

## Petitioner's State of Mind Must Be Considered to Prove Fraud

In a recent Appellate Division case, the court was asked to consider the state of mind that a respondent must prove to disqualify a claimant who gives false or incomplete statements about his or her medical history when applying for benefits.

In this case, the respondent said several of the petitioner's statements about treating and examining physicians were false, incomplete, or misleading, including that the petitioner did not disclose every medication she was taking to each doctor she saw; she did not report all previous treatment of her back and hand to each doctor; she failed to reveal prior substance abuse problems; and she failed to fully disclose her previous psychiatric treatment.

In response, the claimant denied that the record contained any evidence that she purposely or knowingly provided false or misleading information.

The trial judge concluded that the respondent had not proved by preponderance of the evidence that the petitioner "purposely or knowingly made false or misleading statements for purpose of obtaining benefits."

During the Appellate Review, the panel of judges noted that N.J.S.A. 34:15-57.4 states that the anti-fraud provision establishes a fourth-degree crime for making "a false or misleading statement, representation or submission concerning any fact that is material that claim for the purpose of wrongfully obtaining the benefits." The fraudulent statement must be made with a "conscious objective" to obtain benefits to which one knows he or she is not entitled to or with awareness that the intentional falsehood will cause the desired result of fraudulently obtaining benefits.

In concluding that the trial court did not error in awarding this petitioner benefits and concluding that the petitioner did not commit fraud, the Appellate Panel noted that in order to implement the remedial social legislation of affording coverage to as many workers as possible, all elements of the anti-fraud provision must be proven by competent evidence for a motion to dismiss to prevail on those grounds. It is not enough that the moving party show the worker made an inaccurate or false statement or admitted material facts. Rather, the moving party must show 1) the injured worker acted purposefully or knowingly in giving or withholding information with the intent that he or she received benefits; 2) the worker knew that the statement or omission was material to obtaining the benefit; and 3) the statement or omission was made for the purpose of falsely obtaining benefits to which the worker was not entitled.

Based upon this ruling, it is evident that in order for a respondent to successfully prove fraud, and thus prevent the petitioner from receiving benefits, under Section 57.4 of the Workers' Compensation Act, the employer/respondent must be able to establish the petitioner's state of mind.

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