

SUPREME COURT OF NORTH CAROLINA

Mehaffey v. Burger King

367 N.C. 120 (2013) · No. No. 24PA12 · Decided November 8, 2013

SUMMARY

The North Carolina Supreme Court held that the Industrial Commission exceeded its statutory authority by using its Medical Fee Schedule to bar retroactive compensation for attendant care provided by an immediate family member without prior Commission approval. The court reversed the Court of Appeals on that issue but remanded for findings on whether the employee sought approval within a reasonable time. A partial dissent argued that the Commission's longstanding preapproval requirement was authorized and consistent with the Workers' Compensation Act.

CASE DETAILS

COURT	Supreme Court of North Carolina
WRITING FOR THE COURT	Hudson, Justice; Newby, Justice
JURISDICTION	North Carolina
DECIDED	November 8, 2013
DOCKET	No. 24PA12
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff sought discretionary review under N.C.G.S. § 7A-31 of a unanimous Court of Appeals decision that affirmed in part and reversed in part an opinion and award of the North Carolina Industrial Commission.
STANDARD OF REVIEW	De novo review of whether the Industrial Commission acted within the statutory authority granted by the General Assembly; statutory interpretation is also reviewed de novo.
PRECEDENTIAL VALUE	Published and precedential Supreme Court of North Carolina opinion
PARTIES	Dewey D. Mehaffey v. Burger King, Liberty Mutual Insurance Company

TOPICS

workers compensation

administrative law

statutory interpretation

judicial review of agency action

employment law

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the North Carolina Industrial Commission's Medical Fee Schedule could prohibit compensation for attendant care provided by an immediate family member before the Commission approved the services.
2. Whether plaintiff was entitled to reimbursement for past attendant care without findings addressing whether he sought Commission approval within a reasonable time after selecting a medical provider.
3. Whether *Hatchett v. Hitchcock Corp.* controlled after the 1994 amendment to N.C.G.S. § 97-26.

HOLDINGS

1. The Industrial Commission lacked statutory authority to require that attendant care provided by an immediate family member could not be compensated unless the provider obtained Commission approval before rendering the care. The Medical Fee Schedule provision imposing that prerequisite was therefore without effect.
2. Plaintiff was not automatically entitled to reimbursement for past attendant care. An injured worker must obtain Commission approval within a reasonable time after selecting a medical provider, and reimbursement may be denied if approval was not timely sought.
3. Hatchett's statutory basis no longer existed after the 1994 rewrite of N.C.G.S. § 97-26, which removed the language making employer liability depend on treatment being ordered by the Commission.

KEY QUOTATIONS

"We hold that the Commission may not do so since such action would exceed the power granted to the Commission by the General Assembly." (367 N.C. at 121)

"While good policy reasons may exist for the prerequisites created here in the Schedule, this matter is a legislative determination, not one to be made by the Commission without statutory authorization." (367 N.C. at 126-27)

"If plaintiff did not seek approval within a reasonable time, he is not entitled to reimbursement." (367 N.C. at 128)

FACTUAL BACKGROUND

Dewey Mehaffey suffered a compensable knee injury while working as a Burger King restaurant manager and later developed reflex sympathetic dystrophy, chronic pain, and related functional limitations. His wife provided substantial attendant care in the home, increasing from approximately four hours per day to approximately sixteen hours per day after leaving outside employment. Medical professionals later recommended attendant care, and the Industrial Commission awarded his wife compensation for services provided both before and after Commission approval.

PROCEDURAL HISTORY

The deputy commissioner awarded compensation for attendant care services provided by plaintiff's wife, including services provided before Commission approval. The Full Commission affirmed in pertinent part. The Court of Appeals, relying on *Hatchett v. Hitchcock Corp.*, reversed the award of compensation for past attendant care. The Supreme Court reversed that portion of the Court of Appeals' decision because the Medical Fee Schedule's preapproval requirement exceeded the Commission's statutory authority, but remanded for findings regarding whether plaintiff sought approval within a reasonable time.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Appeals must further remand the matter to the North Carolina Industrial Commission to make findings of fact and conclusions of law concerning whether plaintiff sought approval for attendant care within a reasonable time after selecting a medical provider, and to conduct further proceedings consistent with the opinion.

CASES CITED

- *Hatchett v. Hitchcock Corp.*, 240 N.C. 591, 83 S.E.2d 539 (1954)
- *Ruiz v. Belk Masonry Co.*, 148 N.C. App. 675, 681, 559 S.E.2d 249, 253-54, appeal dismissed and disc. rev. denied, 356 N.C. 166, 568 S.E.2d 610 (2002)
- *Charlotte-Mecklenburg Hosp. Auth. v. N.C. Indus. Comm'n*, 336 N.C. 200, 203, 443 S.E.2d 716, 718-19 (1994)
- *High Rock Lake Partners, LLC v. N.C. DOT*, 366 N.C. 315, 319, 735 S.E.2d 300, 303-04 (2012)
- *In re Broad & Gales Creek Cmty. Ass'n*, 300 N.C. 267, 280, 266 S.E.2d 645, 654-55 (1980)
- *Gregory v. W.A. Brown & Sons*, 363 N.C. 750, 763-64, 688 S.E.2d 431, 440 (2010)
- *Forrest v. Pitt Cnty. Bd. of Educ.*, 100 N.C. App. 119, 125-28, 394 S.E.2d 659, 662-64 (1990), *aff'd per curiam*, 328 N.C. 327, 401 S.E.2d 366 (1991)
- *Patterson v. McLean Credit Union*, 491 U.S. 164, 173, 109 S. Ct. 2363, 2370, 105 L. Ed. 2d 132, 148 (1989)
- *Jones v. R.R. Donnelley & Sons Co.*, 541 U.S. 369, 124 S. Ct. 1836, 158 L. Ed. 2d 645 (2004)
- *Schofield v. Great Atl. & Pac. Tea Co.*, 299 N.C. 582, 593, 264 S.E.2d 56, 63 (1980)

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