

MICHIGAN COURT OF APPEALS

Sokolek v. General Motors Corp., 206 Mich. App. 31

520 N.W.2d 668 (Mich. Ct. App. 1994) · No. 166408 · Decided June 21, 1994

SUMMARY

The Michigan Court of Appeals considered whether the one-year-back rule for nursing or attendant care applies to a worker's compensation case where the original injury occurred before the effective date of the statute. The court held that the statute in effect at the time the claim for nursing benefits accrued applies, and therefore the one-year-back rule does not limit the award of nursing care benefits. The court affirmed the Worker's Compensation Appeal Board's decision, which had found that the plaintiff's husband provided reasonable and necessary home nursing care for her since 1981.

CASE DETAILS

COURT	Michigan Court of Appeals
WRITING FOR THE COURT	Hood, P.J.; Cavanagh, J.; D.A. Teeple, J.
JURISDICTION	Michigan
DECIDED	June 21, 1994
DOCKET	166408
DISPOSITION	affirmed
PROCEDURAL POSTURE	General Motors sought review of the Michigan Workers' Compensation Appeal Board's decision refusing to apply the one-year-back limitation for nursing or attendant-care benefits to Sokolek's claim. The Michigan Supreme Court remanded the matter to the Court of Appeals for consideration as on leave granted.
STANDARD OF REVIEW	The court reviewed whether the WCAB erred as a matter of law in determining that the one-year-back rule in MCL 418.381(3) did not apply retroactively to Sokolek's nursing-care claim.
PRECEDENTIAL VALUE	published; precedential
PARTIES	General Motors Corporation v. Sokolek

TOPICS

- workers compensation
- statutory interpretation
- appellate procedure
- preservation of error

PRACTICE AREAS

workers compensation

employment law

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether the one-year-back limitation for nursing or attendant-care payments in MCL 418.381(3) applied to a claim arising from a 1980 injury when the petition for nursing-care benefits was filed after the statute's July 30, 1985 effective date.
2. Whether the argument that MCL 418.381(3) should apply retroactively as remedial legislation was preserved for appellate review.

HOLDINGS

1. The statute in effect when Sokolek's claim for nursing benefits accrued controlled. Because the claim accrued in 1981, before MCL 418.381(3) was enacted, the one-year-back limitation did not apply.
2. The argument that MCL 418.381(3) should be applied retroactively because it was remedial was not preserved because General Motors did not raise it before either the Court of Appeals or the WCAB; the issue was therefore waived.

KEY QUOTATIONS

“We hold that, by analogy with Thomas, the statute in effect at the time plaintiff's claim for nursing benefits accrued applies.” (at 36)

“Because plaintiff's claim for such benefits accrued in 1981, before the addition of the one-year-back rule, the WCAB did not err in refusing to limit the award of nursing care benefits.” (at 36)

FACTUAL BACKGROUND

Sokolek sustained a work-related back injury on April 16, 1980, and her condition later deteriorated substantially. She testified that her husband provided extensive daily assistance, including bathing, toileting, mobility assistance, meal preparation, and continuous care during recurring periods of severe symptoms. The workers' compensation magistrate found that her husband provided reasonable and necessary home nursing care beginning in 1981.

PROCEDURAL HISTORY

Sokolek received an open workers' compensation award for a 1980 back injury. After she later petitioned for nursing or attendant-care expenses, a workers' compensation magistrate awarded benefits beginning in 1981, and the WCAB affirmed with modification while rejecting res judicata and retroactivity defenses. The Court of Appeals had denied General Motors' original application for leave, but the Supreme Court remanded for consideration of whether MCL 418.381(3) applied to the claim.

DISPOSITION

affirmed

CASES CITED

- Ivezaj v. Federal Mogul Corp. (On Remand), 197 Mich. App. 462, 495 N.W.2d 800 (1992)
- Nicholson v. Lansing Bd. of Ed., 423 Mich. 89, 377 N.W.2d 292 (1985)
- Wallin v. General Motors Corp., 317 Mich. 650, 27 N.W.2d 122 (1947)
- Thomas v. Continental Motors Corp., 315 Mich. 27, 23 N.W.2d 191 (1946)
- Allen v. Kalamazoo Paraffine Co., 312 Mich. 575, 20 N.W.2d 731 (1945)
- Mason v. Michigan Trading Corp., 308 Mich. 702, 14 N.W.2d 545 (1944)
- Riza v. Delray Baking Co., 200 Mich. App. 169, 504 N.W.2d 193 (1993)
- Achtenberg v. East Lansing, 421 Mich. 765, 364 N.W.2d 277 (1985)
- Wiand v. Wiand, 178 Mich. App. 137, 443 N.W.2d 464 (1989)

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