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Appellate Case Law Update

Presented by:

Valerie A. Foote, Attorney

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De Dios v. Indemnity Insurance Company of North America, 927 N.W.2d 611 (Iowa 2019)

- Supreme Court decision issued May 10, 2019
- As a matter of first impression, under Iowa law, a common law claim for bad-faith failure to pay workers' compensation benefits is not available against a third-party claims administrator.
- Iowa workers' compensation statutes do not impose affirmative obligations on third-party administrators of workers' compensation benefits as they do on workers' compensation insurers.

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Gumm v. Easter Seal Society of Iowa, Inc., 943 N.W.2d 23 (Iowa 2020)

- Supreme Court decision issued May 1, 2020
- Presents the question of whether a workers' compensation claimant who receives disability benefits for a traumatic injury can later recover disability benefits on a separate cumulative injury claim if the cumulative injury is based solely on an aggravation of the earlier traumatic injury.
- Claimant was unable to pursue review-reopening because the three-year statute of limitations for review-reopening had passed.
- Court concluded that a separate cumulative injury claim is not available in these circumstances- such a claim would allow the employee to bypass the established parameters for review-reopening.

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Carroll Area Nursing Services v. Malloy, 938 N.W.2d 724 (Iowa Ct. App. 2019)

- Court of Appeals decision issued July 24, 2019
- Held that the employee came within the personal-vehicle exception to the coming-and-going rule and was not engaged in a deviation from the course of employment at the time of the accident.
- Claimant had resumed an activity or duty connected with her employment when she began driving toward her patient's home – she had not deviated from the course of her employment to such an extent that she abandoned her employment at the time of the accident.
- Claimant was in her work uniform, with her work supplies in her car, travelling toward her patient's home. She was engaged in the work she was required to do- travelling to patient's homes to provide medical services.

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Ortiz v. Loyd Roling Construction, 928 N.W.2d 651 (Iowa 2019)

- Supreme Court decision issued May 24, 2019
- Question for review was whether Iowa Code section 17A.19(2) (2017), which imposes a jurisdiction requirement for the petitioner in an action for judicial review to timely mail a copy of the petition to attorneys for all the parties to the case, is satisfied when the attorney timely emails a copy of the petition to opposing counsel.
- The court held that emailing between attorneys in Iowa satisfies the jurisdiction requirement of section 17A.19(2).

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Logan v. Bon Ton Stores, Inc., 943 N.W.2d 7 (Iowa 2020)

- Supreme Court decision issued May 1, 2020
- Claimant filed pro-se Petition for Judicial Review
- Motion to Dismiss was granted by the District Court based on lack of service.
- The Supreme Court held that service by facsimile substantially complied with the statute allowing service of petition by mail.

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Bell v. 3E, 939 N.W.2d 653 (Iowa Ct. App. 2019)

- Court of Appeals decision issued September 11, 2019
- Motion to Dismiss filed because Claimant did not substantially comply with the requirements for notice under Iowa Code section 17A.19(2) (2018).
- Petition stated that it was served electronically by EDMS.
- Service of original notice by EDMS is prohibited by rule 16.314(3).
- Because Claimant failed to comply with the notice requirement of section 17A.19(2), the District Court had no jurisdiction to consider the Petition for Judicial Review & the petition therefore warranted dismissal.

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Ostwinkle v. Mathy Construction Company, 940 N.W.2d 48 (Iowa Ct. App. 2019) September 25, 2019

- Court of Appeals decision issued September 25, 2019
- Court found that Claimant was entitled to reimbursement for an IME for a review-reopening Petition, as the IME will be used to determine Claimant's permanent condition.
- This IME was for a new proceeding, 10 months after Claimant's first review-reopening petition had been dismissed and additional treatment had been obtained and the employer obtained a new evaluation and new impairment rating to be used to determine permanent disability. Claimant was seeking to rebut the new disability evaluation in connection with the new proceeding.

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Lovan v. Broadlawns Medical Center, 947 N.W.2d 416 (Iowa Ct. App. 2020)

- Court of Appeals decision issued April 1, 2020
- Claimant's Application for Alternate Medical Care was denied by the agency. This denial was reversed by the district court.
- The Court of Appeals took issue with the fact that no transcript of the Alt Med hearing was made available as part of the record for either the District Court or the Court of Appeals. They therefore found that neither court was able to make an informed consideration of the issues to the inadequate agency record.
- Determined that the proper action was dismissal.

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True v. Heritage Care and Rehabilitation, 947 N.W.2d 418 (Iowa Ct. App. 2020)

- Court of Appeals decision issued April 1, 2020
- Claimant appealed the commissioner's finding that she waived her claim to penalty benefits by not pursuing it in her initial claim under the workers' compensation act.
- Court concluded that the commissioner's interpretation of the rule was not wholly unreasonable and substantial evidence supported the finding that Claimant waived her pre-hearing penalty benefits claims by failing to follow the procedures in the administrative rule.
- Claimant's failure to brief, include in the hearing report, or argue her claim for penalty benefits at the hearing acted as an implied waiver of the issue.

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Presbyterian Homes & Services, Inc. v. Buchanan, 942 N.W.2d 3 (Iowa Ct. App. 2020)

- Court of Appeals decision issued January 9, 2020
- Agency decision with regard to penalty was reversed by the District Court because the deputy and commissioner improperly applied Iowa Code 86.13, concluding that 86.13 "requires that claimant be notified of the results of an investigation".
- District Court and Court of Appeals agreed that 86.13(4)(c)(3) is unambiguious- the basis of denial needs to be communicated to Claimant, but there is no specific requirement to communicate the results of the investigation.

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VanGetson v. Aero Concrete, Ltd. 2020 WL 4201233 (Final Publication Decision Pending)

- Court of Appeals decision issued July 22, 2020
- Appellants filed a Joint Petition for Judicial Review appealing the agency's dismissal of their commutation petitions, alleging that the dismissal violated their rights to due process and equal protection and the agency misinterpreted Iowa Code section 85.45.
- The court concluded the agency correctly dismissed the commutation petitions because they were not ripe for adjudication.
- The court also concluded that the constitutional claims were not ripe because the appellants had yet to file commutation petitions after the effective date, the respondents had not refused to consent to commutation, and thus the appellants had no basis to argue that something had been lost.

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Hecht v. Highline Construction, Inc., 939 N.W.2d 646 (Iowa Ct. App. 2019)

- Court of Appeals decision issued September 11, 2019
- Claimant argued that the commissioner erred when he granted his employer's untimely application to submit additional evidence.
- Iowa Administrative Code rule 876-4.28 allows for submission of additional evidence if "there exists additional material evidence, newly discovered, which could not within reasonable diligence be discovered and produced at hearing." The rule also states, "A party must file a request for taking additional evidence within 20 days after the Notice of appeal was filed."
- Claimant resisted the application, arguing that it was untimely (it was one day late) but the commissioner granted the application, finding good cause existed for filing the application late and that the evidence the employer requested to introduce was newly discovered, material, and not previously discovered due to Claimant's failure to properly respond to and supplement interrogatories.

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Pruismann v. Iowa Tanklines, Inc., 2020 WL 4498131 (Final Publication Decision Pending)

- Court of Appeals decision dated August 5, 2020
- The District Court concluded that the commissioner's award of 45% industrial disability was not supported by substantial evidence, & instead awarded permanent total disability.
- The Court of Appeals concluded that a challenge to the agency's industrial disability determination challenges the agency's application of law to facts, and the agency's decision will not be disrupted unless it is 'irrational, illogical, or wholly unjustifiable'.
- The Court of Appeals held that the District Court erred in reversing the commissioner's determination, as the findings of fact were supported by substantial evidence and the application of those facts was not irrational, illogical, or wholly unjustifiable.

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Questions?

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