount due medical providers directly to those providers single

payee, and shall hold in trust the remaining 25% pending further order of this Court. Further, it shall forward an amount equal to 25% of the non-medical compensation benefits due claimant to claimant's attorney, single payee. Finally, the respondent shall forward to the claimant, single payee, the amount due him in non-medical compensation benefits, less 25% of the total amount of both medical and compensation benefits. The 25% withheld shall be held by the respondent in trust pending further order of this Court.

¶ 7. Respondents shall serve copies of this Order on all medical providers who are due medical benefits in this case and shall file a certificate of service showing the names and addresses of the providers.

DATED in Helena, Montana, this 4th day of March, 1998.

(SEAL)

\s\ Mike McCarter

JUDGE

c: Mr. Kenneth S. Thomas

Mr. Donald R. Herndon

Date Submitted: January 7, 1998

ATTACHMENTS:

(1) January 26, 1993 letter of Mr. Claren J. Neal, attorney for the Department of Labor and Industry to Mr. Chuck Hunter, Administrator of the Employment Relations Division of the Department of Labor.

(2) *Northwest Ins. Co. v. Nancy Petak*, WCC No. 9711-7872, Petition for Declaratory Judgment filed November 18, 1997.

(3) *Northwest Ins. Co. v. Nancy Petak*, WCC No. 9711-7872, Order Denying Community Medical Center's Motion to Dismiss, issued March 4, 1998.

DEPARTMENT OF LABOR AND INDUSTRY

Legal Services Division

January 26, 1993

Mr. Chuck Hunter, Administrator

EMPLOYMENT RELATIONS DIVISION

1805 Prospect Avenue

P.O. Box 1728

Helena, Montana 59624

RE: Deducting Atty. Fees from Medical Providers Payments

Dear Mr. Hunter:

Your Division requested a legal opinion on the above problem. This letter is in response to your request.

Question: Can a percentage of the medical payments owed by a work comp insurer to the medical providers be deducted to pay attorney fees?

Answer: No. Although the medical payments may be subject to an attorney's lien, it is my opinion that attorney fees may not be deducted from medical payments without the consent of the medical providers.

Equities: The Department recognizes the equities on both sides. The attorneys claim that "but for" their work, there would be no coverage and the providers are getting a free ride. The medical providers claim that there is no attorney/client relationship hence there can be no fee; their bills are already reduced by the fee schedule, and finally they cannot collect the difference between their bill and the fee schedule amount from the injured worker.

Authorities: The authority for an attorney's lien is Kelleher Law Office v. State Compensation Insurance Fund, 213 Mont. 412, 691 P.2d 823, (1984). But Kelleher is not directly on point. However 2 statutory sections and another case answer our question. Section 39-71-704 provides that medical and hospital charges are separate and apart from compensation. Section 39-72-712 provides that the attorney can take his fee from the claimant's biweekly compensation payments. The case which is helpful is Sisters of Charity of Providence of Mont. v. Nichols 157 Mont. 106, 483 P.2d 279 (1971). The Sisters of Charity case stands for the general principle that attorneys may not take their fees from payments made to medical providers. The Sisters of Charity case remains good law in Montana and has been cited favorably in the case of Wyoming Farm Mutual Insurance v. Mondale, 160 Mont. 239, 502 P.2d 39 (1972).

Conclusion: Section 39-71-704, Section 39-72-712, and the Sisters of Charity case address the question posed. I conclude that an attorney may not deduct his attorney fee from payments made to the medical providers in a Montana Workers' Compensation or Occupational Disease case without the medical providers consent.

Followup: The Legal Services Division makes no recommendations to Plan 1 self insurers, Plan 2 insurers, and the State Fund regarding how to handle this problem. Their decision on whether to issue single payee or dual payee checks is a business decision best left to the respective company or insurer. In short, since it is the insurer's money, the insurer should do what it thinks is best.

Cautionary Note: I specifically note for readers of this Opinion that the precise issue presented has not yet been decided by a Court. Accordingly insurers and medical providers

are advised to consult with their own attorneys and take whatever action they deem prudent after consultation. Whatever action is ultimately taken by the insurance company obviously will be at its own risk. The Montana Department of Labor is not responsible for any liability which might ultimately flow from such action.

We trust that the above information will be helpful to inquiring parties as they attempt to resolve this recurring and troublesome problem. Thank you for this opportunity to be of service.

Sincerely,

\s\ Claren Neal

Claren Neal

Legal Counsel

Larry W. Jones

Senior Attorney

Liberty Northwest Insurance Corp.

607 SW Higgins Avenue

Missoula, MT 59803-1443

(406) 543-4933

FILED

NOV 18, 1997

WORKERS' COMPENSATION JUDGE

HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

WCC No. 9711-7872

LIBERTY NORTHWEST INSURANCE CORPORATION

Petitioner

vs.

NANCY PETAK

Claimant

AND

COMMUNITY MEDICAL CENTER

AND
MISSOULA RADIOLOGY
Respondents.

COMES NOW the above-named petitioner and petitions the Court for declaratory judgment finding and adjudicating the rights and duties of the parties as regards the payment of attorney fees and medical benefits under the Workers' Compensation Court pursuant to the settlement of this dispute in Petak V. Liberty Northwest, WCC No.9508-7359 on the grounds and for the reasons set forth with particularity immediately below.

JURISDICTION

The Workers' Compensation Court has jurisdiction to make declaratory rulings. ARM 24.5.351, implementing 2-4-201.

Declaratory judgments are governed by the Uniform Declaratory Judgments Act. MCA §§ 27-8-101 et seq. (1997). The Montana Supreme Court has interpreted the Act.

The purpose of the Montana Declaratory Judgment Act is remedial and is meant "to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations; and it is to be liberally construed and administered." Section 27-8-102, MCA. Section 27-8-202, MCA, states in pertinent part: Any person . . . whose rights, status, or other legal relations are affected by a statute ... may have determined any question of construction or validity arising under the ... statute ... and obtain a declaration of rights, status, or other legal relations thereunder.

There are two principles this Court has adopted regarding declaratory judgments. First, even though all of the necessary elements of jurisdiction exist, the district court is not required to exercise that jurisdiction. Empire Fire & Marine Insurance Co. v. Goodman (1966), 147 Mont. 396, 401, 412 P.2d 569, 571. Secondly, a motion to dismiss a declaratory judgment rests with the sound discretion of the district court. Empire Fire, 412 P.2d at 571. We will not disturb a district court's decision that a declaratory judgment is not proper absent an abuse of discretion. Empire Fire, 412 P.2d at 571.

The Board contends that two arguments should bar appellant from declaratory relief. Because appellant has not suffered from any actual harm to his license, no justiciable controversy exists. In addition, appellant has not exhausted all of his administrative remedies.

Previously, we have held that a justiciable controversy contains three elements:

First, a justiciable controversy requires that parties have existing and genuine, as distinguished from theoretical, rights or interest. Second, the controversy must be one upon which the judgment of the court may effectively operate, as distinguished from a debate or argument invoking a purely political, administrative, philosophical or academic conclusion. Third, [it] must be a controversy the judicial determination of which will have the effect of a final judgment in law or decree in equity upon the rights, status or legal relationships of one or more of the real parties in interest, or lacking these qualities be of such overriding public moment as to constitute the legal equivalent of all of them.

Lee v. State (1981), 195 Mont. 1, 6, 635 P.2d 1282, 1284-84 (quoting Matter of Secret Grand Jury Inquiry (1976), 170 Mont. 354, 357, 553 P.2d 987, 990).

Brisendine v. Mont. Dept. of Commerce, 253 Mont. 361, 363-364, 833 P.2d 1019 (1991).

The instant controversy is best characterized as one based on contract, i.e., the settlement of the above-cited petition, case law, the Montana Supreme Court decision in Kelleher Law Office v. State Compensation Insurance Fund, 213 Mont. 412, 691 P.2d 823(1984) and statute, MCA §§ 71-3-1111(1997) (The Physician, Nurse, Physical Therapist, Occupational Therapist, Chiropractor, Dentist, Psychologist, Licensed Social Worker, Licensed Professional Counselor And Hospital Lien Act).

EXHAUSTION OF ADMINISTRATIVE REMEDIES.

The Montana Workers' Compensation Act at MCA §§ 39-71-2401 et seq. (1997) requires mediation of disputes with the following exception "A dispute arising under this chapter that does not concern benefits or a dispute for which a specific provision of this chapter gives the department jurisdiction must be brought before the department."

MCA § 39-71-613(1997) authorizes the Department of Labor to regulate the amount of attorney fees in any workers' compensation case.

The Employment Relations Division of the Department has taken the position that it does not have jurisdiction over attorney fee disputes. See the attached letter, Exhibit "A," of Charlotte Payne dated October 24, 1997.

The Department's administrative rule regarding attorney fee disputes provides in pertinent part:

24.29.207 CONTESTED CASES (1) Parties having a dispute involving legal rights, duties or privileges, other than disputes over benefits available directly to a claimant under Title 39, chapters 71 and 72, MCA, must bring the dispute to the department for a contested case hearing. Such disputes include but are not limited to:

(a) disputes regarding attorneys' fee agreements (39-71-613, MCA);

As set forth below, the factual basis for the request for declaratory judgment does not appear to be a dispute concerning benefits payable to a claimant directly, nor is it a dispute regulated attorney fees between a claimant and attorney. Therefore, Liberty's position is that it need not mediate the subject matter of this dispute nor file for a contested case hearing with the Department.

FACTUAL ALLEGATIONS.

Petak claims she was injured on October 19, 1994 and Liberty denied liability for her claim.

On May 31, 1995 Petak retained attorney Rex Palmer. The Department approved the fee agreement on 4-18-95, a copy of the fee agreement is attached as Exhibit "B."

The dispute was mediated on May 5, 1995 after which a mediation recommendation was issued.

The parties were unable to settle the dispute after the mediation and on August 7, 1995 Petak filed her Petition for Hearing in Petak v. Valley View Estates and Liberty Northwest Insurance Corp., WCC No.9508-7359.

In a letter dated September 11, 1995 from Liberty to Petak's attorney, Rex Palmer, a copy of which is attached as Exhibit "C," Liberty accepted liability for Petak's claim.

In its ORDER DISMISSING WITHOUT PREJUDICE filed October 16, 1995, this Court dismissed without prejudice Petak's petition.

In payment of certain medical bills related to Petak's claim, Liberty issued several checks listing Petak, her attorney, and the health care provider all as co-payees. These checks are the basis for the dispute in this case.

Attached as Exhibit "D" is the check in the amount of \$3,184.42 and made about to Petak, her attorney and Community Medical Center.

The check was sent to Petak's attorney on or about the issuance date.

On April 12, 1995, Liberty received a notice of claim of lien regarding services provided to Petak by Missoula Medical Center, a copy of which is attached as Exhibit "E."

In conversations and correspondence between and among Rex Palmer, Liberty and Regan Whitworth, Bayleat Law Offices, P.C., 704 West Sussex, Missoula, Montana 59801, attorney for Community Medical Center, the parties discussed the dispute regarding Petak's attorney's lien and the health care provider's unwillingness to honor that lien in light of its lien.

After some of the conversations and correspondence noted above, this Court issued an order in Cheetham v. Liberty Northwest Insurance Corp., (Order Regarding Medical Payments), WCC No.9612-7675, filed July 16, 1997, a copy of which is attached as Exhibit

"F." Applying the Supreme Court's decision in Kelleher Law Office v. State Compensation Insurance Fund, 213 Mont. 412, 691 P.2d 823 (1984) this Court held a judgment lien attaches to benefits which are awarded by this Court as a result of the efforts of claimant's attorney, and that this Court has jurisdiction to enforce the lien. This Court concluded "By plain and necessary implication where the insurer has denied all liability including for medical expenses, and the attorney obtains judgment holding the insurer liable, attorney fees attach [to] the medical expenses." The Court noted "respondent's suggestion that medical providers must be joined as a pre-requisite to the Court ordering payment of attorney fees from the medical benefits is without merit. The lien attached is in the matter of law and the controversy is between claimant and the insurer."

In Cheetham the issue of a medical lien was not at issue.

MCA § 39-71-743 (1995) at subsection (i) states "payments under this chapter may not be assignable, subject to attachment or garnishment, or held liable in anyway for debts, except: (a) as provided in 71-3-1118."

This statute (MCA § 71-3-1118) at subsection (2) make "all payments awarded for medical, therapy, chiropractic, dentistry, counseling and hospital services pursuant to the acts referred to in subsection (1) [i.e., the WCA and ODA]" subject to the "physician nurse ... and Hospital Lien Act [MCA §§ 71-3-1111 et seq. (1995)]."

This Act creates a lien by operation of law in the following circumstance:

(2) (a) If a person is an insured or a beneficiary under insurance that provides coverage in the event of injury or disease, there is a lien as

provided in subsection (2)(b) **upon required notice of a lien being given by:**

(i) a physician, nurse, physical therapist, occupational therapist, chiropractor, person practicing dentistry, or hospital for the value of services rendered or products provided for the diagnosis and treatment of a medical condition; or

(ii) a psychologist, licensed social worker, or licensed professional counselor for services rendered or products provided.

(b) The lien is on all proceeds or payments, except payments for property damage, payable by the insurer.

(3) The lien is subject to the lien of an attorney provided in 37-61-420.

MCA § 71-3-1114(2)(3) (1995) (emphasis added).

Notice of lien under the Act is governed by MCA § 71-3-1115 (1995). This statute does not prescribe the form of a lien. It simply requires that the health care provider who claims a lien on proceeds or payments payable by an insurer serve written notice on the insurer

against whom the lien is claimed stating the nature of the services, for whom and when rendered, the value of the services and that a lien is claimed. The statute does not prescribe a time by which the lien must be perfected.

The attorney lien statute (MCA § 37-61-420) cited in the above passage provides:

Judgment lien for compensation. (1) The compensation of an attorney and counselor for his services is governed by agreement, express or implied, which is not restrained by law.

(2) From the commencement of an action or the service of an answer containing a counterclaim, the attorney who appears for a party has a lien upon his client's cause of action or counterclaim which attaches to a verdict, report, decision, or judgment in his client's favor and the proceeds thereof in whose hands they may come. Such lien cannot be affected by any settlement between the parties before or after judgment.

MCA § 37-41-420 (1995).

In a letter dated August 12, 1997, a copy of which is attached as Exhibit "G" Liberty sent Whitworth a copy of the Cheetham order.

In a letter dated September 12, 1997 from Whitworth to Liberty Northwest, a copy of which is attached as Exhibit "H," Whitworth notified Liberty of Community Medical Center's position regarding the relevance of the Cheetham order to the dispute in this case, i.e., that it did not govern this dispute.

To date the parties have not been able to reach agreement regarding the priority of the liens in this case and what amounts of money Liberty is to pay to what person or entity.

WHEREFORE, Petitioner respectfully prays that this petition be set for hearing and that the following relief be granted:

1. That the Court decide which of the liens has priority;
2. That the Court order payment based on its resolution of the lien dispute; and
3. That the Court award Liberty its costs and that the Court award any other relief to Liberty it deems just and proper.

DATED this 17th day of November, 1997.

\s\ Larry W. Jones
Larry W. Jones
Senior Attorney

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1998 MTWCC 21

WCC No. 9711-7872

LIBERTY NORTHWEST INSURANCE CORPORATION

Petitioner

vs.

NANCY PETAK

Claimant/Respondent

COMMUNITY MEDICAL CENTER

Respondent.

ORDER DENYING COMMUNITY MEDICAL CENTER'S MOTION TO DISMISS

¶1 Liberty Northwest Insurance Corporation (Liberty) is the petitioner in this matter. By way of its petition, it seeks the Court's direction as to the payment of attorney fees with respect to medical benefits payable as a result of an industrial injury suffered by claimant/respondent Nancy Petak (claimant).

¶2 Liberty named Community Medical Center (Community) as a co-respondent since the medical benefits at issue are payable to it. Community moves for an order dismissing the petition on the ground that the Workers' Compensation Court lacks jurisdiction over the subject matter of the petition. The motion is **denied**.

Discussion

¶3 This litigation follows on the heels of a previous petition brought by claimant. *Nancy Petak v. Valley Estates and Liberty Northwest Ins. Corp.*, WCC No. 9508-7359. That action was brought after Liberty denied her claim for compensation with respect to an industrial injury she suffered on October 19, 1994. The litigation was resolved when Liberty was persuaded to accept liability for the claim.

¶4 Thereafter, a further dispute ensued over the disbursement of medical benefits. Liberty issued checks for claimant's medical bills payable jointly to claimant, her attorney, and claimant's health care providers. One of the payments was in the amount of \$3,184.42 for medical care provided by Community and made payable to claimant, claimant's attorney, and Community. The check was sent to claimant's attorney, Mr. Rex Palmer (Palmer).

¶5 Shortly after Liberty remitted the check, Community notified Liberty and Palmer of its lien for medical services. In subsequent communications, Community disputed Palmer's right to any attorney fee out of the medical benefits which are otherwise due it. It has insisted that it be paid the full amount without any deduction for attorney fees.

¶6 Community asserts that this Court has no jurisdiction over the matter since it does not concern benefits. I disagree.

¶7 In workers' compensation matters, the Workers' Compensation Court has broad jurisdiction. While section 39-71-2905, MCA (1997), initially speaks of jurisdiction in terms of disputes between an insurer and claimant over an entitlement to benefits,⁽⁴⁾ it goes on to more generally provide:

After parties have satisfied dispute resolution requirements provided elsewhere in this chapter, the workers' compensation judge has exclusive jurisdiction to make determinations concerning disputes under chapter 71, except as provided in 39-71-317 and 39-71-516.

On its face, the quoted language bestows the Workers' Compensation Court with jurisdiction over all disputes arising under the Workers' Compensation Act (WCA); the only exceptions are the disputes mentioned in sections 39-71-317 and -516, MCA, and disputes for which the WCA provides a more specific instruction concerning jurisdiction, see *Montana Dept. of Revenue v. Kaiser Cement Corp.*, 245 Mont. 502, 507, 803 P.2d 1061, 1064 (1990). Thus, the Court's jurisdiction is not limited to controversies which solely affect the insurer and claimant, or to matters solely involving benefits.

¶8 Prior decisions of the Supreme Court provide additional guidance concerning jurisdiction. In *State ex rel. Uninsured Employers' Fund v. Hunt*, 191 Mont. 514, 625 P.2d 539 (1981), the Court held that the Workers' Compensation Court has broad jurisdiction over matters which do not directly involve but affect benefits. It said:

Although the Workers' Compensation Court is not vested with the full powers of a District Court, it nevertheless has been given broad powers concerning benefits due and payable to claimants under the Act. It has the power to determine which of several parties is liable to pay the Workers' Compensation benefits, or if subrogation is allowable, what apportionment of liability may be made between insurers, and other matters that go beyond the minimum determination of the benefits payable to an employee.

191 Mont. at 519, 625 P.2d at 542. In *Kelleher Law Office v. State Compensation Ins. Fund*, 213 Mont. 412, 691 P.2d 823 (1984), the Supreme Court expressly held that the Workers' Compensation Court has jurisdiction over disputes involving attorney fee liens on benefits obtained through the efforts of a claimant's attorney.

¶9 The broad statutory grant of jurisdiction, and the two precedents cited in the preceding paragraph, provide persuasive authority for this Court's exercise of jurisdiction over the present controversy. The matter at hand concerns the distribution of benefits payable under the WCA. The Supreme Court's decision in *Kelleher* held that the Workers' Compensation Court has jurisdiction to enforce the judgment lien afforded an attorney under section 37-61-420, MCA. The judgment lien statute provides:

37-61-420. Judgment lien for compensation. (1) The compensation of an attorney and counselor for his services is governed by agreement, express or implied, which is not restrained by law.

(2) From the commencement of an action or the service of an answer containing a counterclaim, the attorney who appears for a party has a lien upon his client's cause of action or counterclaim which attaches to a verdict, report, decision, or judgment in his client's favor and the proceeds thereof in whose hands they may come. Such lien cannot be affected by any settlement between the parties before or after judgment.

This case involves the entitlement of Palmer to a judgment lien with respect to the medical benefits he obtained on behalf of claimant by commencing the prior action. Community's argument that a judgment lien does not attach to medical benefits goes to the merits of the action, not to the jurisdiction of the Court.

¶10 The motion to dismiss Community Medical Center is **denied**.

SO ORDERED.

DATED in Helena, Montana, this 4th day of March, 1998.

(SEAL)

\s\ Mike McCarter

JUDGE

c: Mr. Larry W. Jones

Mr. Rex Palmer

Mr. Regan Whitworth

Submitted: February 17, 1998

1. The first sentence of section 39-71-2905, MCA, provides:

A claimant or an insurer who has a dispute concerning any benefits under chapter 71 of this title may petition the workers' compensation judge for a determination of the dispute after satisfying dispute resolution requirements otherwise provided in this chapter.

