

COMPENSATION NEWS

MONTHLY REPORT

Court of Appeal indicates ACOEM applies to old stipulation with request for award

This is an appellate
decision that was not
published

This is a significant
decision even though it
is not a published case.
It gives an indication of a course
of action to take when this issue
arises.

The applicant entered in a
Stipulation With Request for
Award in 1985. Under future
medial care it indicated there
“may be” need for the back and
hip care upon reasonable

In this issue..

Sutton v. WCAB

demand.

The applicant continued to
treat over the years. In July 2006
the applicant filed a Declaration
of Readiness to Proceed because
the employer did not provide
chiropractic services.

The Workers’ Compensation
Judge (WCJ) awarded the
applicant chiropractic care. The
defendant petitioned the
Workers’ Compensation Appeals
Board for Reconsideration
(WCAB). The WCAB overturned
the WCJ and indicated applicant
did not need treatment within the
ACOEM guidelines. The
applicant filed for a writ that
brought the case to the appellate
court.

The appellate court indicated
that under Labor Code Section
5307.27, ACOEM guidelines are

presumptively correct, regardless
of the date of injury.

The court also reviewed
section 4604.5 and indicated that
the standard of care used to
determine whether the treatment
is reasonable is not the standard
of care in 1985, but the standard
of care that is reasonable today.
This is very important. Because
the injury occurred prior to 2004
the 24-visit chiropractic
limitation did not apply, however.

=====
Editor: Harvey Brown
Firm: Samuelsen, Gonzalez,
Valenzuela and Brown
Address: 18881 Von
Karman # 250 Irvine 92612
Phone: 949 252-1300