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WC Law Court Recognizes Credit for Social Security Retirement Benefits Paid in the Past

It has been recognized in several Law Court decisions that, generally speaking, there is no right to recover an overpayment of workers' compensation benefits by taking an offset or by claiming reimbursement. However, in a significant new decision, the Court has held that an employer is entitled to a credit for the value of Social Security retirement benefits paid in the past at the same time in which an injured worker also received workers' compensation incapacity benefits. In *Urrutia v. Interstate Brands International*, 2018 ME 24 the employer voluntarily initiated payment of benefits for total incapacity at a point when, unknown to the employer, the employee was already receiving Social Security retirement benefits. He continued to receive workers' compensation benefits unreduced by the Section 221 offset until the employer eventually learned of the Social Security entitlement. At that point the employer reduced its ongoing payments pursuant to Section 221, but by that time the employee had received over $24,000.00 in workers' compensation benefits to which he was not entitled pursuant to Section 221. The employer sought a credit for the amount of the overpayment, and the ALJ granted the request. However, on appeal the Appellate Division reversed and essentially held that the employer was not entitled to a retroactive credit for benefits overpaid, notwithstanding the language of Section 221 indicating that benefits must be reduced when Social Security retirement payments are received. The employer then appealed to the Law Court. In a 5-2 decision, the Court analyzed the language of Section 221 in detail and found that it "unambiguously entitles an employer to a credit based on an employee's past receipt of Social Security retirement benefits". The Court cited the statutory injunction that incapacity benefits "must be reduced" to reflect the receipt of Social Security retirement income and that the credit is triggered when an injured worker is receiving "or has received" Social Security retirement payments. The majority ruled that a refusal to recognize a credit would allow the employee to retain a double recovery of benefits in violation of the express intent of Section 221. Therefore, the Court vacated the decision of the Appellate Division and ruled that "Interstate is entitled to a credit [in excess of $24,000.00] for incapacity benefit overpayments made to Urrutia during the same period when he received Social Security retirement benefits". The Court remanded the matter to the ALJ to determine "the specific terms of the credit and resulting payment holiday" to which the employer was entitled. Steve Moriarty represented the employer on appeal.

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