

Case: *Edward Seiler vs. F.R. Bell and Associates and Alaska National Insurance Co.*, Alaska Workers' Comp. App. Comm'n Dec. No 077 (May 22, 2008)

Facts: The employee, Seiler, suffered chest pains that began before he started his two-week shift working on the North Slope. When the pains that he believed were gastro esophageal reflux disease (GERD)-related did not stop, he went to a British Petroleum clinic; his employer required him to report to the clinic in the event of health problems while working at the remote site. At the clinic, he was advised to take a medevac flight from Prudhoe Bay to an Anchorage hospital to rule out heart problems. The cost of the flight as well as ambulances and the emergency room visit totaled \$23,823. His chest pains were attributed to his pre-existing GERD. The employee conceded that his GERD was not work-related but argued that the employer should be liable for travel and medical expenses to determine whether a condition is compensable, especially because the incident occurred at a remote site. The employer argued that because the chest pains were indisputably not work-related, it was not liable for the medical expenses. The board found there was no link between the employment and the injury and as a result, no liability for the employer for Seiler's expenses under the Workers' Compensation Act. Seiler appealed.

Applicable law: AS 23.30.395(24) defines "injury" in relevant part as "accidental injury or death arising out of and in the course of employment . . ."

AS 23.30.095(2) defines "arising out of and in the course of employment" as including "employer-required or supplied travel to and from a remote job site; activities performed at the direction or under the control of the employer; and employer-sanctioned activities at employer-provided facilities"

AS 23.30.095(a) requires the employer to "furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires, . . ."

The remote site doctrine applies when a remote job site limits an employee's activity choices and that limitation plays a causal role in bringing about the employee's injury. *Doyon Universal Servs. v. Allen*, 999 P.2d 764, 769 n.22 (Alaska 2000).

AS 23.30.120(a)(1), presumption of compensability. The first step of the presumption analysis requires the employee to establish a link between his injury and the employment.

Issue: Does the Workers' Compensation Act cover medical costs incurred to rule out a work-related injury on a remote site, especially when employee followed employer directives to have his problem checked out?

Holding/analysis: The commission concluded that board had substantial evidence to support findings that Seiler's medevac flight was not work-related. In order for the remote site doctrine to apply, the employer-sanctioned activity must have caused an injury. Here, the only employer-directed activity, reporting to the clinic, did not cause an injury. Moreover, even if his pains had been due to a heart attack, rather than GERD, Seiler still would have had to establish a link between the heart attack and his

work in order for his medical expenses to be compensable. Seiler failed to attach the presumption of compensability because he did not demonstrate any link between his employment and his GERD. The commission affirmed the board.