

Case: *Admiral A. Mangrum, Jr. vs. PGS Exploration, Inc. and Travelers Insurance Company*, Alaska Workers' Comp. App. Comm'n Dec. No. 188 (September 11, 2013)

Facts: Admiral A. Mangrum, Jr. (Mangrum) asserts that he injured his lower back, left hip, and groin on February 4, 2001, while riding in his employer's truck over rough terrain. A few days later, Mangrum saw Scott Conover, PA-C, who diagnosed left abdominal wall strain. Mangrum never returned to work for PGS Exploration, Inc. (PGS). PGS paid him temporary total disability (TTD) for one week, as well as his medical costs.

Mangrum filed a claim for benefits for a groin/hernia condition on January 15, 2003. Shortly thereafter, on February 18, 2003, PGS took his recorded statement, during which he acknowledged that he had consulted an attorney and found out what he needed to do to pursue his claim. Eventually, PGS controverted Mangrum's claim on March 3, 2005, on a board-prescribed controversion notice. Mangrum filed a subsequent claim on August 25, 2009, for lower back and left hip conditions, which PGS controverted on September 15, 2009, also using a board-prescribed controversion notice. On February 1, 2012, Mangrum filed an affidavit of readiness for hearing on both his claims. Mangrum testified that he did not read the subsection .110(c) warnings that appeared on the reverse side of the 2005 controversion notice and probably did not read warnings on the 2009 controversion notice. He either ignored or scanned the notices because he "knew nothing was going to happen."

The board denied his claims as time-barred under AS 23.30.110(c) because he did not file his affidavit of readiness for hearing within two years of the employer's controversions. The board found no evidence in the record that any of the recognized exceptions to the operation of subsection .110(c), such as mental incompetence or the pendency of a second independent medical evaluation would excuse Mangrum from substantial compliance with that subsection. Mangrum appeals.

Applicable law: AS 23.30.110(c) states that "[i]f the employer controverts a claim on a board-prescribed controversion notice and the employee does not request a hearing within two years following the filing of the controversion notice, the claim is denied."

In *Pruitt v. Providence Extended Care*, 297 P.3d 891, 894-95 (Alaska 2013) (footnotes omitted), the Alaska Supreme Court stated:

We have compared the failure-to-prosecute provision of AS 23.30.110(c) to a statute of limitations and interpreted the term "claim" in this statutory subsection to mean a written application for benefits. In *Kim v. Alyeska Seafoods, Inc.*, we decided that substantial rather than strict compliance with AS 23.30.110(c) could avoid claim denial. We observed there that the Commission had recognized the Board's power to excuse strict compliance with the

statute for equitable reasons. But we also said that we did “not suggest that a claimant can simply ignore the statutory deadline and fail to file anything.”

Issue: Are Mangrum’s claims time-barred under subsection .110(c)?

Holding/analysis: The commission concluded that the evidence, “in particular Mangrum’s admission that he did not read the controversion notices, constitutes substantial evidence in support of the board’s decision that he ignored the statutory deadline without any rational reason for doing so. The board acted appropriately in denying Mangrum’s claim.” Dec. No. 188 at 12.