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PIR and Temporary Indemnity

Rosa v. Progressive, 37 Fla. L. Weekly D867 (Fla. 1st DCA April 12, 2012)

In his Order, the JCC made a finding on PIR when it was not at issue. The claimant appealed the finding and the 1st DCA reversed since the issue had not been mediated, listed in the pre-trial or even addressed by either party. The JCC had even acknowledged during the merits hearing that PIR was not at issue, but he still made a finding.

The JCC also found in his Order the claimant had reached MMI and denied her claim for temporary indemnity benefits. The 1st DCA reversed the finding that claimant was at MMI since the JCC simultaneously awarded treatment recommended by the EMA that the physician testified could improve the claimant's condition. Since additional treatment was awarded, the 1st DCA held the finding of MMI was internally inconsistent with the award of

treatment. A reversal on the indemnity issue was entered since the claimant was could potentially be entitled to additional indemnity.

Buttrick v. By the Sea Resorts, 37 Fla. L. Weekly D870 (Fla. 1st DCA April 12, 2012)

The JCC denied the claimant's petition for PTD, but failed to make as finding as to whether claimant had reached MMI. Since there was no finding on MMI, meaningful appellate review was not possible. A reversal was entered for clarification on MMI.

HIT Promotional Products, Inc. v. Krivdic, 37 Fla. L. Weekly D870 (Fla. 1st DCA April 12, 2012)

The E/C appealed arguing that the award of a \$2,000 advance was not supported by competent substantial evidence. The 1st DCA disagreed and affirmed the award because competent substantial evidence supported the finding that claimant had been unable to return to the same or equivalent employment.

The E/C also argued the JCC made a de facto finding of compensability of the injuries when that issue was not before the court. The 1st DCA struck the phrase "work-related" from one of the paragraphs in the Order and affirmed the Order as modified.

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