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Injuries occurring in other states

Injuries occurring in Minnesota

Generally, the Minnesota Workers' Compensation Act and the benefits provided under the Act cover work injuries occurring in the state of Minnesota. This is true even if the injured employee does not perform the primary duties of his job in Minnesota.

Election of benefits

Under Minn. Stat. §176.041(4), an employee who “regularly performs the primary duties of his employment” outside the state of Minnesota but suffers a work-related injury in Minnesota is eligible for Minnesota workers' compensation benefits if he chooses to forego or waive any benefits he may claim for the same injury under another state's workers' compensation law.

For example, in the case of *Pauli v. Pneumatic Systems, Inc.*, an Oregon-based employee was injured while on a brief assignment in Minnesota. He filed a workers' compensation claim in the state of Oregon. A few months later he filed a claim in Minnesota seeking Minnesota workers' compensation benefits. The Minnesota Supreme Court ruled that the employee could not “hedge his bets” by filing a claim in Minnesota while he had a pending claim in Oregon. The Court stated that the filing of a claim in one state is, in effect, an intelligent choice by the employee to forego any workers' compensation claim he may have a right to pursue in another state. A different result may have occurred in the *Pauli* case had the employee dismissed his claim in Oregon prior to making a claim for benefits in Minnesota. The law seeks to provide Minnesota jurisdiction and workers' compensation benefits for injuries that occur in Minnesota while at the same time to prevent a double recovery of benefits by the employee.

Injuries occurring outside Minnesota

Under current workers' compensation law, an employee who is injured outside the state of Minnesota is not entitled to Minnesota workers' compensation benefits unless one of two circumstances exists.

Regularly employed in Minnesota

Under Minn. Stat. §176.041, Subd. 2, an employee who “regularly performs the primary duties of employment” in Minnesota but is injured while working in another state or even outside the United States is eligible for Minnesota workers' compensation benefits. The phrase “regularly performs the primary duties of employment” does not mean the employee must spend more time in Minnesota than in other states. Rather, it means that in the normal course of an employee's job, he must on a regular basis perform important tasks in Minnesota.

A 1996 Minnesota Workers' Compensation Court of Appeals (WCCA) case illustrates the application of this statute. In *Burgard v. Innworks*, the employee was director of operations for a motel chain and routinely traveled from motel to motel in the Upper Midwest. He maintained an office in Minnesota from which he planned his travel schedule, and he usually spent about one week out of each month visiting motels in Minnesota. He was injured while working in North Dakota. The WCCA found that he regularly performed the primary duties of his job in Minnesota and concluded that he should receive Minnesota workers' compensation benefits.

Temporarily employed out of the state

Minnesota workers' compensation law also applies to an employee who is hired in Minnesota by a

Minnesota employer and is injured while temporarily employed outside of this state. See Minn. Stat. §176.041, Subd. 3.

The courts have generally taken a liberal view of what constitutes a “Minnesota hiring.” In several cases an offer over the phone asking a prospective employee to come to Minnesota to work has been sufficient. However, in one case a workers’ compensation judge ruled that a hiring did not occur in Minnesota where an employee completed an application in Minnesota, which had to be sent to Oklahoma for final approval.

The employer does not need to be incorporated or organized in the state of Minnesota to be a “Minnesota employer.” The key factor is whether the employer has an operation with significant activities in Minnesota. If so, the employer qualifies as a Minnesota employer.

In deciding whether an employee is temporarily employed outside Minnesota, the courts look at the relative permanence or the employee’s involvement in the other state. Minnesota coverage will generally apply where the employee’s work in the other state is not intended to be a relocation or a permanent position. In

MacAdams v. Askew Construction, a 1990 WCCA case, a Minnesota-based employer offered a skilled construction worker a job on a building project in Pennsylvania, where the employee was injured on the job. This injured employee only worked an average of two to four months on any job and had worked in six different states during the previous two construction seasons. The WCCA concluded that, because of the seasonal nature of the employee’s work and the short duration of this particular construction project, the employee was only temporarily employed outside Minnesota and was, therefore, eligible for Minnesota workers’ compensation benefits.

An important issue in these temporary employment cases is whether the employer directed the employee’s activities and issued his paycheck and benefits from Minnesota or from another location. Clearly, Minnesota jurisdiction is more likely to apply in cases where the employee’s activities are directed from Minnesota.

If you have questions about whether coverage applies for your employees working in other states, call (952) 838-4224 or (800) 937-1181.