



## Case Law Update

Week of January 25, 2019

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This Update contains summaries of all relevant Appellate decisions for the preceding week, with comments on how a particular decision affects you. In addition, we review daily the Merit Orders posted on the DOAH website. This Update contains summaries and links to relevant JCC decisions for the past week. Please feel free to contact Rogers Turner ([rturner@hrmcw.com](mailto:rturner@hrmcw.com)) with questions or comments on any of the listed cases.

### DCA Cases

**2-1-19** Last week, Bill Rogner received a PCA without written opinion from the First DCA, affirming JCC Dietz's denial of further benefits. Mark Hill handled the case at trial. The JCC accepted the EMA's opinion that the claimant's workplace meniscal tear resolved, and any ongoing MCC of knee treatment or knee pain was the claimant's underlying osteoarthritis.

#### Al Batha v.State of FL/Agency for Health Care Admin.,

(Fla 1<sup>st</sup> DCA 1/22/2019)

#### **Medicaid Liens/Ability of Legal Representative to Contest Lien**

The appeal involved the very narrow question of whether a legal representative qualifies as "recipient" in the 2016 version of F.S. s. 409.910(17)(b). After the decedent died from injuries in an MVA, the estate settled with the tortfeasor. Medicaid provided medical care prior to the death, for which they have a statutory lien. The PR and surviving spouse filed a DOAH proceeding to contest the amount of the lien, which the ALJ dismissed finding the PR and surviving spouse were not "recipients" under the statute entitled to contest the lien amount. The majority of the DCA found that the right to contest the lien continues after death, and reversed. A dissent noted that multiple passages in Chapter 409 limit the ability to contest to living recipients. [Click here to view Opinion](#)

*Please note that the DCA Opinions and Merit Orders contained in this newsletter are non-final until 30 days after their rendition. Until that time, they are subject to amendment, vacation, or other action which may remove or alter some or all of the decision. Please contact any HRMCWW attorney if you have a question as to the finality and applicability of an Opinion or Order. We endeavor to include any amendments or alterations to Opinions or Orders that may occur at a later date.*

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