

SELF-INSURING EMPLOYERS EVALUATION BOARD

IN THE MATTER OF: FINDLAY INDUSTRIES (EMPLOYER); RISK No. 20003269-0
AND
[REDACTED] (INJURED WORKER); CLAIM No. [REDACTED]
COMPLAINT NO. 14835



Hochman & Plunkett Co.
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Compensation Consultants
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Dear Injured Worker, Employer and Representatives:

This letter is in response to the employer's appeal, dated May 8, 2006, to BWC's finding of a valid complaint in the above-referenced claim. The complaint alleged that the employer improperly terminated payment for all medical treatment. Upon further review and discussion, the Self-Insuring Employers Evaluation Board overturns BWC's decision, finds the complaint invalid and hereby dismisses the complaint.

The complaint, filed on or about October 18, 2005, alleged that the employer improperly terminated all treatment in violation of Ohio Administrative Code Rule 4123-19-03(K)(5). The complaint referenced the September 26, 2005, letter from the employer's TPA, which informed the injured worker that all treatment "is terminated," based on a medical report from Dr. Raub dated 6/24/05. Previously, an Industrial Commission District Hearing Officer dismissed the employer's motion to have 50% of the treatment allocated to the claim and 50% to the injured worker's health insurance based on the report of Dr. Raub. The DHO found no jurisdiction to order an insurance company to pay part of the medical bills.

The September 26, 2005 correspondence from Compensation Consultants, the employer's TPA, informed the injured worker that all treatment would be terminated based on the report of Dr. Raub. The correspondence further directed the injured worker to contact BWC or the IC if in disagreement with this decision. At this point, instead of properly invoking the Industrial Commission hearing process by filing a motion for the payment of medical bills, the injured worker improperly utilized the self-insured complaint process. Unfortunately, the Self-Insured Department did not view this matter as a "contested" matter

that should be set for hearing pursuant to Revised Code Sec. 4123.511. Instead, the Self-Insured Department sent a January 18, 2006 response that appears to be ruling on the merits of the payment of the medical bills, finding that "To terminate treatment when in fact treatment was related was improper." Without an Industrial Commission order requiring payment of the medical bills in question, the Self-Insured Department found a violation of Ohio Administrative Code Rule 4123-19-03(K)(5), as well as a violation of Ohio Revised Code Sec. 4123.35.

The employer's appeal was rejected by the BWC Chief of Employer Operations in a letter dated May 8, 2006. BWC upheld the finding of a valid complaint after analyzing the medical evidence in the file, citing the general obligation of an employer to assist an injured worker in filing a claim, and proposing a bifurcated billing process the self-insuring employer could have utilized to pay a portion of the medical bills. BWC abandoned its previous grounds for finding a valid complaint as a violation of Ohio Administrative Code Rule 4123-19-03(K)(5), and instead acknowledged that the employer could deny payment of medical bills pursuant to that provision, which "would enable a District Hearing Officer to decide whether the employer was responsible for paying the particular bills at issue."

While BWC's analysis may represent a reasonable option for resolving the issues raised by the employer's motion contesting the payment of the medical bills, it is not a basis for finding a valid complaint. Furthermore, BWC's conclusion presupposes that the bills in question are properly payable, a finding that is within the exclusive jurisdiction of the Industrial Commission. In summary, this complaint concerns a disputed claim issue which should be addressed by an Industrial Commission Hearing Officer, and not the Self Insuring Employers Evaluation Board.

Finally, the Board notes that the payment history submitted with the employer's appeal correspondence indicates that the employer has not terminated treatment or the payment of the treatment in this claim. For all of these reasons, the employer's appeal is granted, the BWC finding of a valid complaint is overturned, the complaint is found invalid, and it is hereby dismissed.

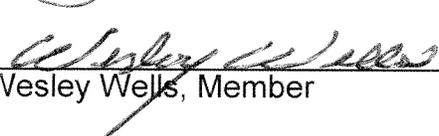
SELF-INSURING EMPLOYERS EVALUATION BOARD



Kevin R. Abrams, Chairman



James Sharpe, Member



Wesley Wells, Member

DATE MAILED: 1st DAY OF September, 2006