

COMPENSATION NEWS

MONTHLY REPORT

Appellate Court will not award reimbursement for a life care plan

This is a non published Appellate Court decision that has major implications.

This is a very significant case for workers' compensation purposes. Even though this case is not published it cites published cases for principles that can be effectively utilized.

The applicant had an admitted injury in 2002. The applicant had a catastrophic injury from a fall. The applicant had limited use of the extremities as well as psychological damage.

The applicant needed 24 hour care to assist him with the activities of daily living.

The applicant's attorney requested lien claimant to prepare a Life Care Plan. The lien claimant submitted a lien for \$24,424.44. The defendant refused to pay.

The case was stipulated by defendant at 100 per cent because the applicant did not want a Compromise and Release. The lien for the Life Care Plan was not settled and eventually tried before a Workers' Compensation Judge (WCJ). The WCJ did not allow the lien since the report was not required or necessary in the case.

The lien claimant filed a petition for reconsideration. The Workers' Compensation Appeals Board (WCAB) denied the petition.

The lien claimant filed a writ and the appellate court looked at allowing discretionary costs under Labor Code section 5811, subdivision a. The appellate court indicated that the WCAB did not abuse their discretion in not allowing this cost. There was no contested issue and nothing in the Life Care Plan was necessary to achieve a resolution in the matter.

In addition the court analyzed medical-legal costs under Labor Code section 4621 and determined this was not proper medical-legal for proving or disproving a contested claim.

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