

ILLINOIS SUPREME COURT

In re Elena Hernandez

In re Elena Hernandez, 2019 IL 124661 (Ill. 2020) · No. 124661 · Decided January 24, 2020

SUMMARY

Workers' compensation settlement proceeds remain exempt from claims of medical-care providers under section 21 of the Illinois Workers' Compensation Act, even after the 2005 amendments to sections 8 and 8.2. The Illinois Supreme Court held that section 8.2(e-20) permits providers to seek payment from the employee but does not allow them to reach the settlement proceeds themselves, as section 21's unambiguous exemption still applies. The court emphasized that the legislature did not create an express exception for medical providers and that implied repeal or amendment of section 21 is disfavored.

CASE DETAILS

COURT	Illinois Supreme Court
WRITING FOR THE COURT	Karmeier; Burke; Thomas; Kilbride; Garman; Theis; Neville
JURISDICTION	Illinois
DECIDED	January 24, 2020
DOCKET	124661
DISPOSITION	other
PROCEDURAL POSTURE	Certified question of law from the United States Court of Appeals for the Seventh Circuit.
PRECEDENTIAL VALUE	Published
PARTIES	Elena Hernandez v. Ambulatory Surgical Care Facility, Marque Medicos Fullerton LLC, and Medicos Pain and Surgical Specialists, S.C.

TOPICS

[bankruptcy](#) [workers compensation](#) [statutory interpretation](#)

PRACTICE AREAS

[Bankruptcy](#) [Workers' Compensation](#) [Exemptions](#)

QUESTIONS PRESENTED

1. After the 2005 amendments to section 8 of the Workers' Compensation Act (820 ILCS 305/8) and the enactment of section 8.2 (820 ILCS 305/8.2), does section 21 of the Act (820 ILCS 305/21) exempt the proceeds of a workers' compensation settlement from the claims of medical-care providers who treated the illness or injury associated with that settlement?

HOLDINGS

1. Section 21 of the Workers' Compensation Act unequivocally exempts the proceeds of a workers' compensation settlement from the claims of medical-care providers who treated the illness or injury associated with that settlement. The 2005 amendments to sections 8 and 8.2 did not alter this exemption.

KEY QUOTATIONS

“No payment, claim, award or decision under this Act shall be assignable or subject to any lien, attachment or garnishment, or be held liable in any way for any lien, debt, penalty or damages, except the beneficiary or beneficiaries of a deceased employee who was a member or annuitant under Article 14 of the 'Illinois Pension Code' may assign any benefits payable under this Act to the State Employees' Retirement System.” (¶ 16)

“It is true, as the health care providers point out, that this provision, by its terms, does now permit health care providers to seek payment directly from an injured employee for outstanding bills plus interest following entry of a final workers' compensation award or judgment or after a settlement agreement is reached between the employer and the employee. Significantly, however, nothing in section 8.2(e-20) permits health care providers to look to the workers' compensation award, judgment, or settlement itself as a source of payment.” (¶ 23)

“Notwithstanding the 2005 amendments to section 8 of the Act (820 ILCS 305/8 (West 2016)) and the enactment of section 8.2 of the Act (id. § 8.2), section 21 of the Act (id. § 21) does exempt the proceeds of a workers' compensation settlement from the claims of medical-care providers who treated the illness or injury associated with that settlement.” (¶ 27)

FACTUAL BACKGROUND

Between 2009 and 2011, Elena Hernandez sustained on-the-job injuries and received medical treatment from Ambulatory Surgical Care Facility, Marque Medicos Fullerton LLC, and Medicos Pain and Surgical Specialists, S.C. In December 2016, she filed a voluntary Chapter 7 bankruptcy petition, reporting unsecured claims of \$137,772.06 to these providers and a pending workers' compensation claim valued at \$31,000. Two days later, she settled the claim for \$30,566.33 without consulting the bankruptcy trustee, believing the full amount was exempt under section 21 of the Workers' Compensation Act. The health care providers objected to the exemption, arguing that 2005 amendments to the Act allowed them to reach the settlement.

PROCEDURAL HISTORY

Elena Hernandez filed a Chapter 7 bankruptcy petition, claiming a workers' compensation settlement was exempt under section 21 of the Illinois Workers' Compensation Act. Health care providers objected. The bankruptcy court denied the exemption without a written opinion. The district court affirmed, holding that the

2005 amendments to the Act allowed providers to collect from the settlement. The Seventh Circuit certified the question to the Illinois Supreme Court.

DISPOSITION

other

CASES CITED

- In re McClure, 175 B.R. 21 (Bankr. N.D. Ill. 1994)
- In re Hernandez, 17 CV 3230 (N.D. Ill. Mar. 26, 2018)
- In re Hernandez, 918 F.3d 563 (7th Cir. 2019)
- Weber v. Ridgway, 212 Ill. App. 159 (1918)
- Lasley v. Tazewell Coal Co., 223 Ill. App. 462 (1921)
- In re Marriage of Logston, 103 Ill. 2d 266 (1984)
- In re Clark v. Chicago Municipal Employees Credit Union, 119 F.3d 540 (7th Cir. 1997)
- In re Thum, 329 B.R. 848 (Bankr. C.D. Ill. 2005)
- In re Allard, 196 B.R. 402 (Bankr. N.D. Ill. 1996)
- Hampton v. Metropolitan Water Reclamation District, 2016 IL 119861
- Bayer v. Panduit Corp., 2016 IL 119553
- Illinois State Treasurer v. Illinois Workers' Compensation Comm'n, 2015 IL 117418
- 5510 Sheridan Road Condominium Ass'n v. U.S. Bank, 2017 IL App (1st) 160279
- People v. Johnson, 2019 IL 123318
- DeSmet v. County of Rock Island, 219 Ill. 2d 497 (2006)
- Schultz v. Illinois Farmers Insurance Co., 237 Ill. 2d 391 (2010)
- Zahn v. North American Power & Gas, LLC, 2016 IL 120526
- Yang v. City of Chicago, 195 Ill. 2d 96 (2001)
- Food & Drug Administration v. Brown & Williamson Tobacco Corp., 529 U.S. 120 (2000)
- Bryson v. News America Publications, Inc., 174 Ill. 2d 77 (1996)
- Department of Healthcare & Family Services ex rel. Black v. Bartholomew, 397 Ill. App. 3d 363 (2009)