

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

2024 MTWCC 8

WCC No. 2019-4776 & 2024-00481

MONTANA STATE FUND

Petitioner

IN RE: APPOINTMENT OF A GUARDIAN *AD LITEM*
TO REPRESENT C.K. AND D.K.,
THE MINOR CHILDREN OF MERLE R. KAASA (Deceased)

ORDER DENYING MOTION TO CHANGE PAYEE

Summary: Through counsel, a minor-beneficiary seeks an order changing the person to whom the minor-beneficiary's workers' compensation benefits are paid. The minor-beneficiary argues that the insurer has been erroneously paying the *Guardian Ad Litem* that this Court appointed to pursue the benefits on behalf of the minor-beneficiary, rather than the minor-beneficiary's mother. Through counsel, the *Guardian Ad Litem*, who is simultaneously pursuing Conservatorship of the minor-beneficiary in District Court, opposes the minor-beneficiary's motion and seeks to remain the "primary payee" of the workers' compensation benefits.

Held: The minor-beneficiary's motion to change payee is **denied**. This Court lacks jurisdiction over the motion because it fails to raise any dispute over benefits that arise under the Workers' Compensation Act.

¶ 1 Through counsel, C.K., a minor-beneficiary of Merle R. Kaasa (the deceased), moves the Workers' Compensation Court for an order changing the person to whom his benefits are paid from Marjorie Capdeville (the deceased's sister) to Jacki Kaasa (C.K.'s mother and the deceased's ex-wife).

Factual Background

¶ 2 C.K. alleges as follows:

¶ 3 The deceased died in a workplace accident on August 14, 2019.

¶ 4 At the time, the deceased had two minor children, C.K. and D.K.

¶ 5 Immediately after their father's death, the children were placed in the care of Ms. Capdeville.

¶ 6 On September 12, 2019, this Court appointed Ms. Capdeville Guardian *Ad Litem* (GAL) to represent the children's interest in pursuing Workers' Compensation benefits.

¶ 7 Montana State Fund, who insured the deceased's employer at the time of his workplace accident and death, "has erroneously paid the benefits to [Ms. Capdeville], rather than to the child's parent or guardian since State Fund began making payments."

¶ 8 On or around April 13, 2020, the children were returned to the care and custody of Ms. Kaasa.

¶ 9 C.K. is still a minor.¹ D.K. is not.²

Legal Analysis

¶ 10 C.K.'s motion to change payee is **denied** as this Court lacks jurisdiction over the present dispute.

¶ 11 The Workers' Compensation Court is a court of limited jurisdiction.³ Its jurisdiction is limited to disputes over benefits arising under the Workers' Compensation Act.⁴

¶ 12 The Montana Supreme Court has previously held that the Workers' Compensation Court has jurisdiction to appoint a GAL on behalf of minor-child beneficiaries for the purpose of pursuing death benefits under the Workers' Compensation Act.⁵ Accordingly, this Court appointed Ms. Capdeville as GAL on C.K.'s behalf in a separate matter in 2019.⁶ However, once it made the appointment, this Court dismissed the matter and closed the file.

¶ 13 C.K.'s present motion represents a new matter. It asserts no dispute over benefits arising under the Workers' Compensation Act, i.e., there is no dispute over whether C.K. is entitled to benefits under the statute or in what amount. The only dispute raised by the

¹ D.O.B. 8/18/08.

² D.O.B. 2/11/02.

³ *Oberson v. Federated Mut. Ins. Co.*, 2005 MT 329, ¶ 11, 330 Mont. 1, 126 P.3d 459.

⁴ § 39-71-2905(1), MCA (2017).

⁵ *Hock v. Lienco Cedar Products*, 194 Mont. 131, 137, 634 P.2d 1174, 1177-78 (1981); see *Simons-Tollefson v. State Comp. Fund*, 2000 MTWCC 7, ¶¶ 12, 13 (concluding that non-spouse parent of minor-beneficiary was not authorized to file and pursue a claim for death benefits on her son's behalf until and unless she was appointed his guardian or GAL; then, granting parent's request to be appointed GAL for her son for the purpose of pursuing a claim for death benefits).

⁶ WCC No. 2019-4776.

motion is over to whom the benefits are to be paid. As such, this Court does not have jurisdiction over this dispute.

¶ 14 This Court decided a similar matter earlier this year in *In Re: Appointment of a Guardian Ad Litem to Represent T.G., the Adult Child (Disabled) of Baron Gray (Deceased)*.⁷ T.G. was the disabled adult child of Baron Gray (deceased).⁸ T.G.'s mother acted as T.G.'s GAL until T.G.'s mother's death on August 8, 2022.⁹ At that time, the insurer suspended payment of T.G.'s bi-weekly beneficiary benefits and sought the appointment of a replacement GAL to protect T.G.'s interests and administer T.G.'s benefits.¹⁰ This Court denied the insurer's motion, in part, because this Court lacked jurisdiction to appoint a GAL because the insurer's motion presented no dispute over benefits; the insurer did not deny that T.G. was entitled to beneficiary benefits.¹¹

¶ 15 Like the insurer in *In re T.G.*, C.K. wants someone other than the originally appointed GAL to represent his interests and receive benefits on his behalf. However, as in *In re T.G.*, because there is no dispute over C.K.'s entitlement to or the amount of benefits, this Court lacks jurisdiction to decide his motion.

¶ 16 From the exhibits filed with the motion, it appears a related action (Ms. Capdeville's Petition for Appointment of Conservator and for Authorization of Trust Property)¹² is proceeding in Valley County District Court, Cause No. DG-2023-5.¹³

¶ 17 This motion is **denied**. The Clerk is requested to provide copies of this order to Jacki Kaasa c/o Jamie N. Hower (attorney for beneficiary C.K.), The Honorable Yvonne Laird (Valley County District Court), Mark D. Meyer (Montana State Fund), and David L. Irving (counsel for Marjorie Capdeville).

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⁷ 2024 MTWCC 1.

⁸ *In Re: T.G.*, ¶ 2.

⁹ *In Re: T.G.*, ¶ 3.

¹⁰ *In Re: T.G.*, ¶¶ 4, 5.

¹¹ *In Re: T.G.*, ¶¶ 7, 8, 10, 11.

¹² The Petition is located at Exhibit C to C.K.'s motion to change payee. That Petition represents, on page 2, and implies, on page 3, that this Court appointed Ms. Capdeville as "primary payee" of the minor children's workers' compensation benefits. This is incorrect. This Court appointed Ms. Capdeville as a GAL on behalf of the minor children for the purpose of **pursuing** workers' compensation benefits. This Court assumes the parties will meet their continuing duty to correct the District Court record when they become aware of an error.

¹³ The next District Court hearing is set for July 29, 2024.

DATED this 15th day of July, 2024.

(SEAL)

/s/ Lee Bruner
Judge Lee Bruner

c: Jacki Kaasa c/o Jamie N. Hower
The Honorable Yvonne Laird
Mark D. Meyer
David L. Irving

Submitted: July 3, 2024