



Iowa Court Liberalizes Latex Claims

Latex Allergy

In a landmark case, the Iowa Supreme Court decided that latex allergy/sensitivity claims are to be considered work related accidents rather than occupational diseases and that sensitized workers are entitled to receive workers' compensation benefits including those for loss of functional ability. The Court's decision to pinpoint the reaction to a specific event rather than to a long period of occupational exposure will make it easier, less complicated, and less costly for injured workers to claim benefits. [St. Luke's Hosp. v. Gray](#), 604 NW 2d 646 - Iowa: Supreme Court 2000, No. 98-892, decided January 20, 2000 (2000 WL 42481).

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NO LONGER ABLE TO WORK NEAR LATEX PRODUCTS

The Court's decision was rendered in the case of Debra Gray, who became a registered nurse in 1988 and who began to experience latex allergy symptoms while employed at St. Luke's Hospital in April 1993. She sought treatment and was advised by her physician to avoid latex products and to modify her work environment. She would no longer be able to work with patients or in any work environment containing latex products. In January 1995, the nurse filed a workers' compensation claim, and the hearing officer rendered a favorable decision in September 1996. The trial court found that the former nurse contracted a latex allergy due to the nature of her work and awarded her permanent partial disability benefits amounting to 35% of partial disability.

REACTION TO LATEX A COMPENSABLE CONDITION

In rendering its decision, the Iowa Supreme Court held that the worker suffered an accident at work which resulted in such symptoms as itching, swelling, edema of the eyelids, sneezing, nasal congestion, coughing, tightness in the chest, shortness of breath, and wheezing. The Court reasoned that latex reactions should be considered injuries for purposes of workers' compensation and should not be considered occupational diseases resulting from prolonged exposures at work. The Court relied upon several similar cases in other jurisdictions, including a baker who developed a rash from the dough, [Hardin's Bakeries, Inc. v. Martin](#), 293 F. Supp. 1129 - Dist. Court, SD Mississippi 1967, 64 So.2d 705 (Miss. 1953); a worker who developed asthma, [Vogt v. Ford Motor Co.](#), 138 S.W. 684 (Mo.Ct. App. 1940) and an employee who suffered an allergic reaction to paint, [National Underground Storage v. Workmen's Compensation Appeal Bd.](#), 658 A.2d 1389 (Pa.Comm. Ct. 1995).

HOSPITAL EXPOSURE INCREASES RISK

The former nurse's reaction to latex was considered to have arisen out of the petitioner's work at the hospital and "in the course of her employment" since working at the hospital increased her risk of exposure to latex products. The increased risk theory was supported by studies demonstrating that the general non-atopic population has a 1% reaction to latex products, whereas healthcare workers have a 7 to 10 percent risk of sensitivity to latex.

In determining the amount of disability payable to the injured nurse, the Iowa Court relied upon not only her lost earning potential but also such factors as age, education, qualifications, experience, and ability to engage in employment in the healthcare industry. In arising its decision, the court considered both what the sensitized nurse was unable to do following the latex reaction and her ability to be gainfully employed.

OCCUPATIONALLY RELATED CONDITION

In deciding that the latex reaction constituted a specific accident rather than a long-term occupational disease, the Iowa Supreme Court made it easier and less costly for latex-sensitized workers to claim benefits. The injured worker is now able to target a specific employer and its insurance carrier. This presumption will reduce the time, costs, and effort for the injured worker who would otherwise have been required to attempt to bring multiple claims against numerous employers and potentially many insurance carriers who were on the risk during a long time period encompassing a worker's entire career in the health care industry. The case will permit more victims of latex allergy to seek recovery in an industry where it is anticipated that 950,000 individuals may

become victims of latex exposure.

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