

IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

MCCOMAS-LACINA CONSTRUCTION,
LC, AND UNITED HEARTLAND,

Petitioner,

vs.

STEPHEN A. DRAKE,

Respondent.

Case No. CVCV058049

FILED

AUG -1 2019

WORKERS' COMPENSATION

**RULING ON APPLICATION FOR STAY
OF ENFORCEMENT OF AGENCY
ACTION**

The above-captioned matter came before the court on June 7, 2019 on Petitioners' Application for Stay of Enforcement of Agency Action. Petitioners were not present, but were represented by attorney Kathryn R. Johnson. Respondent was not present, but was represented by via telephone by attorney Thomas Wertz. The Court, having considered the written and oral arguments advanced on behalf of both parties, enters the following Ruling.

FACTS¹

This case involves judicial review of a decision of the Workers' Compensation Commissioner dated April 1, 2019. Petitioners seek judicial review such that, if granted, would result in a reduction of liability for payment of weekly benefits and medical benefits awarded by the Commissioner's decision. As such, Petitioners seek to have their liability for the payment of additional weekly and medical benefits, above and beyond what Petitioners have already paid, stayed pending the outcome of their judicial review action.

ANALYSIS

¹The Court has only provided abbreviated facts for purposes of ruling on Petitioners' Application for Stay of Enforcement of Agency Action.

The granting of a stay of agency action is discretionary.² The four factors that the Court must consider in deciding whether to grant a stay are:

1. The extent to which the applicant is likely to prevail when the court finally disposes of the matter.
2. The extent to which the applicant will suffer irreparable injury if relief is not granted.
3. The extent to which the grant of relief to the applicant will substantially harm other parties to the proceedings.
4. The extent to which the public interest relied on by the agency is sufficient to justify the agency's action in the circumstances.³

“[M]ore of one factor excuses less of another factor.”⁴

Petitioners assert that “The record lacks substantial evidence to support the agency’s decisions on causation, extent of disability, and Petitioner’s responsibility for disputed medical benefits. The Appeal Decision is inconsistent with the agency’s prior rules and precedents, and is based on erroneous application of the law to the facts of this case.”⁵ The Court interprets this to be an assertion that Petitioners believe that they are likely to prevail. The Court; however, is without the benefit of briefing from both parties in this matter and, as such, it is difficult to assess Petitioners’ likelihood of success. This is particularly true given the deference the Court must give to agency fact findings. Accordingly, the Court treats this factor as essentially neutral.

As to the second factor, it is clear that if judgment is entered and Respondent is paid the benefits awarded by the Commissioner’s decision, Petitioners have no way to recoup any money

² *R&V, Ltd. d/b/a The Olde Liberty v. Iowa Dept. of Commerce, Alcoholic Beverages Div.*, 470 N.W.2d 59, 61 (Iowa Ct. App. 1991).

³ Iowa Code § 17A.19(5)(c); *See also Teleconnect Co. v. Iowa State Commerce Comm’n*, 366 N.W.2d 511, 513 (Iowa 1985).

⁴ *Grinnell College v. Osborn*, 751 N.W.2d 396, 402 (Iowa 2008).

⁵ Application for Stay of Enforcement of Agency Action, p. 2.

paid if the Commissioner's decision is ultimately reversed. However, economic loss, even if substantial does not amount to irreparable damage.⁶ This factor weighs against a stay.

As to the third factor, it is clear that a stay will result in a delay of payments to Respondent. However; to what extent such a delay would harm Respondent is unclear to the Court. Respondent's Resistance to Petitioners' Application for Stay indicates that Respondent last received workers' compensation benefits in 2017. This delay could by itself demonstrate hardship; however, such hardship could be addressed to some extent by the Court's prompt scheduling of briefing and oral argument. Further, if the Commissioner's decision is ultimately affirmed, Respondent will be entitled to collect the benefits awarded to him with interest. This factor; therefore, does not weigh heavily against a stay.

The fourth factor - the extent to which the public interest relied on by the agency is sufficient to justify the agency's action in the circumstances – weighs against a stay. The broad objective of workers' compensation is to provide prompt benefits to injured workers.⁷ Accordingly, there would be a public interest in paying benefits until such time, if ever, an award may be found to be invalid. In reaching this conclusion, the Court acknowledges the changes made by the legislature in 2017 to Iowa Code section 86.26; however, such changes are not applicable to this case given the date of Respondent's injury and, as such, do not alter the Court's analysis with respect to the fourth factor.

Having collectively considered all four factors, the Court determines a stay of the Workers' Compensation Commissioner's April 1, 2019 appeal decision is not appropriate pending the outcome of this judicial review matter.

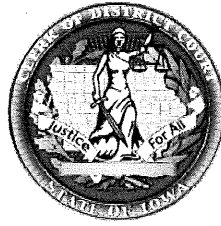
ORDER

⁶ *Teleconnect Co.*, 366 N.W.2d at 514.

⁷ *Grinnell College*, 751 N.W.2d at 403.

For all the reasons stated above, Petitioner's Application for Stay of Enforcement of Agency Action is denied.

IT IS SO ORDERED.



State of Iowa Courts

Type: OTHER ORDER

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So Ordered

A handwritten signature in cursive script, appearing to read "Samantha Gronewald".

Samantha Gronewald, District Court Judge
Fifth Judicial District of Iowa

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