SUPREME COURT OF FLORIDA

State of Florida and Department of Insurance, Division of Risk Management v. Richard Herny

781 So. 2d 1067 (Fla. 2001) · No. SC96962 · Decided February 1, 2001

SUMMARY

The Supreme Court of Florida reviewed certified questions concerning workers' compensation offsets for supplemental benefits, Social Security disability and disability retirement benefits, and cost-of-living increases. The court answered the certified questions in the negative and approved the First District's conclusion that a state health insurance subsidy was not a collateral-source disability benefit subject to the statutory benefits cap.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Quince, J.; Wells, C.J.; Shaw, J.; Harding, J.; Anstead, J.; Pariente, J.; Lewis, J.
JURISDICTION	Florida
DECIDED	February 1, 2001
DOCKET	SC96962
DISPOSITION	approved
PROCEDURAL POSTURE	The Supreme Court of Florida reviewed a First District Court of Appeal decision that certified two workers' compensation offset questions as matters of great public importance. The court also exercised discretionary jurisdiction over an uncertified claim concerning whether a health insurance subsidy should be included in the statutory cap on benefits.
STANDARD OF REVIEW	The Supreme Court reviewed certified questions of law and exercised discretionary jurisdiction over an additional legal claim.
PRECEDENTIAL VALUE	binding
PARTIES	State of Florida, Department of Insurance, Division of Risk Management v. Richard Herny

TOPICS

workers compensation · statutory interpretation · insurance · appellate jurisdiction · appellate procedure

PRACTICE AREAS

workers compensation · insurance · statutory interpretation · appellate procedure

QUESTIONS PRESENTED

1. Whether an employer that initially included supplemental benefits in a workers' compensation offset under section 440.20(15), Florida Statutes (1985), may recalculate the offset to account for the yearly five-percent increase in supplemental benefits.
2. Whether an employer calculating offsets for Social Security disability and disability retirement benefits under Escambia County Sheriff's Department v. Grice may include cost-of-living increases to those benefits.
3. Whether a state health insurance subsidy should be treated as a collateral-source disability benefit and included within the cap on workers' compensation benefits under section 440.20(15), Florida Statutes (1985).

HOLDINGS

1. An employer may not recalculate the workers' compensation offset to include the yearly five-percent increases in supplemental benefits.
2. An employer may not include cost-of-living increases in calculating offsets for Social Security disability and disability retirement benefits under the applicable workers' compensation offset provisions.
3. A state health insurance subsidy available to a retiree because of eligibility for state disability retirement is not a disability benefit or a collateral-source benefit for purposes of section 440.20(15), and therefore must not be included within the workers' compensation benefits cap.

KEY QUOTATIONS

> *"Claimant became eligible to receive the health insurance subsidy because of his eligibility for state disability retirement. However it is apparent that the purpose of the subsidy is to assist state retirees, regardless of disability, in paying health insurance premiums. It is not intended as a disability benefit."* (D2468-69)

FACTUAL BACKGROUND

Herny received workers' compensation benefits, state disability retirement benefits, and a state health insurance subsidy. The employer took a workers' compensation offset under section 440.20(15), Florida Statutes (1985), and disputed whether supplemental-benefit increases, cost-of-living increases, and the health insurance subsidy should affect the offset or statutory cap. The health insurance subsidy was available because of eligibility for state disability retirement but was intended to assist state retirees generally with health insurance premiums, rather than to provide a disability benefit.

PROCEDURAL HISTORY

The judge of compensation claims refused to include Herny's health insurance subsidy within the cap on benefits under section 440.20(15), Florida Statutes (1985). The First District Court of Appeal affirmed and certified two offset questions concerning supplemental benefits and cost-of-living increases. The Supreme Court answered those certified questions in the negative, exercised discretionary jurisdiction over the health insurance subsidy issue, and approved the First District's decision.

DISPOSITION

approved

CASES CITED

- State v. Herny, 776 So. 2d 932 (Fla. 1st DCA 1999)
- City of Clearwater v. Acker, 755 So. 2d 597 (Fla. 1999)
- Florida Plastering v. Alderman, 755 So. 2d 604 (Fla. 2000)
- Feller v. State, 637 So. 2d 911 (Fla. 1994)
- Savona v. Prudential Insurance Co. of America, 648 So. 2d 705, 707 (Fla. 1995)
- Savoie v. State, 422 So. 2d 308 (Fla. 1982)
- Escambia County Sheriff's Department v. Grice, 692 So. 2d 896, 898 (Fla. 1997)
- Dixon v. Pasadena Yacht & Country Club, 731 So. 2d 141 (Fla. 1st DCA 1999)
- Acker v. City of Clearwater, 755 So. 2d 651 (Fla. 1st DCA 1998)

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