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## Appellate Court Affirms Judge's Decision Denying Petitioner's Entitlement to Ongoing Opiate Use

In a very important decision, especially in light of the significant crisis society is facing regarding Opiate use and the related expense and health issues, the Workers' Compensation Court and the Appellate Division have denied a petitioner's Motion seeking ongoing financial responsibility for prescriptions for Percocet. In *Martin v. Newark Public Schools*, (Decided October 4, 2019), the petitioner appealed from the Judge's August 13, 2018, Order denying his request for reimbursement of prescription Opiate medication to treat his low back injury. The petitioner had previously received an award of permanent partial disability of 15 % for an injury to his low back. Subsequent to the award, the petitioner filed a Motion based upon the respondent's refusal to pay for Percocet prescriptions after September 2017. Petitioner claimed he required the Percocet to relieve his ongoing and recurrent pain.

In denying the Motion, the Workers' Compensation Judge heard testimony from the petitioner, the treating physician, and the petitioner's expert. During the trial, the treating physician advised that petitioner would never heal through the use of continued pain medication. The doctor concluded that the only form of curative treatment and treatment that would also relieve the effects of the work injury would be surgery. Despite limited positive findings on physical examination, petitioner's expert testified that it would be reasonable for the petitioner to be on Opiate medication on a long term basis for his pain.

On appeal, the Court addressed the very important issue of whether the Judge has misapplied the law concerning the application for continued palliative care. The Court noted that whether treatment is characterized as curative or palliative, the treatment is compensable if competent medical testimony shows that it is reasonably necessary to cure or relieve the effects of the injury.

This is important for all parties to understand since palliative treatment in and of itself is not unreasonable or unnecessary. Palliative treatment can be equally necessary and compensable under the correct circumstances. However, applied to this matter, the Court noted that the petitioner must prove by sufficient competent evidence that the treatment is reasonable and necessary to cure and relieve the symptoms. The testimony of the treating physician that continued use of pain medication did not and would never heal petitioner or relieve his condition was convincing to both the Judge and approved by the Appellate Division based upon their scope of review.

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