



Case Law Update: Washington Supreme Court reverses lower court decision in *Boeing & Doss v. DLI*

By Casandra Albrecht ■ June 26, 2015

On April 16, 2015, the Washington Supreme Court reversed the Court of Appeals decision in *The Boeing Co. and Patricia Doss v. Dep't of Labor and Indus.*, and concluded employers must pay for post-pension treatment in cases where the Department granted Second Injury Fund Relief.¹

While pensioned workers are generally not entitled to medical benefits, the Department may authorize medical treatment for previously accepted conditions. In cases where the worker is permanently and totally disabled as a result of the combined effects of the industrial injury or occupational disease and a previous bodily disability, the self-insured employer pays only the accident costs related to the industrial injury.² The Second Injury Fund covers the balance of any costs related to the preexisting disability.

Last May, the appellate court found, in self-insured Second Injury Fund pensions, the Second Injury Fund pays Department-authorized post-pension treatment when the need for the treatment was not caused solely by the injury. This decision was favorable to self-insured employers and changed Department policy in managing Second Injury Fund relief. The Supreme Court disagreed and limited the Second Injury Fund to accident costs, while employers must pay for medical costs.

In *Boeing*, the Supreme Court determined the Second Injury Fund does not cover medical costs for post-pension treatment authorized by the Department, even if that treatment is directed at the preexisting disability rather than the industrial injury or occupational disease. Focusing on the language of the statute, the Court concluded the Second Injury Fund exists only to relieve the employer of "costs related to pensions." The statutory framework, the Court found, excludes any other costs, including post-pension medical costs authorized by the Department.

Prior to the Court of Appeals decision on this case last May, the Department policy required self-insured employers to pay for any post-pension treatment in Second Injury cases. The appellate court provided a brief reprieve, but the Supreme Court just provided a strong foundation for the Department to continue to enforce that policy.

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Washington Supreme Court reverses *Boeing & Doss v. DLI* (continued)

If you have any questions regarding the impact of this case, please feel free to contact any of the attorneys in the Washington practice group at Reinisch Wilson Weier PC. ■

Reread our blog regarding the Washington Court of Appeals decision for The Boeing Co. and Patricia Doss v. Dep't of Labor and Indus. in 2014. See: <http://rwwcomplaw.com/boeing-doss-v-dli/>

¹ 347 P.3d 1083 (2015)

² RCW 51.15.120(1)

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