Law Court Decision issued on December 12, 2017 – Employment Status

In its second workers' compensation opinion of the year, the Law Court has addressed determination of employment status in a unique factual context. In *Huff v. Regional Transportation Program*, 2017 ME 229 (December 12, 2017), the petitioner volunteered as a driver for a non-profit agency which provided transportation services to disabled and low-income clients. At the onset of the relationship the claimant signed a Memorandum of Understanding which expressly specified that volunteer drivers were not considered to be employees and that no employee-employer relationship was deemed to exist between the parties. The petitioner received no income from Regional Transportation Program but was paid mileage reimbursement for the use of his personal vehicle at the rate of $.41 per mile. According to the petitioner he was able to retain approximately one-half of the mileage reimbursement as income after paying for gas and vehicle maintenance services. The petitioner was severely injured in an August 2012 motor vehicle accident and filed a Petition for Award. By agreement of the parties the issue of employment status was tried separately, and the ALJ found that the petitioner was not an employee within the meaning of the Act. The Appellate Division affirmed and the Law Court granted Mr. Huff's Petition for Appellate Review. On appeal the Court recognized that payment of income in exchange for services rendered is necessary to the existence of an employment relationship, and framed the controlling issue as follows:

Whether a mileage reimbursement to a "volunteer" can constitute remuneration when it is significant enough to exceed the volunteer's immediate expenditures.

The petitioner argued that the rate of mileage reimbursement was sufficiently high to constitute the payment of income necessary to establish an employment relationship. The Court rejected the petitioner's argument and agreed with the Appellate Division that there was no payment of income even though the petitioner was able to operate his vehicle at a cost less than the mileage reimbursement rate. The Court ruled that the statutory definition of "employee" clearly requires that a worker must receive remuneration in return for services in order to be entitled to compensation benefits under the Act, but that the mileage reimbursement does not qualify as income. Therefore, because the petitioner was not an "employee" within the scope of the Act, the Court affirmed the denial of the Petition for Award.

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