

**INDUSTRIAL ACCIDENT BOARD OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY**

TWO FARMS INC.,)	
Employer,)	
)	
and)	
)	
GALLAGHER BASSETT,)	
Third Party Administrator,)	
)	
and)	I.A.B. NO. 1535737
)	
CANDICE CACOPARDO,)	
Employee,)	
)	
vs.)	
)	
BAYHEALTH MEDICAL CENTER,)	
Provider.)	

ORDER

Two Farms Inc., Gallagher Bassett and Candice Cacopardo jointly brought this matter to the Industrial Accident Board seeking to enjoin Bayhealth Medical Center to stop its continued billing of Mrs. Cacopardo’s private insurance instead of Employer’s workmen’s compensation insurer. The parties stipulated to a hearing officer issuing this pursuant to § 2301B(a)(3).

The Board has exclusive jurisdiction over “all cases” that arise under Chapter 23 of Title 19.¹ This authority includes, without limitation, issuing orders “resulting in injunctive relief requiring a named party to act or refrain from acting or threatening to act in some way required or forbidden by law or regulation under which the agency is operating.”² The Board has issued similar injunctions in the past to insure that all parties involved in the system comply with the compensation law.³

¹ 29 Del. C. § 8511(b); 19 Del. C. § 2301A(i).

² 29 Del. C. § 10102(3). *Queen v. Hanesbrands Inc.*, No. 1398074 at *5 (Del. I.A.B. Jan 14, 2014).

³ E.g., *Shivani Inc. v. Global Financial*, No. 1442616 (Del. I.A.B. Sept. 6, 2018), *Soriano v. Natural House*, No. 1435246 (Del. I.A.B. Mar. 24, 2016) and *Ruba v. State*, No. 1312734 (Del. I.A.B. Jan. 10, 2013).

“Parties” includes medical providers and hospitals.⁴ The law mandates that medical providers and hospitals in a compensation claim “shall” submit their charges for medical evaluation, treatment and therapy, including all drugs, supplies, tests and associated chargeable items and events “to the employer or insurance carrier along with a bill or invoice for such charges.”⁵ Once an employee informs the health care provider that a claim is on file with the Industrial Accident Board, “the provider shall cease all efforts to collect payment from the employee.”⁶ The law further mandates that any health care provider to be paid for treating an injury or condition under the compensation law “shall not seek compensation from any other health insurance carrier for the same treatment.”⁷ If the Board determines that a provider has failed in its responsibilities in this regard then, in addition to other remedies, it “shall assess a fine of not less than \$1,000 nor more than \$5,000 for [such] violations.”⁸

Background: In this case, Two Farms Inc., Gallagher Bassett and Mrs. Cacopardo amicably entered into a medical only Agreement on March 27, 2023 under § 2344, which was subsequently approved by the Board. Pursuant to their Agreement, the Employer has agreed to pay for all medical treatment to the right knee, right ankle and right shoulder stemming from a March 1, 2023 industrial accident. Gallagher Bassett notified Bayhealth of this on April 11, 2023 and asked Bayhealth to send all bills to Gallagher Bassett for payment.⁹ Instead, Bayhealth billed Mrs. Cacopardo’s private health insurance. After learning of this, Gallagher Bassett sent a second notice to Bayhealth on April 27, 2023 and specifically stated, “please consider this as authorization to treat the right knee, right ankle and right shoulder.”¹⁰

⁴ 19 *Del. C.* § 2346.

⁵ 19 *Del. C.* §§ 2322F(a) and 2322F(b).

⁶ 19 *Del. C.* § 2322F(l)(2)(b).

⁷ 19 *Del. C.* § 2322F(k)(3).

⁸ 19 *Del. C.* § 2322F(g).

⁹ Employer’s Exhibit 1.

¹⁰ Employer’s Exhibit 2.

Despite receiving multiple notices to send all bills to Gallagher Bassett from Two Farms Inc., Gallagher Bassett and Mrs. Cacopardo herself, Bayhealth has continued to bill Mrs. Cacopardo's private health insurance. This has had serious ramifications for the Cacopardo family. Specifically, the Cacopardos have a \$10,000.00 deductible on their private health insurance plan. The first \$5,000.00 of that deductible is paid by a Benefits Account; however, once that Benefits Account is depleted, the remaining \$5,000.00 must be paid by the Cacopardos directly before their private health insurance will start to pay.

In June 2023, Mrs. Cacopardo's minor daughter became ill and needed treatment. When the Cacopardos started to be billed for these services, they asked why they were being billed directly instead of their Benefits Account. The answer turned out to be that Bayhealth depleted the Cacopardos' Benefits Account instead of submitting Mrs. Cacopardo's bills to Gallagher Bassett. Unable to pay for their daughter's treatment out of pocket, the Cacopardos notified Bayhealth, asked it to reimburse their private insurance and resubmit the workmen's compensation bills to Gallagher Bassett. Gallagher Bassett also renotified Bayhealth of all these issues and its need to fix the situation again on August 9, 2023.¹¹ Instead, Bayhealth has continued to bill the Cacopardos and their private health insurance, including as recently as September 9, 2023 (four days before this hearing and two weeks after Bayhealth was served with Employer's motion) in the amount of \$37,648.24.¹²

Holding: Given the clear mandate of the statute and Bayhealth's repeated failures to comply with the statute despite all the notice it received from Employer, its third party administrator and Mrs. Cacopardo, the Industrial Accident Board GRANTS Employer's motion and hereby ENJOINS Bayhealth from submitting Mrs. Cacopardo's medical bills for the right

¹¹ Employer's Exhibit 3.

¹² Employer's Exhibit 4.

knee, right ankle and right shoulder related to her March 1, 2023 industrial accident to anyone other than Gallagher Bassett. Bayhealth Medical Center is further ORDERED to reimburse the Cacopardos' private health insurance and resubmit all bills to Gallagher Bassett for the right knee, right ankle and right shoulder following the March 1, 2023 accident within **60 DAYS** of this injunction. If Bayhealth Medical Center fails to comply with any part of this injunction by the deadline(s) imposed herein, then Employer shall be entitled to return to the Board to determine if Bayhealth shall be fined pursuant to § 2322F(g). The Board may also assess Employer's attorney fees and costs against Bayhealth per § 2320(8) and other relief at that time.

IT IS SO ORDERED THIS 13TH DAY OF SEPTEMBER, 2023.

INDUSTRIAL ACCIDENT BOARD



ANGELA FOWLER, HEARING OFFICER

Joseph Andrews, Esquire for Employer
Candice Cacopardo, pro se Employee
Keri Morris-Johnston, Esquire for Bayhealth Medical Center