



Kentucky Supreme Court Affirms Use of Official Disability Guidelines in Workers' Compensation

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In *Howell v. Floyd County Board of Education*, the Kentucky Supreme Court recently upheld the application of the Official Disability Guidelines (ODG) in the Commonwealth's workers' compensation system. The case involved a challenge to continued coverage of hydrocodone for Judy Howell, whose employer had paid for the medication for nearly 30 years. Based on the 2018 ODG and supporting medical opinions, the court ruled that hydrocodone was "not recommended" and therefore no longer compensable under her claim.

Background on ODG in Kentucky

Kentucky adopted the ODG on October 22, 2018, with applicability to treatments administered on or after September 1, 2020. The ODG establish a rebuttable presumption regarding the medical necessity of treatments, including prescription drugs. Treatments labeled "Not Recommended" may still be approved if a provider offers sound medical justification in writing.

Case Details

Howell's claim, initiated in 1993, included coverage for hydrocodone. In 2022, her employer reopened the claim, citing updated medical evidence and the ODG's stance against long-term use of short-acting opioids. Two physicians testified that hydrocodone was no longer appropriate under the ODG. The Administrative Law Judge (ALJ) agreed, and the decision was upheld through appeal.

Supreme Court Ruling

Howell argued the ODG should not apply retroactively and that its use violated her constitutional rights. The Kentucky Supreme Court rejected these claims, stating the ODG is remedial and applies

regardless of injury date. It emphasized the ruling did not eliminate her right to reasonable medical care—only to treatments deemed inappropriate under current standards.

Implications

This decision reinforces the authority of the ODG in guiding treatment decisions and supports employers' ability to challenge outdated or unsupported medical expenses. While the above guidelines do not prohibit access to certain treatments outright, they do require clear medical justification for exceptions. The ruling also affirms deference to ALJs and the evolving nature of medical standards in workers' compensation.

For guidance on navigating workers' compensation claims under the ODG, contact the author or any member of Frost Brown Todd's [Workers' Compensation](#) team.

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