

Program Performance: 2019 Case Studies



UCWCP

Union Construction Workers' Compensation Program
Administered by Wilson-McShane Corporation
www.ucwcp.com

1. **This case went through the program's entire dispute resolution process including a full hearing before an arbitrator and is currently pending appeal.** An employee claimed a work-related injury to his left shoulder on March 23, 2016. As he was leaving his shift, he exited the site through the gate onto the public street, and was struck by a vehicle owned by a company providing services to the construction site.

After conducting their investigation, the insurer denied primary liability citing the employee sustained injuries while going to or away from the premises of employment and is not entitled to workers' compensation benefits. The period of medical treatment was paid for by the union's Health and Welfare Fund pending the outcome of the disputed claim.

The parties retained attorneys who requested a facilitation to discuss the disputed claim. They were unable to come to a resolution so a mediation session was scheduled with a program mediator in attempt to settle the case. Settlement was unsuccessful. The employee sought new representation and claimed additional injuries to his neck and back as a result of the accident. A Dispute Resolution Exam (DRE) was requested to determine causation of the neck and back injuries in relation to the incident of March 23, 2016. The neutral doctor found that the back and neck conditions were not related to the original injury.

Following the result of the DRE, a mediation session was again scheduled to attempt settlement. Settlement was again unsuccessful and arbitration was requested. After review of the submitted evidence and testimony, the arbitrator found the employee's left shoulder injury was compensable, however the neck and back injuries were not a result of the incident. The arbitrator provided case law to support her determination referencing "if an employee is within the protection of the workers' compensation act during a reasonable time before he commences work or after he ceases work for the purpose of ingress to and egress from the place of employment" *Johannsen v. Action Construction Company*, 119 N.W. 2d 826 at 829-230, (Minn. 1963) and "an employee is within the protection of the workers' compensation act if he is exposed to a hazard that increased the employee's exposure to injury beyond that of the general public" *Kirchner v. County of Anoka*, 339 N.W. 2d 908 (Minn. 1983) and *Fossum v. Egan & Sons Air Conditioning*, File No. ***-**-0932 (WCCA May 8, 1987).

Each party has filed an appeal of the arbitrator's decision to the Workers' Compensation Court of Appeals (WCCA).

2. **A Laborer injured his low back at work.** The claim was filed by the employer and accepted by the insurer. After receiving medical care and working under restricted duty for a short period of time, he returned to full duty work and was released from care. The insurer closed the case as the temporary injury had resolved.

Several months later a number of employees were laid off. Approximately one month after their layoff, the employee returned to the doctor with low back pain. The insurer denied that the treatment was related to the original injury or to any new injury. The Union Health and Welfare Fund picked up the medical costs with the agreement that their interests would be protected in any workers' compensation claim.

The attorneys brought the matter to the UCWCP for resolution. Following a conference call between the attorneys and the program a deposition of the employee took place. Medical records were gathered and a Dispute Resolution Examination (DRE) took place.

The doctor's report found that the original injury was a substantial contributing factor for the current need for treatment. The insurer reimbursed the Union Fund and agreed to pay for ongoing treatment.