

# ***Oneida Tribal Judicial System***

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## **TRIAL COURT**

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**Julie Ann Mitchler,  
Petitioner**

v.

**Oneida HRD – Benefits and,  
Crawford & Company,  
Respondents**

**Docket No: 11-TC-038**

**Date: May 12, 2011**

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## **Decision**

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This case has come before the Oneida Tribal Judicial System, Trial Court. Judicial Officers, Mary Adams, Jean M. Webster, and Leland Wigg-Ninham, presiding.

### **I Background**

This case arises out of Petitioner Julie Ann Mitchler's claim for compensation for injuries which arose in the course of her employment. Respondents have provided partial coverage but not as much as Petitioner argues she is entitled to. Petitioner appeals from Respondent's partial denial of benefits.

On March 14, 2011 Ms. Mitchler filed a hearing application claiming Respondents, Oneida HRD – Benefits and Crawford and Company, denied her mileage, dental and permanent partial disability claims. The Court scheduled a Pre-trial hearing for April 19, 2011.

At the April 19, 2011 Pre-trial hearing, Petitioner claimed she fell on February 11, 2010. As a result of the fall, Mitchler had two knee surgeries. Respondents assert the surgeries and all

associated cost were covered and are not in dispute. The Court finds and the parties appear to agree that the underlying facts are not in dispute. Ms. Mitchler fell while at work and injured herself. The injury arose out of and was in the course of employment. The issues in dispute surround the level of benefits and compensation due as a result of the injuries.

The Court requested that the parties submit a brief on the following issues: 1) Mitchler's mileage reimbursement for travel from her residence to the treatment facility, 2) coverage of dental care and denture repairs she received on April 11, 2011, and 3) benefits for Mitchler's permanent partial disability caused by the injury to both her knees that resulted in surgery. The briefs were due by May 3, 2011. Petitioner submitted their brief timely. Respondents did not submit a brief and rest their argument on the Pre-trial testimony.

## **II Issues**

Are Petitioner's additional three requests covered under the Oneida Worker's Compensation law?

## **III Analysis**

### *Petitioner's arguments*

Petitioner claims her treatment was in excess of thirty (30) miles from her place of residence and that therefore she is entitled to reimbursement under Sec. 13.8-2. Petitioner maintains her estimated travel expense to the treatment center is \$1,800 based upon an average of thirty (30) miles or more for each trip for a period of five (5) weeks at five (5) days per week. Petitioner points out the government's standard mileage rate is currently 50 cents per mile for the year 2010. Petitioner understands that mileage is generally for office visits that are thirty (30) miles outside of place of employment. However, Petitioner contends that the Trial Court of Oneida Tribal Judicial System has the authority to recognize the need to make exceptions and to deviate from the code as set forth in Section 13.8-2.

Petitioner asserts her dental care and denture repair is a result of her February 11, 2010 injury. Petitioner argues her denture issues were not as important as her knee pain and therefore did not

submit a claim until April 11, 2011.

Petitioner claims a 10% percent permanent partial impairment to her knees as a result of the injury she suffered on February 11, 2010. Petitioner argues the medical report dated April 6, 2011 prepared by Dr. James R. Spears supports her claim of 10% percent permanent partial impairment. Respondent agrees there is a 5% percent limitation to each knee, but Dr. Spears included them as 10% percent total. Petitioner claims she endured a great deal of pain due to the two operations and physical limitation to both her knees.

*Respondents' argument*

Respondents contend the Oneida Worker Compensation law is very specific in Section 13.8-0, allowing mileage claims and travel expenses only when the employer requires the employee to submit to treatment outside the county of employment and more than 30 miles from the place of employment. Respondents assert Petitioner's mileage claim from her residence to treatment facility is not payable under this section and therefore should be denied.

Respondent pointed out according to Dental Associates documentation dated April 11, 2011 that Petitioner's dentures are not a result of Mitchler's fall from a year ago. Section 13.9-3, limitations of claims, does not allow a claim for benefits made after 180 days of the date of injury. Therefore, Respondents argue, Mitchler's claim for dental care and denture repair should be denied.

Respondents contend Dr. James Spears' medical report from November 8, 2010 identifies Petitioner's injuries at 5% percent and therefore Mitchler is not entitled to permanent partial impairment. Respondent argues the injuries to each knee can not be added together to equal 10% percent.

*Court's ruling*

The Court denies Petitioner's mileage claim. Section 13.8-2 of the Oneida Worker's

Compensation law is specific and does not allow mileage from the employee's residence or a deviation. It states the employer must pay reasonable travel expenses if "the employer requires the employee to submit to treatment outside the county of employment, *and* further than 30 miles from the place of employment." Sec. 13.8-2 (emphasis added). The place of treatment at issue for Mitchler was located in Green Bay, which is not further than 30 miles from the workplace, the Oneida Indian Reservation. To qualify for reimbursement, the ordinance is clear: the place of treatment must be more than 30 miles from the place of employment, not the employee's residence.

The Court denies Petitioner's dental care and denture repairs. Section 13.9-3, limitations of claims does not allow a claim for benefits made after 180 days of the date of injury. Mitchler's claim was beyond the 180-day limitation as it was filed over a year after her fall. Furthermore, it does not appear the injuries at issue were caused by the February 2010 fall.

The Court grants Petitioner's claim for 10% percent permanent partial impairment. According to Dr. Spears' April 2011 medical report, Petitioner was rated at 5% percent impairment for each knee which totals 10% percent. It is common sense that injury to two knees would be twice as limiting as the same injury to only one knee.

With respect to the compensation due Mitchler, the Court is not convinced on the period proportionate to the degree of disability that Petitioner is entitled to according to 13.6-10 (b) because the injury is not scheduled. Therefore, the parties shall brief the Court on the issue of period proportionate to the degree of disability since Petitioner's injury is not scheduled. The parties shall include a proposed compensation for Mitchler based on 10% percent permanent partial impairment and supporting reasoning based on the ordinance and the record to date. The parties' briefs are due by June 30, 2011.

#### **IV Decision**

Petitioner's claim for mileage and denture repair is denied. Petitioner's claim for permanent partial impairment is granted. Parties' briefs are due by June 30, 2011.

It is so ordered.