

SUPREME COURT OF OKLAHOMA

McClanahan v. City of Tulsa

McClanahan, 2019 OK 15 (Okla. 2019) · No. 115802 · Decided April 2, 2019

SUMMARY

The Oklahoma Supreme Court affirmed an Oklahoma Workers' Compensation Commission decision involving a permanent partial disability award to Brian McClanahan. The court held that the challenged use of the American Medical Association's Guide and the employer credit authorized by 85A O.S. § 89 were constitutional, relying on its prior decisions in *Hill v. American Medical Response* and *Braitsch v. City of Tulsa*.

OPINION

PER CURIAM.

MCCLANAHAN v. CITY OF TULSA Skip to Main Content Accessibility Statement Help Contact Us e-payments Careers Home Courts Decisions Programs News Legal Research Court Records Quick Links OSCN Found Document:MCCLANAHAN v. CITY OF TULSA Previous Case Top Of Index This Point in Index Citationize Next Case Print Only MCCLANAHAN v. CITY OF TULSA2019 OK 15Case Number: 115802Decided: 04/02/2019THE SUPREME COURT OF THE STATE OF OKLAHOMA Cite as: 2019 OK 15, __ P.3d __ NOTICE: THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION.

UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL. BRIAN MCCLANAHAN, Petitioner, v. CITY OF TULSA, OWN RISK #10435, and THE WORKERS'COMPENSATION COMMISSION, Respondents. MEMORANDUM OPINION COMBS, J.: ¶1 This is an appeal of an Order Affirming Decision of Administrative Law Judge by the Oklahoma Workers' Compensation Commission En Banc filed on February 21, 2017.

Petitioner suffered a compensable injury after the effective date of the Administrative Workers' Compensation Act (AWCA) (Title 85A). The Administrative Law Judge (ALJ) awarded Petitioner Permanent Partial Disability (PPD).

The ALJ also determined the City of Tulsa was entitled to a credit from the PPD award in the sum of \$9,758.27, pursuant to 85A O.S. § 89. The Petitioner challenged the constitutionality of several sections of the AWCA which mandate the exclusive use of the latest edition of the American Medical Association's Guide (AMA Guide) to evaluate and award PPD.

In addition, he challenged the constitutionality of the credit against PPD awards provided by 85A O.S. § 89. The ALJ found the use of the AMA Guide as well as the credit against PPD awards to

be constitutional. The Oklahoma Workers' Compensation Commission En Banc affirmed.

The dispositive issues on appeal concern the constitutionality of the sections of the AWCA which mandate the use of the AMA Guide as well as the employer credit against PPD awards. This cause was assigned to this office on March 28, 2018. ¶2 Upon review of the record and briefs of the parties, this Court has determined the issues raised in this appeal have already been decided in our recent opinions, *Hill v. American Medical Response*, 2018 OK 57, 423 P.3d 1119 and *Braitsch v. City of Tulsa*, 2018 OK 100, ____P.3d____, 2018 WL 6617141.

In *Hill* this Court held the required use of the AMA Guide in the AWCA was constitutional. In *Braitsch*, this Court held the credit provided under 85A O.S. § 89 was constitutional. The Order of the Oklahoma Workers' Compensation Commission En Banc is affirmed. ¶3 Wyrick, V.C.J., Winchester, Combs and Darby, JJ., concur. ¶4 Edmondson, J., concurs by reason of stare decisis. ¶5 Kauger, J., concurs in part; dissents in part; Kauger, J., concurring in part and dissenting in part I am concurring in part and dissenting in part for the reasons I expressed in *Hill v. American Medical Response*, 2018 OK 57, 423 P.3d 1119. ¶6 Gurich, C.J., Colbert and Reif, JJ., dissent.

Citationizer© Summary of Documents Citing This Document Cite Name Level None Found.
Citationizer: Table of Authority Cite Name Level Oklahoma Supreme Court Cases
CiteNameLevel 2018 OK 57, 423 P.3d 1119, *HILL v. AMERICAN MEDICAL RESPONSE*Discussed at Length 2018 OK 100, *BRAITSCH v. CITY OF TULSA*Cited Title 85A. Workers' Compensation CiteNameLevel 85A O.S. 89, Reimbursement - DeductionsDiscussed at Length oscn EMAIL: webmaster@oscn.net Oklahoma Judicial Center 2100 N Lincoln Blvd.

Oklahoma City, OK 73105 courts Supreme Court of Oklahoma Court of Criminal Appeals Court of Civil Appeals District Courts decisions New Decisions Supreme Court of Oklahoma Court of Criminal Appeals Court of Civil Appeals programs The Sovereignty Symposium Alternative Dispute Resolution Early Settlement Mediation Children's Court Improvement Program (CIP) Judicial Nominating Commission Certified Courtroom Interpreters Certified Shorthand Reporters Accessibility ADA Contact Us Careers Accessibility ADA