
No Worker's Comp for Medical Marijuana, SJC Rules

Description

The Supreme Judicial Court in Massachusetts has recently decided that a worker's compensation insurer could not be required to reimburse an injured employee for medical marijuana expenses he incurred treating chronic pain. PS&H partner, Travis McDermott, was asked to contribute his thoughts on this highly anticipated decision. His insights are included in a recent *Massachusetts Lawyers Weekly* article titled, *No Worker's Comp for Medical Marijuana, SJC Rules*.

Although a reviewing board of the Department of Industrial Accidents had found that the criminalization of marijuana under federal law preempted any state-level authority to order an insurer to cover its medical use, the SJC's decision was actually grounded in the text of Massachusetts' medical marijuana statute itself. M.G.L.c. 941, §6(i) expressly states that nothing in the law requires "any health insurance provider" to reimburse any person for medical marijuana expenses.

The *MA Lawyer's Weekly* article offers several views of the decision, from those who disagree with the decision being based on the state statutory language, while others were not surprised by the decision, given that the medical marijuana statute was *written* so as to avoid conflicts with federal law. The decision has been met with some measure of disappointment because Massachusetts is thought to be a progressive state and has been in the vanguard of this area.

Travis points out, in the article, that the biggest impact of the decision may well be political, as the decision does not materially change current law or practice in Massachusetts.

"As the federal government lags further and further behind a majority of the states on cannabis laws, whether medical or recreational, decisions such as this one continue to highlight to voters and policymakers that the current incongruence of the state and federal law in this area borders on untenable," Travis says.

The full article as published in *Massachusetts Lawyers Weekly* can be [viewed here](#). (Subscription required.)

A previously published blog post on the topic, written by Travis McDermott, can be [viewed here](#). Partridge Snow & Hahn's [Cannabis Advisory Practice Blog](#) provides updates on marijuana law and policy, covering some of the risks and opportunities in the industry, and makes recommendations regarding best practices. If you are interested in receiving these updates via email, please complete the form below:

Date Created

November 12, 2020