DONALD FLOWER and ANTHONY LASKA, Employees/Appellants, vs. METRO. COUNCIL, Self-Insured Employer and SPECIAL COMP. FUND.

WORKERS' COMPENSATION COURT OF APPEALS
FEBRUARY 28, 2001

No. [REDACTED SSN]

HEADNOTES

CALCULATION OF BENEFITS–SUPPLEMENTARY BENEFITS. The appropriate calculation method to apply to determine supplementary benefits payable where the employee is receiving workers' compensation benefits simultaneously with Social Security disability income and Minnesota State Retirement System (MSRS) disability benefits requires only the proportionate share of MSRS benefits offset to be subtracted from the supplementary benefits.

Reversed.

Determined by: Rykken, J., Wheeler, C.J., and Wilson, J.
Compensation Judge: Jeanne E. Knight

OPINION

MIRIAM P. RYKKEN, Judge

The employees appeal from the compensation judge's determination of the appropriate calculation method to apply for calculating supplementary benefits where the employee is receiving workers' compensation benefits simultaneously with Social Security disability income and Minnesota State Retirement System disability benefits. We reverse.

BACKGROUND

The facts in these consolidated matters were stipulated by counsel prior to hearing, and are summarized below.

Anthony Laska

On November 2, 1992, Anthony Laska was employed by Metropolitan Council, the self-insured employer. On that date, Mr. Laska sustained an admitted low back injury which arose out of and in the course and scope of his employment with the employer. On November 2, 1992, Mr. Laska earned a weekly wage of $705.48. Born in 1938, he was 54 years old at the time of his injury.

Mr. Laska has been permanently and totally disabled since November 16, 1996, and there is no dispute that the work injury of November 2, 1992 is a substantial contributing factor

to his permanent and total disability. As of February 15, 1998, the self-insured employer had paid Mr. Laska $25,000.00 in permanent total disability benefits.

On November 16, 1996, Mr. Laska was receiving Social Security disability income (SSDI) benefits in the amount of $1,158.00 per month. That amount was adjusted to $1,197.00 on December 1, 1998. He was also found permanently and totally disabled by Minnesota State Retirement System (MSRS) as of February 28, 1997. His monthly disability benefits from MSRS have been as follows:

May 1997 - December 1997	$897.52
January 1998 - December 1998	$912.61
January 1999 - Present	$1,002.28

According to a Notice of Intention to Discontinue Benefits (NOID), filed July 23, 1998, Mr. Laska was served with notice of maximum medical improvement (MMI) on April 16, 1998, along with notice that his temporary total disability benefits were to be discontinued 90 days thereafter, as of July 16, 1998. According to an Order on Discontinuance pursuant to Minn. Stat. § 176.239, the NOID was approved and temporary total disability benefits were discontinued as of July 16, 1998.

On October 12, 1998, Mr. Laska filed an objection to discontinuance and also a claim petition, alleging entitlement to permanent total disability benefits from and after July 16, 1998, the date on which temporary total disability benefits had ceased. The self-insured employer and the Special Compensation Fund each filed an answer to the claim petition, originally denying Mr. Laska's entitlement to permanent total disability benefits. The objection to discontinuance and claim petition were consolidated for hearing at the Office of Administrative Hearings.

Donald Flower

On November 4, 1982, Donald Flower was employed by Metropolitan Council, the self-insured employer. On that date, Mr. Flower sustained an admitted low back injury which arose out of and in the course and scope of his employment with the employer. On November 4, 1982, he earned a weekly wage which entitled him to the maximum compensation rate on that date of $290.00. Born in 1946, Mr. Flower was 36 years old on November 4, 1982.

Mr. Flower was registered with the second injury fund of the Special Compensation Fund, as of February 14, 1984. He later sustained two Gillette-type injuries to his low back on or about May 7, 1986 and October 24, 1988. Pursuant to a stipulation for settlement signed by Mr. Flower on November 14, 1990, the parties, including the self-insured employer and the Special Compensation Fund, stipulated that Mr. Flower was permanently and totally disabled as of the date of the award on stipulation, November 30, 1990. Under the terms of the stipulation for settlement, he agreed to "make every effort to obtain Social Security disability benefits," "to terminate his employment with the Metropolitan Transit Commission as of the date of the approval of this stipulation," and "to apply for Minnesota State Retirement System benefits as of the date

this stipulation is approved." An award on stipulation was served and filed November 30, 1990. An amended award on stipulation was served and filed October 2, 1992.

On April 15, 1999, Mr. Flower filed a claim petition, alleging entitlement to an underpayment of permanent total disability benefits from November 30, 1990 to the present and continuing. The self-insured employer filed an answer to the claim petition, denying his entitlement to an underpayment of permanent total disability benefits.

These matters were subsequently consolidated for hearing, as both cases dealt with the same legal issue. That hearing was held on October 12, 1999; both cases were submitted to the compensation judge on stipulated facts. The sole, common legal issue presented to the compensation judge was the appropriate calculation of supplementary benefits in cases where the employee simultaneously is receiving permanent total disability benefits, Social Security disability income and Minnesota State Retirement System benefits.

On January 12, 2000, the compensation judge issued a Findings and Order, determining that the self-insured employer's present method of calculation of supplementary benefits was correct, under interpretation of Minn. Stat. §§ 176.101, subd. 4 and 176.021, subd. 7. The employees appeal.

STANDARD OF REVIEW

The issue on appeal in this matter involves the interpretation and application of case law to undisputed facts. While this court may not disturb a compensation judge's findings of fact unless clearly erroneous and unsupported by substantial evidence in the record as a whole, Minn. Stat. § 176.421, subd. 1(3), "a decision which rests upon the application of a statute or rule to essentially undisputed facts generally involves a question of law which [the Workers' Compensation Court of Appeals] may consider de novo." Krovchuk v. Koch Oil Refinery, 48 W.C.D. 607, 608 (W.C.C.A. 1993).

DECISION

This is a case of first impression for this court. On appeal, the sole legal issue to be resolved is determination of the method of calculation of supplementary benefits required by statute, in cases where the employee simultaneously is receiving permanent total disability benefits, Social Security disability income and Minnesota State Retirement System benefits. The compensation judge determined that Minn. Stat. § 176.021, subd. 7, requires supplementary benefits to be calculated using the Social Security disability income (SSDI) offset only, and that the offset for the entire amount of Minnesota State Retirement System (MSRS) benefits received is then taken after supplementary benefits are calculated.

The Minnesota Supreme Court has previously addressed the policy behind coordination of workers' compensation benefits with Social Security disability benefits, and held that the purpose of the coordination of Social Security and workers' compensation benefits is "to reduce duplication of the two programs." Kloss v. E & H Earthmovers, 472 N.W.2d 109, 112, 44

W.C.D. 530, 533 (Minn. 1991). The Minnesota Supreme Court has also held that, "[i]n recognition that workers' compensation is but one element of a system of wage-loss protection, the Minnesota legislature early on provided a means for coordinating workers' compensation with the federal social security system and the state pension system." Potucek v. City of Warren, 535 N.W.2d 333, 336, 53 W.C.D. 88, 91 (Minn. 1995).

The issue in these cases involves the interpretation of the statutes governing permanent total disability (PTD) benefits, the government benefit offset and offset of MSRS benefits. Minn. Stat. § 176.101, subd. 4, addresses the offset for government disability benefits, such as SSDI, to be taken from PTD benefits. That section provides as follows:

> This compensation shall be paid during the permanent total disability of the injured employee but after a total of $25,000.00 of weekly compensation has been paid, the amount of the weekly compensation benefits being paid by the employer shall be reduced by the amount of any disability benefits being paid by any government disability benefit program if the disability benefits are occasioned by the same injury or injuries which give rise to payments under this subdivision.

Minn. Stat. § 176.021, subd. 7, addresses the offset for MSRS disability benefits, to be taken from workers' compensation benefits, and provides:

> If an employee covered by the Minnesota state retirement system receives total and permanent disability benefits pursuant to section 352.113 or disability benefits pursuant to 352.95 and 352 B.10, the amount of disability benefits shall be deducted from workers' compensation benefits otherwise payable. . . *Notwithstanding the provisions of Minnesota Statutes 1994, section 176.132, a deduction under this subdivision does not entitle an employee to supplemental benefits under section 176.132.*

(Emphasis added.)

Prior to its repeal in 1995, Minn. Stat. § 176.132, which addressed supplementary benefits, provided in pertinent part in subd. 2(d):

> In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and 65 percent of the statewide average weekly wage as computed annually.

As stated in Minn. Stat. § 176.021, subd. 7, "[n]otwithstanding the provisions of Minnesota Statutes 1994, section 176.132, a deduction under this subdivision does not entitle an employee to supplemental benefits under section 176.132." A review of supplementary benefits is necessary to understand the parties' arguments. Supplementary benefits were established in 1971, took effect on January 1, 1972, Minn. Stat. § 176.132, and were abolished effective October 1, 1995. Supplementary benefits were originally created to raise the benefit levels of injured workers who were totally disabled from sustained gainful employment for longer than two years, but who were paid at a low compensation rate. Each year, a supplementary benefit rate was calculated pursuant to statute. At the inception of supplementary benefits, in 1971, once an injured worker was totally disabled for two years, but was being paid a weekly rate below the then-current supplementary benefit rate, the employer and insurer commenced payment at the supplementary benefit rate. The Special Compensation Fund then annually reimbursed the employer and insurer for the difference between the compensation rate and the supplementary benefit rate.

Originally the supplementary benefit level was $60 per week. Benefits were raised by the 1975 legislation to 50 percent of the statewide average weekly wage, effective January 1, 1976. Effective October 1, 1979, benefits were raised to 65 percent of the statewide average weekly wage. In 1983, the Minnesota state legislature curtailed supplementary benefits, allowing benefits to be paid only after the duration of an individual's total disability extended to four years. Supplementary benefits were still available to recipients whose adjusted compensation rates were less than 65 percent of the statewide average weekly wage, or whose compensation rates fell below that level due to the offset of simultaneous receipt of Social Security retirement or governmental disability benefits related to the same disability as in the workers' compensation benefits claim.[1] The corresponding reimbursement from the Special Compensation Fund was also still available.

Prior to their repeal, which was effective for employees injured on or after October 1, 1995, supplementary benefits could potentially increase workers' benefits in three ways. First, those benefits raised payment levels for workers injured before October 1, 1975 whose benefits were low by current standards and who were ineligible for annual cost of living adjustments. The second category of workers to benefit from supplementary benefits were those earning low wages at the time of injury and who had a corresponding low compensation rate. The third group of workers who received supplementary benefits is comprised of those workers whose benefits were reduced by simultaneous receipt of governmental disability benefits such as SSDI. In 1967 the Minnesota legislature enacted a state offset whereby after an employer and insurer paid $25,000 in total disability benefits, subsequent weekly workers' compensation benefits received by permanently and totally disabled workers were reduced by the government disability benefits. Effective January 1, 1972, if the worker's reduced permanent total disability benefit fell below the supplementary benefit rate, the "gap" between the reduced permanent total disability benefit and the supplementary benefit level was paid by the employer and insurer, who then were

[1] An employee's base compensation rate is calculated as two-thirds of his average weekly wage earned on the date of injury, subject to minimum and maximum rates set pursuant to statute. Minn. Stat. § 176.101, subd. 1. For injuries occurring after October 1, 1975, the rate for benefits due is adjusted (increased) as outlined in Minn. Stat. § 176.645.

reimbursed by the Special Compensation Fund. The net result to the injured worker in this group was receipt of workers' compensation benefits at the supplementary benefit level, plus his SSDI payment. (In 1973, the statute was amended to require supplementary benefits to be reduced by 5 percent, in those cases where the employee simultaneously received SSDI. Minn. Stat. §176.132, subd. 2(e).)

Minn. Stat. §176.101, subd. 4 (1992), was also amended in 1995, for employees injured on or after October 1, 1995, to increase the minimum compensation rate for permanent total disability. In Vezina v. Best Western Inn of Maplewood, No. [REDACTED SSN] (W.C.C.A. July 28, 2000) and Shelton v. National Painting and Sandblasting, No. [REDACTED SSN] (W.C.C.A. July 28, 2000), this court addressed the issue of whether the minimum permanent total disability rate could be further reduced by SSDI benefits paid, and determined that an offset for government disability benefits can be applied even if such an offset causes the level of permanent total disability benefits to fall below the minimum of 65 percent of the statewide average weekly wage on the date of the employee's injury.

According to the compensation judge's findings and order, both employees are currently receiving workers' compensation benefits, MSRS benefits and SSDI as a result of their work-related injuries.[2] Both employees have been paid $25,000.00 in permanent total disability benefits, causing them to be subject to the offset outlined in Minn. Stat. § 176.101, subd. 4. Mr. Laska argues that the SSDI and MSRS benefits should be deducted simultaneously from the permanent total disability benefit and that supplementary benefits then be awarded based on the remainder. Mr. Flower argues that the supplementary benefit level is reduced by subtracting the MSRS benefit from the full PTD benefit and from that number is subtracted the net PTD benefit to arrive at the actual supplementary benefit amount. By contrast, the self-insured employer and Special Compensation Fund argue that the entitlement to supplementary benefits must be calculated using the SSDI offset only, and that the disability offset for MSRS is then taken after calculating the amount due in supplementary benefits.

The compensation judge adopted the method advocated by the self-insured employer and Special Compensation Fund, and found as follows:

> The supplementary benefits are to be determined by subtracting the weekly social security from the workers' compensation permanent total benefit. The balance is then subtracted from the maximum supplementary benefit rate to determine the amount of supplementary benefits payable. The statutory 5% reduction in benefits is taken from this amount, to reach the amount of supplementary benefits payable. (Finding No. 3.)

[2] According to the brief filed by the self-insured employer, although there is no dispute that Mr. Laska is, in fact, permanently and totally disabled, he is not presently receiving PTD benefits, as there is a dispute whether he voluntarily retired. That issue was not presented to the compensation judge and therefore is not presently before this court.

The compensation judge determined that to "adopt the reasoning of the employees would render the last sentence of Minn. Stat. § 176.021, subd. 7, meaningless." (Memo. p. 5.)

The parties agree that, after a total of $25,000.00 in permanent total disability benefits have been paid by the self-insured employer, a reduction in weekly compensation benefits is allowed for Social Security benefits paid to the employee. The question presented here relates to timing and procedure, and (1) whether the entitlement to supplementary benefits must be calculated using the SSDI offset only, (2) whether SSDI and MSRS benefits should be deducted simultaneously, leaving supplementary benefits to be awarded on the amount left over, or (3) whether a proportionate share of supplementary benefits is payable. We conclude that the construction arrived at by the compensation judge, and proposed by the self-insured employer and the Special Compensation Fund, is not the proper one. We also conclude that the methods proposed by the employees inadequately comport with the statute, and adopt an alternative method.

The parties in this case each argue that the statute, Minn. Stat. § 176.021, subd. 7, is not ambiguous and that construing the words and phrases according to their plain meaning supports its respective position and in fact is the only interpretation that can be made. Minn. Stat. § 645.16 provides that "[t]he object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature. Every law shall be construed, if possible, to give effect to all its provisions;" and "[w]hen the words of the law in their application to an existing situation are clear and free from all ambiguity, the letter of the law shall not be disregarded under the pretext of pursuing the spirit." Moreover, pursuant to Minn. Stat. § 645.08(1), words and phrases are to be construed according to their plain meaning, and we must be guided by the presumption that the legislature dos not intend an absurd or unreasonable result. Minn. Stat. § 645.17(1); Owens v. Water Gremlin Co., 60 W.C.D. 16, 28 (W.C.C.A. 1999).

An analysis of each party's respective interpretation of the statute's language and of that party's application of the statutory language to the facts of these cases follows. By way of example, the calculation methods proposed by the parties are outlined below as is the method adopted by this court. For purposes of these illustrations, the figures are drawn from the permanent total disability rate, SSDI and MSRS figures outlined in Mr. Laska's brief.[3] The first three scenarios demonstrate the methods evaluated by the compensation judge, and also demonstrate the varying amounts of total weekly benefits which would be payable to Mr. Laska, including his adjusted PTD benefit, supplementary benefit, SSDI and MSRS. Under the various methods, Mr. Laska would have received a weekly total, including permanent total disability benefits, supplementary benefits, SSDI and MSRS, of $668.89 (self-insured employer's method), $888.62 (Laska method) $791.23 (Flower method), and $723.40, (WCCA method), respectively.

The compensation judge adopted the method of calculating benefits employed by the self-insured employer and the Special Compensation Fund. Under that method, the SSDI benefit is deducted from the adjusted PTD rate, supplementary benefits are calculated on the difference, and then from that supplementary benefit amount is deducted the MSRS benefit. The interpretation set forth by the self-insured employer and Special Compensation Fund necessarily

[3] The numbers are rounded to facilitate the illustration.

results in a reduced payment to the employee because there is less of a "gap" in weekly benefit amount to be replaced through payment of supplementary benefits.

Self-Insured Employer's and Special Compensation Fund's Method

Workers' Comp. PTD benefit	$530.00
- SSDI	- 276.00
= Difference (adjusted PTD benefit)	$254.00
Maximum supplementary benefit rate	$400.00
- Difference (adjusted PTD benefit)	- 254.00
	146.00
= Supplementary benefits due X 5% offset	x .95
	$138.70
Adjusted PTD benefits due	$254.00
- MSRS received weekly	- $231.00
= Net PTD benefits due	$ 23.00

So employee receives: $23.00 (adjusted Net PTD)
+ 138.70 (Supplementary benefits)
+ 231.00 (MSRS Disability)
+ 276.00 (SSDI)
$668.70/week

Mr. Laska argues that the proper calculation method is to deduct both the SSDI and MSRS benefits from the weekly permanent total disability benefit, and then to calculate the supplementary benefit based on the difference. The net result of this calculation method is a higher weekly supplementary benefit than that obtained using the self-insured employer's calculation method. Mr. Laska argues that the self-insured employer's method results in an inverse relationship between an employee's wage and his supplementary benefit. He argues that employees with a lower compensation rate are paid more than employees with higher compensation rates. Mr. Laska also argues that Minn. Stat. § 176.021, subd. 7, does nothing more than simply prohibit supplementary benefits from being paid on the net PTD benefits payable after they are reduced by the MSRS benefits. He argues that in his case, the employee's claim for supplementary benefits does not arise from the MSRS deduction, but rather that his entitlement to benefits stems from the SSDI deduction. Ms. Laska's calculation method is outlined below:

Mr. Laska's Method

Workers' Comp. PTD benefit	$530.00
- MSRS	231.00
= = Adjusted PTD benefit	$299.00

Adjusted PTD benefit	$299.00
- SSDI	276.00
= Net PTD	$ 23.00
Maximum supplementary benefit rate	$400.00
- Net PTD	23.00
= Supplementary benefits due	$377.00
	x .95
	$358.15

So employee receives:

	$23.00 (Net PTD)
+	358.15 (Supplementary benefits)
+	231.00 (MSRS)
+	276.00 (SSDI)
	$888.15/week

Mr. Flower argues that the proper calculation method is slightly different from either of the other two methods presented. He describes his calculation as follows:

> [O]nce the $25,000 threshold in Minn. Stat. § 176.101, subd. 4 is reached, the net PTD benefit is calculated by subtracting both the SSDI benefit and the MSRS benefit from the full benefits amount. This amount is then paid to the employee.
>
> In order to insure that the employee receives no supplementary benefits based on the reduction in his benefits resulting from the payment of MSRS benefits, the supplementary benefit level is arrived at by subtracting the MSRS benefit from the full PTD benefit. The actual supplementary benefit amount is then calculated by subtracting the net PTD benefit from the supplementary benefit level calculated above and the remainder is multiplied by ninety-five percent. This amount and the net PTD benefit is then combined and paid to the employee.

(Respondent Flower's brief, p. 7.)

In summary, Mr. Flower asserts that this method assures that the directive in Minn. Stat. § 176.021, subd. 7, is met, in that no supplementary benefits are calculated based upon the deduction of the MSRS payment. Mr. Flower also argues that the final benefit due the employee pursuant to this calculation method bears a direct and consistent relationship to the employee's original benefit level, which he deemed an equitable result not achieved by the Fund's calculation method. Mr. Laska and Mr. Flower assert that the calculation method used by the self-insured employer and the Special Compensation Fund penalizes those employees with the highest compensation rates and rewards those with lower rates.

Mr. Flower's Method

Workers' Comp. PTD benefit		$530.00
- SSDI		276.00
- MSRS		231.00
= Adjusted PTD benefit		$ 23.00
Workers' Comp. PTD		$530.00
- MSRS		231.00
Supplementary level		299.00
- Net PTD		23.00
	=	$276.00
Supplementary benefits (276.00 x .95)		$262.20

So employee receives:

	$23.00 (Net adjusted PTD)
+	262.20 (Supplementary benefits)
+	231.00 (MSRS)
+	276.00 (SSDI)
=	$792.20/week

We believe that the statutory language requires another calculation method. Minn. Stat. § 176.021, subd. 7, requires that no supplementary benefits can be calculated based upon the deduction of the MSRS payment. However, neither that statutory section nor Minn. Stat. § 176.101, subd. 4, specifically directs the procedure or sequence of the deduction of SSDI and MSRS benefits. Therefore, the calculation method utilized must fairly address the policy behind the coordination of government disability benefits, while following the mandate of Minn. Stat. § 176.021, subd. 7.

Outlined below is the method adopted by this court, which accomplishes these policy and statutory directives. Under that method, the MSRS benefit is deducted from the adjusted PTD rate. From that difference is deducted the SSDI benefit. Supplementary benefits are calculated based on the difference. Next, to accomplish the mandate of Minn. Stat. §176.021, subd. 7, one must calculate the proportionate share of the offset government disability benefits represented by the MSRS benefit, apply that percentage to the calculated supplementary benefit, and then subtract that percentage share from the supplementary benefit amount. The result is the supplementary benefit payable to the employee. This method is illustrated in the chart below:

Alternative Method

Workers' Comp. PTD benefit	$530.00
- MSRS	231.00
= Adjusted PTD benefit	$299.00
Adjusted PTD benefit	$299.00
- SSDI	276.00

= Net PTD	$ 23.00
Maximum supplementary benefit rate	$400.00
- Net PTD	23.00
= Supplementary benefits due	$377.00
	x .95
	$358.15

Calculation of deduction for portion of supplementary benefits attributable to MSRS benefits:

A. Government disability benefits to be offset:

SSDI	$276.00
MSRS	$231.00
Total	$507.00

B. Determination of MSRS percentage of government disability benefit:

MSRS = 46% of government disability benefit ($231.00 divided by $507.00)

C. Determination of proportionate share of calculated supplementary benefits:

46% of supplementary benefits (46% x 358.15 = $164.75)

D.

Calculated Supplementary benefit (from initial calculations)	$358.15
- MSRS portion (46%)	164.75
Net supplementary benefit payable	$193.40

So employee receives:

	$23.00 (Net PTD)
+	193.40 (Supplementary benefits)
+	231.00 (MSRS)
+	276.00 (SSDI)
	$723.40/week

The statutory section at issue states that "a deduction under this subdivision [of MSRS benefits] does not entitle an employee to supplemental benefits under section 176.132." Minn. Stat. § 176.021, subd. 7. We must rely on the plain meaning of the statute when determining which of the calculation methods correctly follows the directive of the statute. This court has carefully evaluated the briefs and arguments presented by counsel and concludes that the statutory section, Minn. Stat. § 176.021, subd. 7, is unambiguous, and that the plain meaning of the statute allows for this calculation method outlined above. We acknowledge that this interpretation of the statutory language can, in many cases, lead to situations where an employee finds his or her entitlement to workers' compensation benefits greatly reduced by SSDI and MSRS income. However, this method more fairly limits the reduction in supplementary benefits, as it reduces

those benefits in the proportionate share of government disability benefits represented by the MSRS benefit.

To read the statute in any other way, even though very persuasively argued by counsel for all parties, would void the plain meaning of this statutory section, to which this court is required to adhere. "Because the statute is clear and unambiguous, no further argument should be necessary." Schlotz v. Hyundai Motor Co., 557 N.W.2d 613 (Minn. 1997); Homart Development Co. v. Co. of Hennepin, 538 N.W.2d 907 (Minn. 1995). We therefore reverse the compensation judge's determination, and hold that the plain meaning of Minn. Stat. § 176.021, subd. 7, requires that supplementary benefits are determined by the calculation method outlined above, in order to comply with the mandate that an employee is not entitled to supplemental benefits based upon on offset for MSRS benefits.

Mr. Laska has also raised the argument that injured state employees are singled out by the compensation judge's interpretation of Minn. Stat. § 176.021, subd. 7, in a way that violates the equal protection provisions of the state and federal constitutions. This court lacks jurisdiction to rule on the constitutionality of statutes. Weber v. City of Inver Grove Heights, 461 N.W.2d 918, 43 W.C.D. 471 (Minn. 1990). Mr. Laska's constitutional objections to the statute are preserved for further appeal to the Minnesota Supreme Court.