



Iowa General Assembly

2014 Legal Updates

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Purpose. Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.

WORKERS' COMPENSATION - UNDOCUMENTED WORKER - HEALING PERIOD BENEFITS

Filed by the Iowa Supreme Court
November 15, 2013

Staff Management v. Jimenez

No. 12-1645, 839 N.W.2d 640 (Iowa 2013)

http://www.iowacourts.gov/About_the_Courts/Supreme_Court/Supreme_Court_Opinions/Recent_Opinions/20131115/12-1645.pdf

Facts. Claimant Jimenez entered the United States legally from Mexico in 1991 with a 10-year visa. After the expiration of her visa she became an undocumented worker. At the time of her injury in September 2007, Jimenez had worked, through various temporary employment agencies including appellant Staff Management, for Proctor and Gamble in Iowa City for about sixteen years. She was a line leader and supervisor with very good English speaking skills and was characterized as a great employee.

Jimenez sustained an injury while loading boxes of shampoo and, after evaluation by a general surgeon, was diagnosed with two hernias that the surgeon opined were probably work-related and required surgery. She underwent surgery in November 2007. She was authorized to return to light-duty work on December 12, 2007, but stated she could not work because of pain. She received injections for pain and returned to work on December 26 without work restrictions. However, she was unable to do her normal job and had to ask for help from other employees.

On January 22, 2008, Staff Management terminated Jimenez, for the stated reason that she did not have authorization to work in the United States. On August 3, 2007, Staff Management had received notice from its central office that Jimenez's name and social security number did not match with the Social Security Administration's records. Staff Management said that it told Jimenez to bring in her documentation or it could not continue to employ her. Staff Management contends that Jimenez's termination had nothing to do with her work-related injury and that 10 other employees were terminated at the same time.

Subsequent to her termination Jimenez continued to seek medical treatment but was told by Staff Management that it could not help her since she was no longer an employee. On February 14, 2008, the surgeon who had treated Jimenez signed a document stating that she had reached maximum medical improvement (MMI) on December 26, 2007, noting that she would be receiving further treatment from the doctor who had given her pain injections. On May 12, 2008, a physician retained by Staff Management opined, based solely upon a review of Jimenez's medical records, that she was on regular duty status without any restrictions and with zero percent objective impairment.

In 2009, Jimenez's attorney notified Staff Management that her medical condition had worsened. On May 11, 2010, Jimenez went to a doctor who determined that she had a hernia and could not work until the hernia was surgically repaired. The doctor opined that the current hernia was an after effect of the surgical correction of the previous hernias sustained in 2007 and that Jimenez had not reached MMI. Jimenez saw a second doctor on June 18, 2010, who also stated that Jimenez could not work until her hernia was surgically repaired. Jimenez's pain had been ongoing beginning with the original hernia surgery on November 14, 2007, and continuing at the time of the administrative hearing.

Procedural Background. On July 6, 2009, Jimenez filed for workers' compensation benefits. The administrative hearing was held on July 20, 2010. In the arbitration decision issued on October 25, 2010, the Deputy Workers' Compensation Commissioner (Deputy) found that Jimenez was entitled to running healing period benefits based on the medical recommendations of the physicians she had seen in 2010, because the current hernia was the result of the surgical correction of the 2007 hernias. The deputy also determined that the extent of Jimenez's disability was not ripe

for adjudication. The deputy ordered Staff Management to pay all medical expenses necessary to treat the work-related injury and awarded running healing period benefits from the date of the injury in September 2007 until Jimenez reaches MMI.

Staff Management appealed the ruling to the Workers' Compensation Commissioner (Commissioner) who affirmed the arbitration decision. Staff Management filed a petition for judicial review. The district court affirmed the commissioner's decision.

Iowa Supreme Court—Pertinent Issues on Appeal.

1. Whether the commissioner erred in awarding Jimenez healing period benefits under the Iowa Workers' Compensation Act when Jimenez is an undocumented worker.
2. Whether substantial evidence supports the running award of healing period benefits.
3. Whether the commissioner can award healing period benefits during a time period when Jimenez was working.

Analysis and Holding.

Undocumented Workers. The Court first considered whether an undocumented worker is an "employee" for purposes of the Iowa Workers' Compensation Act. The Court concluded that the definition of worker or employee under the act is broad and unambiguously includes undocumented workers. If the Legislature had intended the definition of worker or employee to exclude undocumented workers, it would have done so by adding them to the list of exclusions contained in the statute.

The Court next considered whether an employment agreement with an undocumented worker is void. The Court stated that the purpose of the Iowa Workers' Compensation Act is to make statutory compensation available to an employee when the employee sustains injuries as a result of the hazards of the business. If an employment agreement between an undocumented worker and an employer is not covered under Iowa Workers' Compensation Act, the purposes of the Act would be undermined by encouraging employers to hire undocumented workers because the employers would not be liable under the Act for any injuries those workers sustained. The Court held that the commissioner and the district court did not err in finding that such an employment contract is a contract of service under the Iowa Workers' Compensation Act and that enforcement of the contract under the Act does not undermine the policy purposes of the federal Immigration Reform and Control Act of 1986 (IRCA).

Healing Period Benefits. The Court also determined that because healing period benefits are not a civil sanction against an employer, they are not expressly or impliedly preempted by the IRCA. The Court found that the legislative intent of Congress in enacting the ICRA was not to undermine labor protections and workers' compensation benefits are not an incentive for future immigration law violations that would undermine the IRCA. The purpose of healing period benefits is to replace lost wages while the employee receives medical care and to meet the broad purpose of workers' compensation to award compensation for the disability caused by a physical injury.

The Court also held that the district court correctly determined that substantial evidence supports the commissioner's findings that Jimenez was unable to do her prior job due to her work-related injury and that she is entitled to a running award of healing period benefits from the date of the original injury until such time as she reaches MMI with regard to the 2007 injury and the after effects of that injury. However, the Court found that the running award of healing period benefits awarded to Jimenez by the commissioner from the date of her September 2007 injury to present should have excluded the dates she worked for a brief time in December 2007 and January 2008 prior to her termination from employment.

Other Benefits. The Court observed in a footnote that this opinion is limited to a worker's right, whether the worker is documented or undocumented, to a running award of healing period benefits under the facts of this case. The Court does not take a position as to whether an undocumented worker is entitled to any other benefits under the Iowa Workers' Compensation Act.

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