

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Jeanette Campbell, Widow of Vernon L. Campbell v. West Virginia Office of Insurance Commissioner/Choicepoint Services, Inc.

Campbell · No. No. 14-0972 · Decided June 16, 2015

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Jeanette Campbell's application for dependents' benefits under the state workers' compensation system. The court held that the application was untimely under West Virginia Code § 23-4-15(a) because it was filed more than six months after the decedent's death, and found no constitutional, statutory, or legal error in the Board of Review's decision.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Margaret L. Workman; Justice Robin J. Davis; Justice Brent D. Benjamin; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	June 16, 2015
DOCKET	No. 14-0972
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner's appeal from the West Virginia Workers' Compensation Board of Review's final order affirming denial of her application for dependents' benefits.
STANDARD OF REVIEW	The Court reviewed whether the Board of Review's decision violated a constitutional or statutory provision, resulted from erroneous conclusions of law, or was based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Published memorandum decision; the source does not specify a separate precedential classification.
PARTIES	Jeanette Campbell, widow of Vernon L. Campbell v. West Virginia Office of Insurance Commissioner, Choicepoint Services, Inc.

TOPICS

administrative law

judicial review of agency action

statutory interpretation

appellate procedure

insurance

PRACTICE AREAS

workers' compensation

administrative law

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QUESTIONS PRESENTED

1. Whether Jeanette Campbell's application for dependents' benefits was timely under West Virginia Code § 23-4-15(a).
2. Whether the claims administrator's alleged failure to explain the need for an additional application excused the untimely filing.

HOLDINGS

1. An application for dependents' benefits must be filed within six months of the decedent's date of death under West Virginia Code § 23-4-15(a); Campbell's May 2012 application, filed after Vernon Campbell's October 9, 2010 death, was untimely.
2. The claimant's asserted lack of awareness of the additional filing requirement did not excuse noncompliance because the statute provided no exception for failure to timely file.

KEY QUOTATIONS

“Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error.” (at 1)

“This Court agrees with the Board of Review because Mrs. Campbell untimely filed her application after the six month requirement stated in West Virginia Code § 23-4-15(a).” (at 2)

“Therefore, the decision of the Board of Review is affirmed.” (at 2)

FACTUAL BACKGROUND

Vernon L. Campbell had received permanent total disability benefits for a work-related neck injury. He died on October 9, 2010, and the death certificate attributed his death to sepsis, urinary tract infection, disability, and a bedbound state. The claims administrator awarded his widow 104 weeks of dependents' benefits under West Virginia Code § 23-4-10(e), but Campbell filed a separate application for dependents' benefits in May 2012, more than six months after his death.

PROCEDURAL HISTORY

The claims administrator denied Campbell's application for dependents' benefits as untimely under West Virginia Code § 23-4-15(a). The Workers' Compensation Office of Judges affirmed the denial, and the Board of Review affirmed the Office of Judges. The Supreme Court of Appeals affirmed the Board's final order.

DISPOSITION

affirmed

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