

SUPREME COURT OF NEVADA

Valdez v. Employers Ins. Co. of Nev., 123 Nev. 170

162 P.3d 148 (2007) · No. No. 44507 · Decided June 28, 2007

SUMMARY

The Nevada Supreme Court held that NRS 616C.090, requiring an injured worker to select a treating physician under the terms of the insurer's managed-care contract, applied retroactively to a 1987 workers' compensation claim. The court concluded that physician choice is a procedural and remedial mechanism rather than a vested substantive benefit. The court affirmed the district court's denial of judicial review of the appeals officer's decision requiring Valdez to change physicians.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Gibbons, J.; Hardesty, J.; Parraguirre, J.; Douglas, J.; Cherry, J.; Saitta, J.; Maupin, C.J.
JURISDICTION	Nevada
DECIDED	June 28, 2007
DOCKET	No. 44507
DISPOSITION	affirmed
PROCEDURAL POSTURE	Valdez sought judicial review of an appeals officer's decision requiring him to select a treating physician within the managed-care organization's provider network. The district court denied the petition, and Valdez appealed.
STANDARD OF REVIEW	Plenary review applies to an administrative ruling involving statutory construction because statutory construction is a question of law; the court reviews the legal issue rather than deferring to the agency.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Nevada issued en banc.
PARTIES	Donald Valdez v. Employers Insurance Company of Nevada, A Mutual Company

TOPICS

- workers compensation
- statutory interpretation
- legislative history
- administrative law
- standard of review

PRACTICE AREAS

workers compensation

administrative law

statutory interpretation

appellate procedure

QUESTIONS PRESENTED

1. Whether NRS 616C.090(3), enacted after Valdez's 1987 injury, applied retroactively to require him to select a treating physician under EICON's managed-care contract.
2. Whether an injured worker's choice of treating physician is part of a vested substantive workers' compensation benefit or is instead a procedural and remedial mechanism.
3. Whether the appeals officer was required to hold an evidentiary hearing or permit testimony when the material facts were undisputed and the issue was one of statutory interpretation.

HOLDINGS

1. An injured worker's choice of treating physician is not a substantive right to compensation or benefits; it is a procedural mechanism for administering the workers' compensation system.
2. NRS 616C.090(3) applies retroactively to Valdez's pending workers' compensation claim because it regulates a procedural and remedial mechanism rather than changing a substantive right.
3. The appeals officer was not required to receive testimony because the material facts were undisputed and the only issue before the officer was a legal question concerning physician choice.

KEY QUOTATIONS

“While the entitlement to competent medical treatment for a work-related injury is itself a medical benefit, the choice of one’s physician is not.” (154)

“We conclude that physician choice under the managed-care system is a procedural and remedial means of administering an injured worker's vested right to workers' compensation.” (155)

FACTUAL BACKGROUND

Donald Valdez suffered a severe work-related injury in 1987 that rendered him quadriplegic and required continuous urological care. He began treating with Dr. Steven Kurtz in 1996 while Kurtz belonged to the State Industrial Insurance System's managed-care network. After EICON assumed responsibility for the claim and changed its managed-care organization in 2002, Kurtz was outside the new network, and EICON directed Valdez to select another physician within that network.

PROCEDURAL HISTORY

After EICON changed its managed-care organization in 2002 and Valdez's treating urologist was excluded from the new network, an administrative hearing officer initially allowed Valdez to continue treatment with that physician. An appeals officer reversed, concluding that NRS 616C.090 applied retroactively and required selection of an in-network physician. The district court denied judicial review, and the Nevada Supreme Court affirmed on rehearing.

DISPOSITION

affirmed

CASES CITED

- Maxwell v. SIIS, 109 Nev. 327, 329, 849 P.2d 267, 269 (1993)
- Banegas v. SIIS, 117 Nev. 222, 225, 19 P.3d 245, 247 (2001)
- Virden v. Smith, 46 Nev. 208, 210-211, 210 P. 129, 129-130 (1922)
- EICON v. Chandler, 117 Nev. 421, 426, 23 P.3d 255, 258 (2001)
- McKellar v. McKellar, 110 Nev. 200, 203, 871 P.2d 296, 298 (1994)
- Madera v. SIIS, 114 Nev. 253, 258, 956 P.2d 117, 120 (1998)
- Friel v. Cessna Aircraft Co., 751 F.2d 1037, 1039 (9th Cir. 1985)
- Mathews v. Eldridge, 424 U.S. 319, 333, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976)
- Goldberg v. Kelly, 397 U.S. 254, 262, 90 S. Ct. 1011, 25 L. Ed. 2d 287 (1970)
- American Mfrs. Mut. Ins. Co. v. Sullivan, 526 U.S. 40, 59-61, 119 S. Ct. 977, 143 L. Ed. 2d 130 (1999)
- Grover C. Dils Med. Ctr. v. Menditto, 121 Nev. 278, 112 P.3d 1093 (2005)