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**WORKERS' COMPENSATION
ONE-LINERS
JULY, 2006**

Medical:

Taylor v. WCAB (Bethlehem Area School District), 898 A.2d 51 (Pa. Comm. Ct. 2006)

Commw. Ct. affirms ruling that employer is not liable to pay for vocational services secured by the claimant pursuant to a medical doctor's prescription; vocational counsel or does not satisfy Act's definition of a licensed health care provider.

Penalty:

Carroll v. WCAB (US Airways), 898 A.2d 1210 (Pa. Commw. Ct. 2006)

Commw. Ct. affirms WCAB holding Judge did not abuse his discretion in failing to award penalties where employer justifiably relied on WC Bureau's advices that it was not required to pay for treatment from an unlicensed massage therapist and refused to process its utilization review request pertaining to the treatment.

Termination/Review:

City of Phila., v. WCAB (Fluek), 898 A.2d 15 (Pa. Commw. Ct. 2006)

Commw. Ct. vacates WCAB decision as it improperly imposed the burden of proof on the employer on a termination petition to show claimant recovered from low back injury where it had recognized on its NCP a knee injury (claimant was petitioning to add the low back); where injuries or conditions are "obviously connected" employer must prove continuing disability is not work related to prevail on termination, however, where claimant alleges "new and distinct" conditions the burden remains on the claimant to show work relatedness.

Marks v. WCAB (Dana Corp.), 898 A.2d 689 (Pa. Commw. Ct.)

Where employer and claimant executed an Agreement for Compensation recognizing a lumbar strain/sprain as the compensable injury and employer then petitions for termination and claimant petitions to review to include disc injuries, burden of proof remains on the employer to prove ongoing disability is not secondary to the compensable injury as the conditions were sufficiently connected; WCAB had no support to shift the burden of proof to claimant merely because injury was described by Agreement rather than NCP.

See attached: * WC Alert: "Collection of Child Support Liens from Monetary Awards"

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