

Jurisdiction

Resolution R98-1-02

Jurisdiction of Hearing Officer to Adjudicate Issue of Allowance on a Second Claim Application (Greene Court Case) February 12, 1998

WHEREAS, Section 4123.511(B)(3) of the Ohio Revised Code provides that if an appeal is made under division (B)(1) or (2) of Section 4123.511 of the Ohio Revised Code, the Administrator shall forward the claim file to the appropriate District Hearing Officer within seven days of the appeal; and

WHEREAS, Section 4123.511 (C) of the Ohio revised Code provides that the District Hearing Officer shall hear a disputed issue or claim no later than forty-five days after the filing of the appeal; and

WHEREAS, Section 4121.34(B)(2) and (3) of the Ohio Revised Code provide that District Hearing Officers shall have original jurisdiction on all appeals from a decision of the Administrator of Workers' Compensation under division (B) of Section 4123.511 of the Ohio Revised Code and all other contested claims matters under Chapters 4121., 4123., 4127 and 4131. of the Ohio Revised code except those matters over which Staff Hearing Officers have original jurisdiction; and

WHEREAS, questions have arisen regarding the opinion issued in the Linda L. Greene v. James Conrad, Administrator, Bureau of Workers' Compensation, and Industrial Commission of Ohio, (August 21, 19

WHEREAS, Section 4121.03(E)(1) of the Ohio Revised Code provides that the Industrial Commission is responsible for establishing the overall adjudicatory policy of the Commission under Chapters 4121., 4123, 3127 and 4131. of the Revised Code.

THEREFORE BE IT RESOLVED that a Hearing Officer of the Industrial Commission shall apply Linda Greene only to claims that present all the elements of the following fact pattern:

1. An order is issued by the Bureau of Workers' Compensation under Section 4123.511(B) of the Ohio Revised Code on the issue of the original allowance of the claim which denied the original allowance of the claim for the reason that the claimant did not provide all the information requested by the Bureau of Workers' Compensation to establish a claim or for the reason that there was insufficient information submitted to establish a claim.
2. No appeal is filed from the Bureau of Workers' Compensation order denying the allowance of claim.
3. A second claim application is filed for the same incident/accident.
4. The Bureau of Workers' Compensation issues an order denying the second claim application, or dismisses the second claim application, or refers the second claim application to a District Hearing Officer as a contested claims matter.

BE IT FURTHER RESOLVED that should a claim involving the aforementioned fact pattern be set for hearing before a Hearing Officer, the Hearing Officer shall proceed to adjudicate the merits of the issue of allowance of the claim on the second claim application.