

## Commonwealth Court: Workers' Compensation Settlement Not Binding on Medical Care Provider Who Was Not Party to the Agreement

Articles, News August 29, 2019

The Pennsylvania Commonwealth Court recently ruled that an employer cannot use a Compromise and Release Agreement (C&R) settling a Workers' Compensation claim to avoid making payments to a medical care provider who rendered medical services to the injured employee but who was not a party to the settlement agreement.

In *Workers First Pharmacy Services, LLC v. Bureau of Workers' Compensation Fee Review Hearing Office (Cincinnati Insurance Company)*, No. 1619 C.D. 2018, 2019 WL 3642982 (Pa. Commw. Ct. Aug. 7, 2019), an employee of American Business Support filed a Workers' Compensation claim after being struck with a falling cabinet. American Business Support denied the claim, stating the employee did not suffer a work injury. The employee's physician prescribed several medications. Workers First Pharmacy Services ("Pharmacy") dispensed the medications, and billed American Business Support. American Business Support refused to pay the Pharmacy for the medications because it believed the employee did not suffer a work injury.

After being denied payment by American Business Support, the Pharmacy filed three fee review applications. The Medical Fee Review Section of the Bureau of Workers' Compensation ("Medical Fee Review Section") ruled that American Business Support owed the Pharmacy \$1,650 plus interest for the employee's medications. American Business Support appealed to the Bureau's Fee Review Hearing Office ("Hearing Office").

While this appeal was pending, American Business Support entered into a C&R to settle the overall claim with the employee. The Pharmacy was not a party to the C&R. American Business Support denied liability for the employee's work injuries in the C&R, but agreed to pay \$37,500 to resolve the employee's claims. The C&R, however, stated that the Pharmacy's invoices were being litigated in the fee review process and were not part of the settlement. At a later judicial hearing, counsel for American Business Support reiterated that the employee would not be responsible for any payments to the Pharmacy, regardless of how the fee review process played out.

After entering into the C&R with the employee, American Business Support won its appeal against the Pharmacy. It was determined that the hearing officer had no jurisdiction to rule on the Pharmacy's fee review application because American Business Support had not been found liable for the employee's work injury.

The Pharmacy appealed that determination to the Commonwealth Court. It argued (i) that its due process rights were being violated because the C&R relieved the employee and American Business Support from liability to the Pharmacy without a hearing, and (ii) that American Business Support made itself subject to the fee review process by agreeing to release the employee from any liability to the Pharmacy.

The Commonwealth Court ruled in favor of the Pharmacy. It held that the Hearing Office could rule on the Pharmacy's fee review contest because American Business Support promised the employee both in the C&R and subsequent judicial hearing that he would not be liable for the Pharmacy's bills. By doing so, American Business Support accepted "responsibility" for the payments to the Pharmacy, even though it still denied liability for the employee's work injury. Therefore, the Hearing Officer had jurisdiction over the Pharmacy's fee review contest. The Commonwealth Court sent the case back to the Hearing Office for a hearing on the merits of the Pharmacy's three fee review contests.

In sum, this case clarifies that employers are not exempt from payments to third-party medical care providers just because the employer denies liability for an employee's work injury and enters into a settlement agreement with the employee. Rather, if the employer promises to pay an employee's medical expenses to a medical care provider, the employer has accepted "responsibility" for the payments owed to the provider. If the medical care provider disagrees with the amount paid by the employer, it can initiate a fee review and seek additional payments. The employer can be required to participate in the fee review process, even if it denies liability for the work injury.

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