

SUPREME COURT OF LOUISIANA

Martin v. Davison Transport, Inc.

810 So. 2d 1103 (La. 2002) · Decided February 22, 2002

SUMMARY

The Louisiana Supreme Court held that the Louisiana Workers' Compensation Act does not give claimants a right to select or replace a medical case manager, and that a workers' compensation hearing officer may not regulate an employer's medical case management services. The court reversed that portion of the lower court's decision while otherwise denying relief, leaving penalties and attorney fees available as remedies for improper conduct.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Johnson; Knoll; Reasons
JURISDICTION	Louisiana
DECIDED	February 22, 2002
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendants appealed a Workers' Compensation Hearing Officer's order to the Louisiana Second Circuit Court of Appeal, which affirmed. The Louisiana Supreme Court granted review and reversed in part.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion
PARTIES	Davison Transport, Inc. and defendants v. Martin

TOPICS

[workers compensation](#)[agency adjudication](#)[administrative law](#)[remedies](#)

PRACTICE AREAS

[workers compensation](#)[administrative law](#)[remedies](#)

QUESTIONS PRESENTED

1. Whether the Louisiana Workers' Compensation Act authorizes a claimant or Workers' Compensation Hearing Officer to require an employer or insurer to replace a medical case manager and appoint a new one.

2. Whether the hearing officer's authority to impose penalties and attorney fees was the proper remedy for allegedly egregious medical case-management conduct.

HOLDINGS

1. The Louisiana Workers' Compensation Act does not give a claimant the right to a medical case manager, the right to select or terminate one, or the right to require an employer or insurer to replace or appoint one. A Workers' Compensation Hearing Officer therefore may not regulate the employer's or insurer's medical case-management services by ordering replacement or appointment of a case manager.
2. When medical case-management conduct violates the employer's obligations under the Workers' Compensation Act, the proper remedy is the imposition of statutory penalties and attorney fees against the employer, rather than judicial regulation of the case manager through an order requiring replacement or appointment.

KEY QUOTATIONS

"The Louisiana Workers' Compensation Act does not provide claimants the right to a medical case manager, the selection of a medical case manager, or the termination of a medical case manager." (1104)

"While we agree in this case that the actions of the medical case manager may have been egregious, the proper remedy under the Workers' Compensation Act is the imposition of sanctions in the form of penalties and attorney fees against the employer." (1104)

"Accordingly, neither Plaintiff nor the Workers' Compensation Hearing Officer can regulate medical case management services." (1104)

FACTUAL BACKGROUND

Martin was injured while driving an eighteen-wheel tractor-trailer in the course and scope of his employment and received temporary total disability and medical benefits. He complained that defendants would not allow him to choose his own specialist, failed to approve necessary medical equipment, delayed providing medical records, and mishandled his medical case management. The Workers' Compensation Hearing Officer found grounds for sanctions and ordered defendants to replace the case manager, appoint a new one, reimburse a \$500 evaluation fee, and pay penalties and attorney fees.

PROCEDURAL HISTORY

Martin, an injured employee, filed workers' compensation claims concerning medical treatment, disability benefits, medical equipment, and case management. After a hearing, the Workers' Compensation Hearing Officer ordered defendants to reimburse a medical evaluation fee, replace and appoint a new medical case manager, and pay penalties and attorney fees. The Second Circuit affirmed, but the Louisiana Supreme Court reversed the portions requiring replacement and appointment of a medical case manager while leaving the remainder undisturbed.

DISPOSITION

reversed

OPINION

PER CURIAM.

PER CURIAM. Plaintiff was injured in the course and scope of his employment while driving an 18 wheel tractor trailer rig. Plaintiff was paid temporary and total disability and medical benefits as a result of the injuries he sustained from the accident. Thereafter, Plaintiff filed a claim with the Office of Workers' Compensation asserting that Defendants refused to allow him to choose his own specialist.

Plaintiff also filed an amended claim, asserting that his weekly disability rate should be increased and that Defendants refused to approve necessary medical equipment for him. Then Plaintiff filed a rule to have Defendants ordered to: (1) reimburse him for a \$500 medical evaluation fee; (2) assign him another case manager; (3) refrain from any further direct contact with his health care providers; and (4) pay attorney fees/costs associated with the rule.

Defendants responded and stated that the rule should be denied because: (1) the assignment of a case manager is within the sole discretion of the employer/insurer; (2) the current case manager should be maintained; and (3) Plaintiff failed to allege that his opportunity to receive medical treatment had been interfered with by Defendants.

After a hearing on the rule filed by Plaintiff, the Workers' Compensation Hearing Officer ordered Defendants to reimburse Plaintiff the \$500 medical evaluation fee, to replace the medical case manager, and to appoint a new medical case manager to meet with Plaintiff.

The hearing officer further ordered Defendants to pay a penalty in the amount of \$2,000 and to pay attorney fees in the amount of \$3,000 for: their failure to timely provide Plaintiff with a motorized wheelchair; their delay in providing medical records to Plaintiff's physician; their apparent disregard for Plaintiff's health; and their lack of knowledge of Plaintiff's medical condition, his means of transportation, and his living arrangements.

Defendants appealed that decision, and the court of appeal affirmed. We now reverse the decision of the Second Circuit with regards to the replacement of the medical case manager and the appointment of a new medical case manager.

The Louisiana Workers' Compensation Act does not provide claimants the right to a medical case manager, the selection of a medical case manager, or the termination of a medical case manager. Plaintiff has not cited nor do we find any authority which allows the Workers' Compensation Hearing Officer to manage the operations of a medical case manager who is employed or contracted by an employer.

While we agree in this case that the actions of the medical case manager may have been egregious, the proper remedy under the Workers' Compensation Act is the imposition of sanctions in the form of penalties and attorney fees against the employer.

The legislature has remained silent on the issue of a claimant's right to a medical case manager. Accordingly, neither Plaintiff nor the Workers' Compensation Hearing Officer can regulate medical case management services.

We therefore [.]reverse that portion of the court of appeal's decision directing Defendants to replace the medical case manager and to appoint a new medical case manager. REVERSED IN PART; OTHERWISE DENIED. JOHNSON, J., dissents. KNOLL, J., dissents and assigns reasons.