

SELF-INSURING EMPLOYERS EVALUATION BOARD

Karen L. Gillmor, Ph.D., *Chairman*
Carol A. Wilson, *Member*
Steven J. Hatton, *Member*

John R. Kasich, *Governor*

SELF-INSURING EMPLOYERS EVALUATION BOARD

IN THE MATTER OF:

GENCO I, Inc. (Employer), SI #20005410-0

and

[REDACTED]

[REDACTED]

[REDACTED]

GENCO I, Inc.
100 Papercraft Park
Pittsburgh, PA 15238

IceMiller Legal Counsel
250 West Street, Suite 700
Columbus, OH 43215

On June 9, 2016, [REDACTED] filed a self-insured complaint against GENCO I, Inc. (Employer) alleging that the Employer had failed to issue a claim number concerning his injury and had required him to use FMLA [Family Medical Leave Act] for the time he missed work.

On June 23, 2016, the Self-Insured Complaint Resolution Unit (SI Department) received a response from the Employer's representative. On June 29, 2016, the SI Department, after investigation of Complaint No. 18633, issued a letter finding the Complaint was invalid.

On August 4, 2016, the SI Department received the Injured Worker's representative's request for reconsideration of the finding of an invalid complaint. On December 7, 2016, BWC's Central Service Office Manager reversed the SI Department's decision and found the complaint to be valid.

On December 23, 2016, BWC's SI Department received the Employer's appeal of BWC's finding of a valid complaint and requested that it be directed to the Self-Insuring Employers Evaluation Board (SIEEB). On February 22, 2017, a "Notice of Presentation to the Self-Insuring Employers Evaluation Board" was sent to the parties. This matter then came before the Self-Insuring Employers Evaluation Board on March 29, 2017.

Relevant History of the Complaint:

On May 6, 2016, the Injured Worker sustained the injury herein when his right knee was struck by falling boxes while he was moving boxes from a bad pallet to a good one. An office note, dated May 27, 2016, mentioned that the Injured Worker had a left knee injury two months prior to that time; he had injured his left knee while playing basketball.

On May 31, 2016, the Employer certified the claim for RIGHT KNEE CONTUSION. By a Staff Hearing Officer order issued February 14, 2017, the claim was disallowed for RIGHT KNEE SPRAIN and RIGHT KNEE STRAIN.

The two issues raised by Complaint No. 18633 involve the providing of a BWC Claim Number and a complaint over the handling of certain FMLA matters. The Family and Medical Leave Act is a federal legislative act, 29 U.S.C. §§ 2601-2654. Jurisdiction over FMLA issues is within the jurisdiction of the United States Department of Labor. Neither the Ohio Bureau of Workers' Compensation nor the Self-Insuring Employers Evaluation Board has jurisdiction over the Injured Worker's FMLA complaints.

The date of injury in the claim herein is May 6, 2016. On May 10, 2016, the Employer's third party administrator sent a letter to the Injured Worker requesting the release of medical records (Form C-101). An Employer Certification Letter was issued May 31, 2016, allowing the claim for RIGHT KNEE CONTUSION. The Employer complied with the requirement of Ohio Adm.Code 4123-19-03(K), minimal level of performance as a criterion for granting and maintaining the privilege to pay compensation directly, which provides at subpart (10):

The employer shall inform a claimant, and the bureau of workers' compensation, in writing, within thirty days from the filing of the claim, as to what conditions it has recognized as related to the injury or occupational disease and what, if any, it has denied. The same timeframe shall apply when the employer rejects a medical only claim.

The medical information provided to the Employer at that time indicated that the claim would be a medical-only claim. A medical-only claim is a claim filed when an employee loses seven or fewer days from his or her job due to an industrial injury or occupational disease. Under established BWC policy, a self-insuring employer is not required to issue a claim number for a medical-only claim.

In the 30 days following the injury, the Employer, either directly or through its third-party administrator, met in person or spoke with the Injured Worker regarding his concerns on May 12, 13, 16, 17, and 19. The Employer also assisted the Injured Worker in obtaining medical treatment on May 13, 2016.

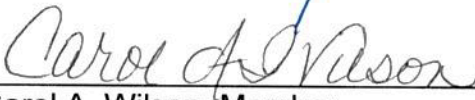
Considering all of the information above regarding the Employer's handling of the Injured Worker's claim for his May 6, 2016 work-related injury, the Employer complied with its legal requirement to assist the Injured Worker with his concerns regarding the claim process.

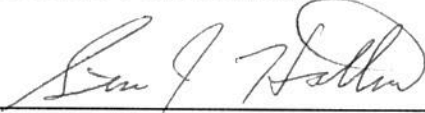
DETERMINATION:

Therefore, based on the foregoing, the Self-Insuring Employers Evaluation Board hereby finds that (1) a self-insuring employer is not required to issue a claim number for a medical-only claim, and (2) SIEEB does not have jurisdiction over Family Medical Leave Act complaints. Thus, there is no clear violation by the Employer (GENCO I, Inc.) of an administrative rule, BWC policy, or statutory provision. Therefore, Complaint No. 18633, filed by the Injured Worker [REDACTED] on June 9, 2016, is invalid.

SELF-INSURING EMPLOYERS EVALUATION BOARD:


Karen L. Gillmor, Chairman YES


Carol A. Wilson, Member YES


Steven J. Hatton, Member YES

DATE MAILED: 26th DAY OF September, 2017