Workers' Comp

U.S. Supreme Court Refuses to Hear Minnesota Workers' Comp Cannabis Cases

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On June 21, 2022, the U.S. Supreme Court released an order list for a host of cases before the Court. As part of the list, the Court noted the requests for two workers' compensation case reviews (Musta v Mendota Heights Dental, et al, and Bierbach v Digger's Polaris, et al) that had been denied. These two cases dealt with rulings in the state of Minnesota related to employers being required to reimburse for medical marijuana for a workers' compensation claim.

In both cases, the Workers' Compensation Court of Appeals ruled that employers can be compelled to reimburse injured workers for medical marijuana. However, the Minnesota Supreme Court held that in both cases that the Federal Controlled Substances Act (CSA) preempted any Minnesota state law or order requiring employers to reimburse an injured worker for medical marijuana. In an effort to resolve the preemption question, both Minnesota cases filed appeals with the U.S. Supreme Court.

In February 2022 the U.S. Supreme Court sought a brief from the Office of the U.S. Solicitor General regarding the Minnesota cases and the CSA preemption requesting the following:

"Whether the Controlled Substances Act, 21 U.S.C. 801 et seq., preempts a state workers' compensation order that compels an employer to reimburse an employee for the cost of marijuana used in response to pain arising from a workplace injury."

In May 2022, the Office of the Solicitor General filed their brief in response to the Court's request, and noted that "these cases, which present a novel question in a rapidly evolving area of law, do not warrant this Court's review."

The brief went on to say the judgments by the Minnesota Supreme Court "are correct for the straightforward reason that when a federal law such as the CSA prohibits possession of a particular item, it preempts a state law requiring a private party to subsidize the purchase of that item."

The Office of the Solicitor General also pointed out that marijuana law is evolving at both the state and federal level, and suggested the Court allow that evolution to move forward before taking up the issue of the CSA and its impact on state marijuana laws and reimbursement related to a workers' compensation claim. The U.S. Supreme Court was apparently swayed in part by the arguments in the Solicitor's brief and denied the petition for the Court to review the case.

For payers and employers in the workers' compensation arena, the lack of action by the U.S. Supreme Court leaves in place conflicting rulings by a handful of state courts on the presumption issue, as well as whether or not employers or payers should be required to reimburse an injured worker for medical marijuana. This creates a scenario where stakeholders in the various state workers' compensation systems need to clearly understand what the medical marijuana laws require in their respective states, and any court rulings handed down that clarify their responsibilities related to the reimbursement of medical marijuana in a workers' compensation claim. For Minnesota, the State Supreme Court rulings in Musta and Bierbach exempting employers or insurers from being compelled to reimburse for medical marijuana will stand…for now.



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