



Injured workers must inform BWC of third-party settlements

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The Ohio Supreme Court recently ruled that the Ohio Bureau of Workers' Compensation (BWC) must be notified of potential third-party settlements that would compensate an injured worker for an injury, even when an application for workers' compensation benefits has been denied and is under appeal.

In the case of *BWC v. Verlinger, et al.*, Verlinger was involved in a motorcycle accident while working for her employer. She applied for worker's compensation benefits, but the BWC initially denied her claim. While her appeal was pending, she reached a settlement with the relevant insurance companies. Verlinger incorrectly believed she did not have to inform the BWC or the Ohio Attorney General's Office (AGO) about her insurance settlement because it had been reached during the period when her claim was denied by the BWC. However, the Court held that she remained a claimant eligible to receive workers' compensation benefits during the appeal period, and therefore, was required to notify the BWC and AGO of their rights under R.C. § 4123.931. (Her claim was eventually allowed by the Industrial Commission of Ohio.)

Three things were made clear by the Court:

1. A claimant, for subrogation purposes, is any party who is eligible for compensation, medical benefits, or death benefits from the BWC; and,
2. A claimant is "eligible" for BWC benefits unless and until a final determination has been made indicating a claimant is not eligible for such; and,
3. Employers can be penalized if the BWC and/or AGO are not notified of third-party payments made to a claimant in their

employ.

This case is a good reminder to employers that if you have an employee who has been involved in a motor-vehicle accident, or other claim where there is a potential right to subrogation, you need to notify the BWC and AGO of their rights as a subrogee. Otherwise, you could be required to pay the BWC and AGO back for the money spent on the claim.

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