

The Idaho Supreme Court recently issued a decision modifying the longstanding rule for assessing the compensability of medical treatment in worker's compensation cases. In *Chavez v. Stokes*, ___ Idaho ___, 353 P.3d 444 (July 7, 2015), Appellant Stokes employed Respondent Chavez for part-time irrigation work on Stokes's farm. Chavez was injured during the course of his employment, suffering a fractured left pinky finger with partial amputation of the digit. Life Flight Network transported Chavez from the area of Fruitland, Idaho, to Saint Alphonsus Regional Medical Center in Boise, Idaho. Life Flight billed Chavez more than \$21,000 for the transport. Chavez then filed a claim for worker's compensation. Stokes, the employer, was uninsured for purposes of worker's compensation law, but paid all medical expenses related to the injury except the Life Flight bill, which he asserted was unreasonable. Under Idaho Code Section 72-432(1), an employer must provide reasonable medical treatment required by an industrial accident or occupational disease. The Industrial Commission overrode the referee's recommended order and determined that the Life Flight transport was "reasonable" under the foregoing statute. Stokes appealed to the Idaho Supreme Court.

For more than two decades, the standard applied in worker's compensation cases was based on the decision of the Idaho Supreme Court in *Sprague v. Caldwell Transportation, Inc.*, 116 Idaho 720, 779 P.2d 395 (1989). That decision emphasized that it is for the worker's physician to determine what treatment is necessary; it is for the Industrial Commission to decide whether the treatment is reasonable. Under the circumstances presented there, the Court held, the treatment provided was reasonable because (1) the worker made gradual improvement from the treatment; (2) the treatment was required by the worker's physician; and (3) the treatment was within the physician's standard of practice the charges for which were fair, reasonable, and similar to other charges in the same profession. While this standard on its face appeared to apply to treatment already rendered, the Court subsequently affirmed the *Sprague* standard and applied it prospectively, holding that a worker was not entitled to further treatment proposed by a physician because there was no evidence he had improved from the treatment already provided by the same physician. *Hipwell v. Challenger Supply Co.*, 124 Idaho 294, 859 P.2d 330 (1993).

Over time, the Industrial Commission has fashioned its own test for determining the reasonableness of future treatment because, as the Commission observed, the *Sprague* factors did not lend themselves to evaluating requests for prospective care. Thus, the Commission held that such requests should be evaluated by asking whether the proposed care is likely to be efficacious and whether it is of a type that finds support and acceptance in the medical community. *Richan v. Arlo G. Lott Trucking, Inc.*, 2011 IIC 0008 (Feb. 7, 2011). The Commission also held that this determination should be made based on the totality of the circumstances. *Ferguson v. CDA Computune*, 2011 IIC 0015 (Feb. 25, 2011). The worker was still required to prove that the treatment was "related to the industrial accident." *Pack v. Idaho Div. Veterans Svces.*, 2014 IIC 0014 (Feb. 10, 2014).

As recently as February 2015, the Supreme Court affirmed a Commission decision denying medical benefits because there was evidence a reasonable mind could accept that the worker's condition had not improved from previous care. *Shubert v. Macy's West, Inc.*, 158 Idaho 92, 343 P.3d 1099 (2015 Op. No. 26, Docket No. 41467, February 27, 2015).

In *Chavez*, the Court overruled *Sprague* to the extent that it stood for the adoption of a specific test for the reasonableness of medical treatment under Idaho Code section 72-432(1). The Court also overruled *Sprague's* holding that the reasonableness of medical treatment was a question of law. The Court held that review of the Commission's determination of the reasonableness of the claimant's medical treatment pursuant to Idaho Code section 72-432(1) is a question of fact to be supported by substantial and competent evidence, considering the totality of the circumstances. The Court added that "at a minimum," the treatment must be required by a physician unless it is treatment needed immediately after an injury or manifestation of an occupational disease. It further suggested a retrospective analysis was likely to be problematic as it would lead to second-guessing the treatment in hindsight "without a fair consideration of the information known at the time and place of treatment and any exigent circumstances."

Based on the evidence in the record, the Court affirmed the Commission's order finding the Life Flight transport was reasonable. Attorney fees were awarded against the employer for asking the Court to re-weigh the Commission's decision even though the Court explicitly overruled the *Sprague* case in part, and concluded that henceforth, whether medical treatment is reasonable is not a question of law but a question of fact. That means a Commission decision that treatment was or was not reasonable, if supported by substantial and competent evidence, will almost certainly be affirmed on appeal.