

Keim v. PMC Pinnacle Hospitals

Cmwlth. Ct. of Pa.

December 12, 2022

Issue: Whether the WCJ erroneously concluded that the payment of medical expenses under a Medical Only NCP does not toll the statute of limitations under §315 and §413(a) of the WC Act.

Background: The claimant was injured on April 4, 2017, while in the course and scope of her employment. The employer issued a medical only Notice of Temporary Compensation Payable. This means that the employer was accepting responsibility for medical but was not agreeing that the claimant was disabled.

The Notice of Temporary Compensation Payable, after 90 days, converted to a Notice of Compensation Payable, Medical Only.

The claimant filed a claim petition in 2021, more than three years after the injury, seeking partial disability benefits from April 4, 2017 through March 31, 2021 and total disability benefits from April 1, 2021 ongoing. On August 18, 2021, the WCJ denied and dismissed the claim finding that employee's medical expense payments did not toll the statute of limitations and therefore, the claim petition was time-barred. The Board affirmed and there was an appeal to the Commonwealth Court.

§315 of the Workers' Compensation Act mandates that in cases of injury, all claims for compensation shall be forever barred unless within three years after the injury, the parties shall have agreed upon the compensation payable under this article; or unless within three years after the injury, one of the parties shall have filed a petition.

Where, however, payments of compensation have been made in any case, said limitations shall not take effect until the expiration of three years from the time of the making the most recent payment prior to date of filing such petition. The effect of issuing a Medical Only Notice of Compensation Payable is distinct from the effect of a WCJ ruling that a claimant has suffered a loss of earning power in granting a claim petition but immediately suspending benefits.

Under §413(a) of the Act, a reinstatement petition must be filed within three years after the date of the most recent payment of compensation made prior to the filing of such petition. The payment of medical benefits by an employer does not constitute compensation for the purposes of §413(a). There is no evidence presented or any findings of fact made to establish that the employer intended its medical payments to substitute for disability compensation. Similarly, there was no evidence presented and no findings made, an employer misled claimant by only paying medical benefits that intentionally or unintentionally deceived her, or that it somehow lulled her into a false sense of security sufficient to toll the statute of limitations.

Here, by issuing the Medical Only NCP, the employer made its intent expressly clear that it would pay claimant's medical expenses but accepted no liability for wage loss benefits. The

claimant has three years from either the date of injury or the last date of payment of compensation to file a review petition or is untimely. Where, as here, no disability compensation was paid, the date of injury controls.