

2021-UNAT-1085, Abu Skheileh

UNAT Held or UNDT Pronouncements

UNAT agreed with UNRWA DT that the Agency is estopped from revisiting the determination of whether the injury was service-related, given that the Agency had made several representations to the staff member over a period of time, and which the staff member had relied upon. However, UNAT disagreed that granting reimbursement for medical expenses in Syria would automatically mean that the Agency would also pay for such expenses in Germany. Pursuant to Area Staff Rule 106.4(3), the staff member needed prior authorization before he could be reimbursed for the costs of medical treatment in hospitals, which are not Agency-operated and which are outside of Syria. Additionally, UNAT held that UNRWA DT erred in not considering the argument of the Agency that the staff member was debarred under Area Staff Rule 106.4(15) from receiving any compensation, as a result of his failure to reimburse the Agency after receiving a third-party judgment related to his service-incurred injuries.

Decision Contested or Judgment/Order Appealed

A staff member was involved in a serious motor vehicle accident on his way to work. The Agency found that his accident was service-incurred, and the Agency Health Coordinator recommended that he undergo surgery in Germany. Before receiving final authorization from the Agency, the staff member travelled to Germany where he underwent three successful surgeries. He then submitted a claim for reimbursement for the medical expenses he incurred in the amount of approximately 53,000 Euros. The Agency denied his request for reimbursement on the premise that there was no prior approval for his medical treatment outside of Syria, at the Agency's expense. UNRWA DT rescinded the administrative decision and directed the Agency to reimburse the staff member for the medical expenses he incurred in Germany. UNRWA DT rejected the Agency's contention that the injury was not service-incurred given that the appropriate authorities in Syria had already made that determination, and which the staff member relied upon. UNRWA DT found

that even though the staff member had not obtained authorization to pursue treatment in Germany, in the special circumstances of the case, it was unreasonable for the Agency not to reimburse him.

Legal Principle(s)

The Administration is estopped from revisiting a determination regarding whether an injury is service-incurred after it had made several representations to that effect to a staff member over a period of time, and after the staff member had relied upon such representation. Where the language of the Area Staff Rule requires that a staff member needs prior authorization before he or she can pursue treatment outside of Agency-operated or subsidized hospitals, such requirement must be strictly complied with. Further, a staff member who fails to reimburse the Agency from the proceeds of a third-party judgment for medical expenses that the Agency covered, he or she shall be debarred from receiving compensation.

Outcome

Appeal granted

Outcome Extra Text

The Commissioner-General's appeal is upheld, and the judgment of UNRWA DT is reversed and set aside.

Full judgment

[Full judgment](#)

Applicants/Appellants

Abu Skheileh

Entity

UNRWA

Case Number(s)

2020-1399

Tribunal

UNAT

Registry

New York

Date of Judgement

19 Mar 2021

President Judge

Judge Murphy

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Benefits and entitlements

Health (medical) and/or dental insurance

Applicable Law

UNRWA Area Staff Rules

- Rule 106.4

UNRWA Personnel Directives

- PD A/6/Amend.12/Part III