



Iowa General Assembly

2004 Legal Updates

Legislative Services Agency – Legal Services Division

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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 - APPORTIONMENT OF DISABILITY BENEFITS

Filed by the Iowa Supreme Court
August 11, 2004

Mycogen Seeds and ACE USA v. Larry Sands, No. 88/030331

<http://www.judicial.state.ia.us/supreme/opinions/20040811/03-0331.asp>

Factual Background. Larry Sands worked for various hybrid seed companies as a district sales manager for over 25 years. On May 16, 1995, Sands was working for Keltgen Seeds (which later became Mycogen Seeds) and sustained an on-the-job injury to his neck and right shoulder while lifting seed bags. Sands received medical treatment for this injury for two years and in April 1997 had neck surgery. He received weekly healing period benefits for 4 and 2/7 weeks. Sands returned to light-duty work on July 15, 1997, at Mycogen Seeds (a successor in interest to Keltgen Seeds) with a lifting restriction of 35 pounds. On July 16, 1997, Sands sustained another on-the-job injury to his low back when he fell at work. Sands began receiving social security disability benefits effective December 12, 1997, and did not work after that date. On December 15, 1997, Sands underwent low back surgery. On February 26, 1999, Sands' doctor indicated that he was at maximum medical improvement relative to his 1997 low back injury. On May 20, 1999, Sands underwent surgery to repair his shoulder injury. On December 6, 1999, Sands' doctor indicated that he was at maximum medical improvement relative to his 1995 shoulder injury and had a 15 percent functional impairment to his whole body as a result.

Procedural Background. On May 17, 1999, Sands filed petitions for workers' compensation concerning his injuries on May 16, 1995, and July 16, 1997. A deputy workers' compensation commissioner determined that Sands had sustained a 40 percent industrial disability as a result of the May 1995 shoulder injury and that Sands was permanently and totally disabled as a result of the July 1997 back injury. In a decision issued May 31, 2002, the Workers' Compensation Commissioner agreed that Sands' 1995 neck and shoulder injury resulted in a 40 percent industrial disability and awarded Sands healing period benefits from April 28 through May 27, 1997, and 200 weeks of permanent partial disability benefits from May 28, 1997, to March 18, 2001, payable by Keltgen Seeds and its insurer at that time, ACE USA, in novation for Reliance National Indemnity. The commissioner also agreed that Sands' 1997 low back injury left him permanently and totally disabled. The commissioner awarded Sands permanent total disability benefits for this injury commencing December 12, 1997, to be paid by Mycogen Seeds (successor in interest to Keltgen Seeds) and its insurer, Continental Casualty Company. However, the commissioner also decided that there should be an apportionment of compensation payable by the two insurers during the period of time from December 12, 1997, to March 18, 2001, because there was an overlap of benefits while Reliant was still liable to pay 40 percent permanent partial disability compensation and Continental Casualty became liable to pay for 100 percent permanent total disability compensation at the same time. (As more fully explained in the Commissioner's Decision, File Numbers 1120804 and 1191128, filed May 31, 2003, the commissioner determined that during the period of overlap in benefits payable to Sands, Reliant should pay 40 percent of the weekly benefit amount and Continental Casualty should pay 60 percent of the weekly benefit amount. Beginning on March 19, 2001, Continental Casualty is solely liable for continuing weekly benefits for permanent total disability.)

Issue: Whether the Workers' Compensation Commissioner erred by apportioning liability for the disability benefits pursuant to Iowa Code section 85.36(9)(c). (Note: The opinion also considered other secondary issues not covered here.)

Analysis: The Supreme Court stated that the rule on apportionment of workers' compensation benefits in this state limits apportionment to those situations where a prior non-work-related injury or illness independently produces some ascertainable portion of the ultimate industrial disability which exists following the employment-related aggravation. The

Court also reiterated its recognition of the full-responsibility rule that “apart from statute, in a situation of two successive work-related injuries, the employer is generally held liable for the entire disability resulting from the combination of the prior disability and the present injury.”

The Court then analyzed Iowa Code section 85.36(9)(c), the only Iowa statutory provision dealing with apportionment of benefits. Section 85.36(9)(c) reads as follows:

c. In computing the compensation to be paid to any employee who, before the accident for which the employee claims compensation, was disabled and drawing compensation under the provisions of this chapter, the compensation for each subsequent injury shall be apportioned according to the proportion of disability caused by the respective injuries which the employee shall have suffered.

The Court interpreted the statute as requiring apportionment of benefits in situations where an employee 1) has missed work because of a work-related injury, 2) is receiving or is entitled to receive weekly disability benefits for the injury, and 3) suffers another work-related injury. In applying this interpretation to the case at hand, the Court agreed with the Workers' Compensation Commissioner that the statute applied because Sands' 1997 back injury occurred when Sands was permanently partially disabled from the 1995 shoulder injury and was entitled to receive permanent partial disability compensation for the shoulder injury.

The Court then considered how to apportion the liability for the disabilities during the period of time when Sands was entitled to receive both permanent partial disability and permanent total disability benefits, resulting in overlapping compensation. The Court noted that on appeal of the Workers' Compensation Commissioner's decision, Sands did not challenge the commissioner's method of apportionment but only whether the apportionment statute applied at all. Thus, that issue was not preserved for the Supreme Court's consideration and the Court merely concluded that the district court correctly affirmed the commissioner's method of apportionment.

Conclusion. The Court held that the intent of Iowa Code section 85.36(9)(c) is to prevent overlapping or stacking of disabilities by requiring apportionment of liability between employers or insurers in a situation where an employee has sustained a prior work-related injury resulting in permanent partial disability and was receiving or entitled to receive weekly permanent disability benefits for that injury at the time that the employee suffers another work-related injury resulting in permanent disability.

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