

MRSA: Court Says Infection Is Covered By Worker's Comp As An Occupational Illness.

Two or three weeks after the aide began working at the state hospital she started to notice large boils on her arms. Her own physician cultured the lesions and confirmed it was methicillin-resistant Staph aureus (MRSA).

The state worker's compensation commission ruled that the aide's infection was covered under worker's compensation. The hospital appealed the commission's decision, but the Court of Appeals of Virginia ruled in the aide's favor.

Occupational Disease Defined

The worker must present medical evidence that the occupational disease arose out of an in the course of the worker's employment and did not result from causes outside of employment. An infectious or contagious disease must be shown to be characteristic of or caused by conditions peculiar to the worker's specific job.

Proof Of Contact Was Lacking

The aide was asked to identify which of the twenty or so mental-health patients she frequently cared for she believed had given her MRSA. All of them tested negative.

However, the aide's lawyer got testimony from an infectious disease specialist that MRSA is much more prevalent in hospital settings than in the community at large, and in hospital settings most prevalent in long-term institutional populations like mental-health patients who tend as a rule to have poor personal hygiene. CDC data support this connection.

No Prior Incidence of MRSA

The aide had worked in hospital settings before and had never had the furuncles characteristic of Staph infection, with an established four- to ten-day incubation period, that she got right away when she started to work at the state hospital. In her previous employment settings, working as an E.R. clerk and x-ray tech, patients were routinely screened for MRSA and none was ever found to be positive.

At the state hospital, unlike her previous employments, there was lots of direct bodily contact when patients grabbed and held her, a characteristic mode of Staph transmission. Central State Hosp. v. Beckner, 2008 WL 762190 (Va. App., March 25, 2008).