

SUPREME COURT OF PENNSYLVANIA

Coleman v. Workers' Compensation Appeal Board (Indiana Hospital and PHICO Services Company)

577 Pa. 38 (Pa. 2004) · Decided February 17, 2004

SUMMARY

The Supreme Court of Pennsylvania held that diagnostic testing may qualify as a "physical examination" under Section 314(a) of the Pennsylvania Workers' Compensation Act. Such testing is permissible when it is sought to evaluate the extent of a claimant's injuries and the employer demonstrates that it is necessary, involves no more than minimal risk, and is not unreasonably intrusive. The court affirmed the Commonwealth Court's order, while noting that the particular dispute was technically moot because the claimant had already undergone the testing.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Eakin; Chief Justice Ralph J. Cappy; Justice Castille; Justice Nigro; Justice Newman; Justice Saylor; Justice Lamb
JURISDICTION	Pennsylvania
DECIDED	February 17, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant sought review of an order compelling her to undergo diagnostic testing under section 651(a) of the Pennsylvania Workers' Compensation Act. The WCAB dismissed the appeal as moot after claimant underwent the testing; the Commonwealth Court reached the merits under an exception to mootness, reversed the WCAB, and affirmed the WCJ's order. The Supreme Court affirmed the Commonwealth Court.
STANDARD OF REVIEW	Statutory interpretation is a question of law.
PRECEDENTIAL VALUE	precedential
PARTIES	LouAnn Coleman v. Workers' Compensation Appeal Board, Indiana Hospital, PHICO Services Company

TOPICS

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QUESTIONS PRESENTED

1. Whether the appeal remained reviewable under the capable-of-repetition-but-likely-to-evade-review exception to mootness after claimant underwent the requested testing.
2. Whether the term physical examination in 77 P.S. § 651(a) includes diagnostic testing such as an MRI and triphasic bone scan.
3. Whether the meaning of an undefined statutory term is a question of law requiring medical expert testimony.
4. What limitations apply when an employer seeks diagnostic testing as part of a workers' compensation physical examination.

HOLDINGS

1. The issue was reviewable despite claimant's having undergone the testing because it was capable of repetition and likely to evade judicial review; claimants generally must comply with examinations to preserve benefits.
2. Diagnostic testing falls within the statutory definition of physical examination when sought to evaluate the extent of a claimant's injuries, provided the employer demonstrates that the tests are necessary, involve no more than minimal risk, and are not unreasonably intrusive.
3. The meaning of an undefined statutory term is a question of law rather than a matter requiring opinion testimony about the term's meaning in the medical profession.
4. The reasonable-and-necessary standard applies to initial as well as subsequent examinations under section 651(a), and the examination must be evaluated in relation to its risk, intrusiveness, and scope.

KEY QUOTATIONS

“In sum, diagnostic testing falls under the definition of a “physical examination” in § 651(a) when sought to evaluate the extent of claimant’s injuries, provided employer demonstrates the tests are necessary, involve no more than minimal risk, and are not unreasonably intrusive.” (356)

“The purpose of an examination is to assess the extent and severity of a claimant’s injury.” (354)

“The absence of such a qualifier for initial requests does not operate to allow an employer to subject a claimant to any procedure for the sake of determining the existence or extent of an injury.” (355)

FACTUAL BACKGROUND

LouAnn Coleman suffered a work-related right-shoulder lifting injury in 1995 and underwent two surgeries. During an independent medical evaluation in 2000, the examining physician believed her symptoms were

disproportionate to the objective findings and requested an MRI and triphasic bone scan to complete the evaluation. Coleman refused the testing, although she had previously undergone similar testing with only temporary redness, swelling, and bruising, and the employer petitioned to compel her cooperation.

PROCEDURAL HISTORY

After claimant refused an employer-requested MRI and triphasic bone scan, the WCJ granted the employer's petition to compel cooperation. Claimant appealed to the WCAB, but underwent the testing before oral argument, leading the WCAB to dismiss the appeal as moot. The Commonwealth Court applied the capable-of-repetition-but-likely-to-evade-review exception, reversed the WCAB, and affirmed the WCJ. The Supreme Court affirmed, concluding that the issue was properly reviewable and that the diagnostic testing fell within the statutory term physical examination subject to limitations.

DISPOSITION

affirmed

CASES CITED

- Commonwealth v. Joint Bargaining Committee for Pennsylvania Social Services Union, 484 Pa. 175, 398 A.2d 1001 (1979)
- Walker v. WCAB, 792 A.2d 628 (Pa. Cmwlth. 2002)
- Coleman v. WCAB, 808 A.2d 336 (Pa. Cmwlth. 2002)
- Maranc v. WCAB, 156 Pa. Cmwlth. 572, 628 A.2d 522 (Pa. Cmwlth. 1993)
- Pettineo v. Philadelphia Law Department, 721 A.2d 65 (Pa. Cmwlth. 1998)
- Commonwealth v. Gilmour Manufacturing Co., 573 Pa. 143, 822 A.2d 676 (2003)
- Morgan v. MacPhail, 550 Pa. 202, 704 A.2d 617 (1997)
- Unora v. Glen Alden Coal Co., 377 Pa. 7, 104 A.2d 104 (1954)
- L.E. Smith Glass Co. v. WCAB, 571 Pa. 594, 813 A.2d 634 (2002)
- Pancoast v. WCAB, 734 A.2d 52 (Pa. Cmwlth. 1999)
- Slingwine v. Industrial Accident Board, 560 A.2d 998 (Del. 1989)
- In re Fiori, 543 Pa. 592, 673 A.2d 905 (1996)
- Myers v. Travelers Insurance Co., 353 Pa. 523, 46 A.2d 224 (1946)
- Union Pacific Railway Co. v. Botsford, 141 U.S. 250, 11 S. Ct. 1000, 35 L. Ed. 734 (1891)
- John M. v. Paula T., 524 Pa. 306, 571 A.2d 1380 (1990)
- Camden & Suburban Railway Co. v. Stetson, 177 U.S. 172, 20 S. Ct. 617, 44 L. Ed. 721 (1900)
- Muse v. WCAB, 514 Pa. 1, 522 A.2d 533 (1987)
- Mrs. Smith Pie Co. v. WCAB, 57 Pa. Cmwlth. 274, 426 A.2d 209 (Pa. Cmwlth. 1981)
- State Farm Insurance Cos. v. Swantner, 406 Pa. Super. 235, 594 A.2d 316 (Pa. Super. 1991)
- Sharpe v. St. Luke's Hospital, 573 Pa. 90, 821 A.2d 1215 (2003)
- Ney v. Axelrod, 723 A.2d 719 (Pa. Super. 1999)

- Tomko v. Marks, 412 Pa. Super. 54, 602 A.2d 890 (Pa. Super. 1992)
- Althaus v. Cohen, 562 Pa. 547, 756 A.2d 1166 (2000)
- Davis v. WCAB (Swarthmore Borough), 561 Pa. 462, 751 A.2d 168 (2000)
- Montgomery v. Bazaz-Sehgal, 568 Pa. 574, 798 A.2d 742 (2002)
- Wolfe v. WCAB, 161 Pa. Cmwlt. 361, 636 A.2d 1293 (Pa. Cmwlt. 1994)

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