

# **Workers Comp Benefits Suspended When Worker Refuses Detox Program**

This past fall, the Commonwealth Court of Pennsylvania upheld a ruling that a workers' compensation insurer can suspend benefits when an injured worker refuses to enter a detox program – despite the fact that completing the program will not treat the injured worker's underlying medical condition or help her return to her pre-injury employment position.

## **Medical Treatment Does Not Have to Return Worker to Employment**

In *Bereznicki v Workers' Compensation Appeal Board (Eat 'N Park Hospitality Group)*, Stephanie Bereznicki had been receiving workers' comp benefits for 10 years as the result of a lumbar spine injury when her former employer sought to terminate her benefits. The workers' compensation judge (WCJ) denied the termination request, but said that Ms. Bereznicki should enter a detoxification program to help wean her off of the prescription pain medications she had been taking for her injury.

Ms. Bereznicki declined to enter the detox program. In response, her employer filed a suspension, or forfeiture, petition to have her workers' comp benefits suspended for failing to undergo reasonable medical treatment.

Under 306(f.1)(8) of the Pennsylvania Workers' Compensation Act, injured workers who refuse reasonable medical treatment forfeit their rights to compensation for the injury or for any increase in their incapacity that results from refusing the treatment.

Pennsylvania courts have defined “reasonable medical treatment” in a forfeiture case as treatment that is “highly probable to cure the health problem and enhance the injured worker’s prospects for gainful and fulfilling employment.”

In a surprising move, the WCJ granted the employer’s petition to suspend Ms. Bereznicki’s benefits. At the hearing, the physician who was to oversee Ms. Bereznicki’s detox program testified that even though detoxification would not allow her to return to her pre-injury job, it would make it possible for Ms. Bereznicki to “love, work and play.”

The WCJ agreed with the physician’s opinion, ruling that the detox program was reasonable medical treatment because it would improve her functioning and could make it possible for her to work. Since Ms. Bereznicki refused reasonable medical treatment, then her employer was entitled to suspend her benefits under §306(f.1)(8). The Workers’ Compensation Appeals Board (WCAB) upheld the WCJ’s opinion.

At trial, Ms. Bereznicki argued that the suspension of her benefits was unwarranted because the physician did not testify that completing the detox program would increase her capacity to work.

The court, however, disagreed with Ms. Bereznicki and upheld the rulings of the WCJ and WCAB. The court ruled that the medical treatment did not have to be designed to return the injured worker to gainful employment in order for a refusal of treatment to warrant suspension of benefits.

The court found that weaning Ms. Bereznicki off of prescription pain medications would cure her health problem, allow her to return to normal functioning and enhance her prospects for gainful and fulfilling employment. The court stated that even though successfully completing the program would not return her to her pre-injury work, refusing to enter the program increased her incapacity.

Thus, even though the prescribed medical treatment was not meant to cure Ms. Bereznicki's underlying medical condition – her lumbar spine injury – or return her to her pre-injury employment, the court still ruled that the workers' comp insurer had the right to suspend her benefits for refusing to enter the program.

## **Conclusion**

The court's ruling in the Bereznicki case appears to have increased the scope of what can be considered a "reasonable" medical treatment in the context of a forfeiture petition, much to the detriment of an injured worker. If you are facing a suspension or termination of benefits petition or have other questions about a workers' compensation claim, contact an experienced attorney today. The Pennsylvania workers' compensation system is very complex and injured workers should not try to navigate it on their own without experienced legal advice.