

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

Summary: After settlement of a claim, medical provider notified insurer and claimant's attorney that it would not agree to any attorney fee being paid out of the medical benefits. Insurer filed petition naming claimant and medical provider, asking Court to resolve dispute concerning payment of attorneys' fees out of medical benefits. Medical provider moved to dismiss, arguing Workers' Compensation Court did not have jurisdiction over the subject matter of the petition.

Held: Motion to dismiss denied. Under section 39-71-2905, MCA (1997), WCA "has exclusive jurisdiction to make determinations concerning disputes under chapter 71, except as provided in section 39-71-317 and 39-71-516." This matter does not involve those exceptions, but does involve a dispute arising under the Workers' Compensation Act. Moreover, prior decisions of the Montana Supreme Court establish that the WCC has broad jurisdiction over matters which do not directly involve but affect benefits. The present matter concerns the distribution of benefits payable under the Act.

Topics:

Constitutions, Statutes, Regulations and Rules: Montana Code Annotated: section 39-71-2905, MCA (1997). WCC has jurisdiction over dispute between medical provider, claimant, and insurer regarding whether attorneys fees are properly paid out of medical benefits obtained through the efforts of the attorney. With a few exceptions not relevant here, the WCC has broad jurisdiction over

matters arising under the WCA, including matters which do not directly involve but affect benefits. The distribution of benefits under the WCA falls under the Court's jurisdiction.

Jurisdiction: Dispute. WCC has jurisdiction over dispute between medical provider, claimant, and insurer regarding whether attorneys fees are properly paid out of medical benefits obtained through the efforts of the attorney. With a few exceptions not relevant here, the WCC has broad jurisdiction over matters arising under the WCA, including matters which do not directly involve but affect benefits. The distribution of benefits under the WCA falls under the Court's jurisdiction.

¶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,⁽¹⁾ 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.