

WINNERS & LOSERS: Does Workers' Comp Cover Medical Marijuana?



When workers suffer work-related injuries or illnesses, they can submit a claim to workers' comp for coverage of their medical expenses, including any "medical aids," such as crutches or a hearing aid, and required medication. So if a doctor prescribes medical marijuana for a worker's condition, will workers' comp cover the costs of this non-traditional treatment? Here are two cases that tackled this very issue.

MEDICAL MARIJUANA COVERED

FACTS

A worker developed cancer of the nasal cavity, septum and upper pallet from exposure to chemicals in the workplace. His doctor prescribed medical marijuana for the pain he suffered from his condition. He filed a workers' comp claim for coverage of the medical marijuana, which was denied. So he appealed.

DECISION

The Alberta Workers' Compensation Appeals Commission ruled that the worker's medical marijuana was covered by workers' comp.

EXPLANATION

The Commission explained that workers' comp provides or pays for "any reasonable and necessary medical aid" to treat compensable injuries or alleviate the effects of such injuries. It added that workers' comp may cover, on a case-by-case basis, "non-standard" medical aid provided that certain conditions were met. In this case, the worker had tried other conventional treatments for the pain he suffered but they had negative and significant side effects. His doctor had prescribed medical marijuana for him, finding that it reduced the worker's pain and the positive effects outweighed any negative effects. Thus, the Commission concluded that medical aid in the form of medical marijuana was reasonable and necessary to treat pain from the worker's compensable illness.

Decision No: 2013-0017, [2013] CanLII 1404 (AB WCAC), Jan. 18, 2013

MEDICAL MARIJUANA NOT COVERED

FACTS

A sheet metal worker injured his wrist on the job and required surgery. He took opiates for his pain. But his doctor prescribed medical marijuana for the nerve injury, specifically to relieve cramping in his hand and help restore function. The worker filed a workers' comp claim for the medical marijuana, which was denied. So he appealed.

DECISION

The BC Workers' Compensation Appeals Tribunal ruled that the worker's medical marijuana wasn't covered.

EXPLANATION

The Tribunal explained that workers' comp covers any medical or other treatment that it considers "reasonably necessary" to provide relief from or alleviate the effects of a compensable injury. There's no policy on medical marijuana. Instead, the Workers' Compensation Board relies on the recommendation of the Evidence Based Practice Group, which reported in June 2006 that there was no evidence on the effectiveness of cannabis on treating chronic non-malignant pain (although it also said workers who had compensable cancer or multiple sclerosis may be considered for medical marijuana, with the input of a senior medical advisor). The Tribunal noted that, in reviewing prior decisions, medical marijuana was approved in only narrow, exceptional circumstances. Here, there was no evidence that the worker's doctor had unsuccessfully tried other drugs to treat the worker's condition or an explanation as to why marijuana was the best or only option to treat him. In fact, the worker flatly refused to try other recommended medications, simply relying on his position that medical marijuana "works" for him. Thus, the Tribunal found that the evidence didn't support a conclusion that the use of medical marijuana was medically necessary to alleviate the effects of the worker's compensable condition.

WCAT-2012-02598 (Re), [2012] CanLII 89235 (BC WCAT), Oct. 5, 2012