

criteria and that portion of the district court's decision remained intact.

Discussion

The *Wit* case has taken a long and circuitous path through the judicial system. Interestingly, the case opinion summarized here in *Wit* was recently vacated by the court, and the court issued a new concurrent opinion in *Wit v. United Behavioral Health*, 79 F.4th 1068 (N.D. Cal. 2023). With this, the court remanded the case to the district court to answer a threshold question of whether the plaintiffs' fiduciary duty claim is subject to an exhaustion requirement. The American Psychiatric Association has submitted amicus briefs in this line of cases.

A key point in this line of cases is that excluding coverage for treatment that falls within GASC may result in beneficiaries receiving inadequate treatment or being financially responsible for treatment that is excluded in their plans. The Ninth Circuit acknowledged that plan beneficiaries have a valid interest in knowing the scope of their plan coverage to make informed decisions about coverage purchases. It is unclear based on this holding, however, how or whether plan members could obtain information about the internal guidelines that are used to determine what care is covered.

The case has implications for psychiatrists' reimbursements for treatment if administering treatment is within the standard of care but is not a covered benefit under the plan administrators' interpretation of the plan. Psychiatrists could be left with the decision to provide inadequate, but reimbursable, care or provide adequate treatment that potentially leaves a financial burden on their patients. This may further introduce concerns about administrative burdens of attempting to obtain reimbursement for care that is consistent with generally accepted standards of care. Confirming an avenue by which health care administrators and insurers may exclude coverage may also have implications regarding mental health parity and access.

Worker's Compensation for PTSD

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A Previous Diagnosis of PTSD is Not Sufficient for Ongoing Worker's Compensation Benefits

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Key words: worker's compensation act; posttraumatic stress disorder; diagnostic criteria; workplace exposure; trauma

In *Chrz v. Mower County*, 986 N.W.2d 481 (Minn. 2023), the plaintiff sought worker's compensation benefits based on a prior diagnosis of PTSD from work-related trauma. The Supreme Court of Minnesota held that a formal, current diagnosis of posttraumatic stress disorder (PTSD) is required for worker's compensation, and that the plaintiff's diagnosis of unspecific trauma and stressor related disorder was not sufficient or compensable under state law.

Facts of the Case

Relator Ryan Chrz began serving as a Mower County Deputy Sheriff in November 2007, and he experienced traumatic events involving violence and death during his 12.5 years of employment with Mower County. In February 2019, Mr. Chrz was placed on administrative leave after using physical force to subdue a juvenile. While on leave, Mr. Chrz experienced suicidal ideation and he was evaluated by a psychologist, Dr. Nicole Slavik, who diagnosed Mr. Chrz with "PTSD, mild depressive disorder in partial remission, and mild alcohol use disorder in early remission" (*Chrz*, p 483). Dr. Slavik attributed Mr. Chrz's PTSD diagnosis to traumatic events in his role as deputy sheriff. On November 13, 2019, Dr. Slavik submitted a Report of Work Ability, indicating that Mr. Chrz was unable to work, ongoing, from September 2019.

On March 31, 2020, Mr. Chrz retired from the Mower County Sheriff's Office. On May 18, 2020, Mr. Chrz filed a claim petition, alleging entitlement

to worker’s compensation benefits beginning on April 1, 2020. At Mower County’s request, Mr. Chrz was evaluated by psychologist Dr. Paul Arbisi, who opined that Mr. Chrz did not meet Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) criteria for PTSD. Dr. Arbisi diagnosed Mr. Chrz with “adjustment disorder, unspecified, and alcohol use disorder, moderate, in self-reported remission” (*Chrz*, p 483). Dr. Slavik reevaluated Mr. Chrz in March 2021 and concluded that Mr. Chrz’s symptoms had improved and he no longer met criteria for PTSD; specifically, he did not have the requisite criterion G for PTSD in the DSM-5, which states that symptoms “cause clinically significant distress or impairment in social, occupational, or other important areas of functioning” (*Chrz*, p 483, citing the DSM-5). Dr. Slavik diagnosed Mr. Chrz with “other specified trauma and stressor related disorder, major depressive disorder, in partial remission, and mild alcohol use disorder, in remission” (*Chrz*, p 483). Dr. Slavik opined that Mr. Chrz had reached maximum medical improvement and assigned a 20 percent partial disability (PPD) rating. She recommended that he continue to be restricted from the normal duties of a police officer because of his continued report of trauma-related symptoms.

The compensation judge held a hearing on June 2, 2021 and found Dr. Slavik’s opinion more persuasive than Dr. Arbisi’s. The judge further found that Mr. Chrz had developed PTSD because of his employment with Mower County and that Mr. Chrz was “temporarily totally disabled as a substantial result of his work-related occupational disease” from April 1, 2020 to the present (*Chrz*, p 484). The compensation judge “awarded temporary total disability, rehabilitation, PPD, mileage expenses, and medical care benefits” (*Chrz*, p 484).

Mower County and the Minnesota Counties Intergovernmental Trust appealed, arguing that Mr. Chrz should not have received compensation benefits after March 30, 2021, when Dr. Slavik concluded that Mr. Chrz no longer met criteria for a formal diagnosis of PTSD. In a split decision, the Workers’ Compensation Court of Appeals reversed in part, concluding that Mr. Chrz was ineligible for workers’ compensation benefits after March 30, 2021 because he had not been diagnosed with PTSD by any licensed provider as of March 30, 2021. Mr. Chrz sought review of the Worker’s Compensation Court of Appeals decision.

Ruling and Reasoning

The Minnesota Supreme Court addressed the question of whether Mr. Chrz, who was previously diagnosed with PTSD, but no longer diagnosed with PTSD, had demonstrated disablement from an occupational disease as required by the state law (Minn. Stat. § 176.66 (1) (1995)). The court reviewed the question *de novo*.

The court reviewed the legislative history of the state’s Worker’s Compensation laws. Until 2013, employees could not receive workers’ compensation benefits for occupation-related mental injuries unless the mental condition arose from or caused a physical injury. In 2013, the legislature redefined “occupational disease” to include “mental impairment.” Under this provision of law, mental impairment is defined as a “diagnosis of posttraumatic stress disorder by a licensed psychiatrist or psychologist” (Minn. Stat. § 176.011 (15)(d) (2022)). The legislature added that PTSD would be defined by the most recent edition of the DSM.

Mr. Chrz argued that, after an employee demonstrates a diagnosis of an occupational disease, the court should then consider only whether the employee continues to experience “disablement.” According to Mr. Chrz, a claimant who no longer has a diagnosis meeting the definition of occupational disease should nevertheless be entitled to workers’ compensation benefits related to continued symptoms.

The court disagreed with Mr. Chrz’s argument and emphasized the plain language of the law. “The only mental impairment that is an ‘occupational disease’ eligible for workers’ compensation benefits is PTSD, and only when the PTSD is diagnosed by a licensed psychiatrists or psychologist using the most recently published edition of the DSM” (*Chrz*, p 486). Because Mr. Chrz no longer had the requisite diagnosis, he no longer met the element of having an occupational disease and, therefore, was not eligible for workers’ compensation benefits. If this were not the case, an employee’s diagnosis of PTSD would remain effectively perpetual. The court indicated that there may be public policy concerns not addressed by the court opinion, but that those would be more appropriately directed to the state legislature. The Minnesota Supreme Court affirmed the decision of the Workers’ Compensation Court of Appeals.

Discussion

The *Chrz* decision holds significance for mental health professionals conducting psychodiagnostic

evaluations for patients seeking workers' compensation. As this case illustrates, a thorough understanding of the criteria for specific diagnoses is essential for accurate workers' compensation evaluations. Although this case comes from Minnesota, Minnesota is not alone in narrowing the requisite mental conditions eligible for workers' compensation benefits under state laws.

Although the *Chrz* court based its ruling on the plain language of the law, the court acknowledged the existence of public policy concerns. Among these, it is not uncommon for individuals diagnosed with PTSD to have symptom improvement, but nevertheless require ongoing care to manage symptoms, even if their condition does not meet the formal criteria for PTSD. Persons with PTSD can also have fluctuations in their symptom course such that they may be re-diagnosed with PTSD after a period of sub-threshold symptoms. With this, there is risk that employees might limit their participation in treatment out of concerns that their worker's compensation benefits will terminate. As suggested by the *Chrz* court, these concerns might appropriately be addressed by the state legislature. Mental health professionals with experience conducting and treating persons involved in the workers' compensation process may be particularly well suited to inform the legislature on these topics.

Standards for Conditional Discharge Revocation

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Revoking Conditional Discharge of Civil Commitment Requires a Clear Link between Violation of Terms of Discharge and Dangerousness

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Key words: conditional discharge; dangerousness; preponderance of evidence; irreducible minimum; reasonably satisfied

In *United States v. Perkins*, 67 F.4th 583 (4th Cir. 2023), the U.S. Court of Appeals for the Fourth

Circuit reviewed Christopher Perkins' appeal of the revocation of his conditional discharge from civil commitment. The Fourth Circuit found preponderance of the evidence to be the requisite standard of proof for revocation of conditional discharge under 18 U.S.C. § 4246 (2009). The Fourth Circuit found it necessary for the district court to record an explanation linking the violation of conditions of conditional discharge and the creation of "a substantial risk of bodily injury to another person or serious damage to property of another" (*Perkins*, p 592).

Facts of the Case

In July 2007, Mr. Perkins threatened a United States Congressman. During the proceedings, Mr. Perkins was deemed incompetent to stand trial and unlikely to be restored in the foreseeable future. In accordance with 18 U.S.C. § 4246, the district court civilly committed Mr. Perkins after a finding of mental disease or defect and dangerousness.

With treatment, Mr. Perkins' mental condition improved. He returned home under conditional discharge, violated the terms of the discharge, and was recommitted by the district court. He again improved with treatment and was conditionally released with 19 conditions imposed for his release. Mr. Perkins subsequently violated five of those terms, including residing at and abiding by the rules of a residential care facility, participating in GPS monitoring, actively participating in mental health care, taking all prescribed medication, and not traveling beyond the court's jurisdiction without permission. Subsequently, his conditional release was revoked.

Mr. Perkins appealed on the grounds that the district court did not meet the requirements of 18 U.S.C. § 4246 and failed to find that he "posed a substantial risk of bodily injury to another person or serious damage to the property of another" (*Perkins*, p 588). The Fourth Circuit Court of Appeals remanded for a rehearing that commented on this risk. On remand, the district court found that Mr. Perkins' violations of the terms of his conditional release indicated a substantial risk and recommitted him. The trial judge reasoned that violation of the order of conditional release was in itself a reason for the revocation of conditional release. Mr. Perkins appealed again to the Fourth Circuit.

Ruling and Reasoning

A panel of three judges for the Fourth Circuit Court of Appeals vacated and remanded the case,