

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
14 CPS 02245

CARL JOHN PERKINSON)
Petitioner,)
)
v.)
)
DEPARTMENT OF PUBLIC SAFETY,)
Respondent.)

**FINAL DECISION
ORDER GRANTING SUMMARY
JUDGMENT FOR RESPONDENT**

THIS MATTER came before the Fred Gilbert Morrison Jr., Senior Administrative Law Judge, upon Respondent's Motion for Summary Judgment heard on June 10, 2014, pursuant to Rule 56 of the North Carolina Rules of Civil Procedure. After careful review of the record and proceedings in this contested case, the undersigned hereby makes the following:

FINDINGS OF FACT

1. A Notice of Contested Case and Assignment was filed and served on the Petitioner and the Respondent on April 8, 2014. The Respondent and Petitioner were further directed to file Prehearing Statements pursuant to an Order issued by the Undersigned on that same date which mandated the filing of Prehearing Statements within thirty (30) days of the date of the Order. These documents and all subsequent documents were mailed to Petitioner. The Respondent filed a Motion for Summary Judgment on April 28, 2014. On April 29, 2014, the Undersigned requested a response to that motion from Petitioner and ordered that such be done on or before May, 8, 2014.
2. On May 5, 2014, the Petitioner requested a thirty (30) day extension of time to file a Prehearing Statement. On June 4, 2014, counsel for Respondent received a copy of the Petitioner's Prehearing Statement.
3. On June 10, 2014, the Undersigned conducted a telephonic hearing to allow the parties to present oral arguments in support and opposition to Respondent's Motion for Summary Judgment.
4. On February 10, 2014, Petitioner's Victim Compensation Application was received by Respondent which sought compensation for an incident that occurred on May 25, 2012.
5. Petitioner submitted for compensation his medical expenses from Insight Wellness Services, Inc., for dates of service beginning December 19, 2013 through February 20, 2014, a period of time more than one year from May 23, 2012.
6. On March 14, 2014, Janice Carmichael, the Section Chief of the Victim Compensation

Commission, sent Petitioner a letter denying his claim because the economic loss occurred more than one (1) year after the date of criminally injurious conduct.

7. N.C. Gen. Stat. § 15B-11(a)(2) *requires* that an award of compensation be denied if “the economic loss is incurred after one year from the date of the criminally injurious conduct . . .” (emphasis added).
8. Director Carmichael was required to deny Petitioner’s claim based on specific language in N.C. Gen. Stat. § 15B-11.

CONCLUSION OF LAW

Disposition of this case by summary judgment dismissing the Petition pursuant to N.C. Gen. Stat. § 15B-11(a)(2) is proper and lawful due to the fact that medical expenses submitted by the Petitioner to Respondent were for treatment received more than one year after the date of the criminally injurious conduct.

FINAL DECISION AND ORDER

NOW, THEREFORE, based on the foregoing, the Undersigned hereby finds proper authoritative support of the Conclusion of Law noted above. It is hereby ORDERED that this contested case be **DISMISSED WITH PREJUDICE**.

NOTICE

Pursuant to the provisions of NORTH CAROLINA GENERAL STATUTES Chapter 150B, Article 4, any party wishing to appeal the final decision of the Administrative Law Judge may commence such appeal by filing a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, in the county where the contested case which resulted in the final decision was filed. The party seeking review must file the petition within thirty (30) days after being served with a written copy of the Administrative Law Judge’s Decision and Order. In conformity with the Office of Administrative Hearings’ Rules, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, this final decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this final decision. N.C. GEN. STAT. § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Pursuant to N.C. GEN. STAT. § 150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within thirty (30) days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

This the 24th day of June, 2014.

Fred G. Morrison Jr.
Senior Administrative Law Judge