



Esquivel v. WCAB & Correspondence. Corp. of Am. San Diego Det. (2009), DO54197, Court Of Appeal Of California, Fourth Appellate District, Division One, 2009 Cal App. Lexis 1664, October 13, 2009, Filed

Provided by Pamela L. Goe, Esq. from the Bakersfield Office

In a published decision the Fourth Appellate District dealt with the issue as to what is a “reasonable geographic area.” The court stated they must decide “whether there is a reasonable geographic limitation on an employer’s risk of incurring compensability liability under the Act (Labor Code) with respect to new injuries an employee suffers while en route to or from a medical appointment for examination or treatment of an existing industrial injury.” The court concluded there is and the employer bears the risk while the employee is traveling “a reasonable distance, within a reasonable geographic area, to or from a medical appointment.”

As to what is reasonable, the court held that such a determination must be made on a case by case basis. Factors cited by the court which should be taken into consideration include (but are not limited to) the following:

- “The location of the employee’s residence.”
- “The location of the employee’s workplace.”
- “The location of the office of the employee’s attorney.”
- “The location of the medical provider’s office.”
- “The place where the new travel-related injury occurred.”
- “The distance between the employee’s point of departure and the medical provider’s office along a reasonably direct route to that office.”
- “The additional distance the employee travels in the event he or she deviates from that reasonably direct route while en route to the medical provider’s office.”
- “The availability of medical providers in the fields of practice, and facilities offering treatment, reasonably required to cure or relieve the employee from the effects of the existing industrial injury.”
- “The reason or reasons for the employee’s travel beyond a reasonable geographic area within which the employer ordinarily should bear the risk of incurring compensability liability in the event the employee is injured while traveling to or from the medical appointment.”

Under the facts presented the court held that the employee’s motor vehicle accident was not compensable because it occurred 130 miles away.

Pamela L. Goe, Esq.
MULLEN & FILIPPI, LLP