

# SUPREME COURT OF IOWA

## Perkins v. HEA of Iowa, Inc.

651 N.W.2d 40 (Iowa 2002) · No. No. 00-1203 · Decided September 5, 2002

### SUMMARY

The Supreme Court of Iowa held that an employee's hepatitis C infection resulting from a specific workplace blood-exposure incident was an industrial injury under Iowa Code chapter 85, rather than an occupational disease under chapter 85A. The court further held that the workers' compensation limitations period began when the hepatitis C was diagnosed, not when the employee was merely exposed to the disease. The court affirmed the court of appeals and district court judgment reinstating the arbitrator's award.

### CASE DETAILS

|                       |                                                                                                                                                                                                         |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Iowa                                                                                                                                                                                   |
| WRITING FOR THE COURT | Larson                                                                                                                                                                                                  |
| JURISDICTION          | Iowa                                                                                                                                                                                                    |
| DECIDED               | September 5, 2002                                                                                                                                                                                       |
| DOCKET                | No. 00-1203                                                                                                                                                                                             |
| DISPOSITION           | affirmed                                                                                                                                                                                                |
| PROCEDURAL POSTURE    | Appeal from district court's judicial review decision reinstating the workers' compensation arbitrator's award; employer appealed, court of appeals affirmed, and supreme court granted further review. |
| STANDARD OF REVIEW    | Review of an industrial commissioner's decision is on error, not de novo; factual findings are binding if supported by substantial evidence.                                                            |
| PRECEDENTIAL VALUE    | published                                                                                                                                                                                               |
| PARTIES               | HEA of Iowa, Inc. d/b/a Clinton Retirement Village; Insurance Company of North America v. Diane Perkins                                                                                                 |

### TOPICS

workers compensation

statutory interpretation

judicial review of agency action

administrative law

employment law

### PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether Perkins's hepatitis C infection was an 'injury' under Iowa Code chapter 85 rather than an 'occupational disease' under chapter 85A.
2. Whether the two-year statute of limitations in Iowa Code section 85.26(1) began to run from the date of exposure or from the date of diagnosis under the discovery rule.

## HOLDINGS

1. The infection was an 'injury' under chapter 85 because it originated from a sudden, specific traumatic event (a rupture of the patient's shunt causing blood exposure), not through passive exposure characteristic of an occupational disease.
2. The date of injury was the date Perkins discovered she had hepatitis C (April 20, 1996), not the date of exposure. Mere exposure to a disease does not trigger inquiry notice because the claimant has not yet suffered an injury.

## KEY QUOTATIONS

*"It is significant in determining whether Perkins suffered an occupational disease, or an injury under workers' compensation, that Perkins' infection was linked to a sudden, specific incident of exposure. The contraction of disease is deemed an injury by accident in most states if due to some unexpected or unusual event or exposure."* (44)

*"We hold the date of injury was the date Perkins discovered she had hepatitis C, April 20, 1996, the date it was diagnosed. It did not commence from the date she was exposed to it."* (47)

*"If, as we have said, inquiry notice does not arise from 'every minor ache, pain, or symptom,' Swartzendruber, 613 N.W.2d at 650, inquiry notice surely cannot be triggered when there is no ache, pain, or symptom of an injury."* (47)

## FACTUAL BACKGROUND

Diane Perkins, a nurse at a Clinton retirement facility, was exposed to a patient's blood when the patient's shunt ruptured in October 1990. The patient had hepatitis C. Perkins tested negative shortly afterward and was advised to retest in six months and one year, but did not. In 1995-96 she developed abnormal liver function, and hepatitis C was diagnosed in April 1996. She filed a workers' compensation claim in October 1996.

## PROCEDURAL HISTORY

The arbitrator awarded Perkins workers' compensation benefits, but the acting industrial commissioner vacated the award. The district court reinstated the award on judicial review, finding the commissioner's discovery-rule findings unsupported by substantial evidence. The court of appeals affirmed on a divided vote, and the Iowa Supreme Court granted further review.

## DISPOSITION

affirmed

#### CASES CITED

- Gates v. John Deere Ottumwa Works, 587 N.W.2d 471 (Iowa 1998)
- Terwilliger v. Snap-On Tools Corp., 529 N.W.2d 267 (Iowa 1995)
- Ganske v. Spahn & Rose Lumber Co., 580 N.W.2d 812 (Iowa 1998)
- Noble v. Lamoni Prods., 512 N.W.2d 290 (Iowa 1994)
- Luttrell v. Indus. Comm'n, 154 Ill.App.3d 943, 107 Ill.Dec. 620, 507 N.E.2d 533 (1987)
- St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000)
- Dunlavey v. Econ. Fire & Cas. Co., 526 N.W.2d 845 (Iowa 1995)
- Dyke v. St. Francis Hosp., Inc., 861 P.2d 295 (Okla. 1993)
- Enid State Sch. v. Mitchell, 590 P.2d 1179 (Okla. 1978)
- City of Nichols Hills v. Hill, 534 P.2d 931 (Okla. 1975)
- Ranney v. Parawax Co., 582 N.W.2d 152 (Iowa 1998)
- Orr v. Lewis Cent. Sch. Dist., 298 N.W.2d 256 (Iowa 1980)
- Swartzendruber v. Schimmel, 613 N.W.2d 646 (Iowa 2000)
- Montag v. T.H. Agric. & Nutrition Co., 509 N.W.2d 469 (Iowa 1993)
- LeBeau v. Dimig, 446 N.W.2d 800 (Iowa 1989)
- Albertson v. T.J. Stevenson & Co., 749 F.2d 223 (5th Cir. 1984)

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