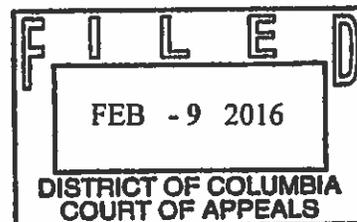


DISTRICT OF COLUMBIA COURT OF APPEALS

No. 14-AA-1199

KARLA JONES, PETITIONER,

v.



DISTRICT OF COLUMBIA DEPARTMENT OF EMPLOYMENT SERVICES, RESPONDENT.

Petition for Review of a Decision and Order of the Compensation Review Board
of the District of Columbia Department of Employment Services
(CRB-71-14)

(Submitted December 15, 2015)

Decided February 9, 2016)

Before WASHINGTON, *Chief Judge*, FISHER, *Associate Judge*, and
STEADMAN, *Senior Judge*.

MEMORANDUM OPINION AND JUDGMENT

PER CURIAM: The District of Columbia Department of Employment Services decided that petitioner Karla Jones had forfeited the workers' compensation benefits otherwise due to her for a period of approximately five weeks. We affirm.

I. Background

Ms. Jones suffered a work-related injury in 2008 and was awarded workers' compensation benefits for temporary total disability. On October 18, 2012, the District of Columbia Department of Employment Services ("DOES") sent petitioner a request for earnings and income tax information, informing her that she had "an affirmative duty to fill out these forms." The letter cited D.C. Code § 1-623.06 (b) and notified petitioner that "[f]ailure or refusal to complete, sign and return these forms within thirty (30) days after receipt of the forms[] . . . may cause payment of your Public Sector Workers' Compensation Program benefits to stop until the completed forms are received by the D.C. Public Sector Workers' Compensation Program." Ms. Jones failed to return the completed forms within thirty days.

On February 13, 2013, DOES sent Ms. Jones a Notice of Determination informing her that her benefits were suspended because the department still had not received her completed earnings and tax forms. Petitioner filed the completed forms on March 19, 2013, and DOES resumed paying her benefits effective that date. Petitioner appealed the February 13 determination and the forfeiture of her benefits from February 13 to March 18, 2013. Administrative Law Judge (“ALJ”) Fred Carney, Jr., deciding the case on the parties’ briefs and exhibits, as agreed by counsel, affirmed the determination and denied Ms. Jones’s claim for recoupment. Ms. Jones appealed ALJ Carney’s decision to the Compensation Review Board (“CRB”), which affirmed. Ms. Jones then timely petitioned this court for review.

II. Standard of Review

We review the CRB’s decision, not the ALJ’s order. *Payne v. District of Columbia Dep’t of Emp’t Servs.*, 99 A.3d 665, 671 (D.C. 2014). That review “is deferential and limited to assessing whether the decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” *Brown v. District of Columbia Dep’t of Emp’t Servs.*, 83 A.3d 739, 745 (D.C. 2014) (internal quotation marks omitted). Although we review legal questions de novo, “we accord great weight to any reasonable construction of a regulatory statute by the agency charged with its administration . . . [and] will defer to an agency’s interpretation of a statute that it administers so long as it is not plainly wrong or inconsistent with the legislature’s intent.” *Kelly v. District of Columbia Dep’t of Emp’t Servs.*, 76 A.3d 948, 954-55 (D.C. 2013) (alteration in original) (citation omitted).

III. Analysis

The CRB’s interpretation of D.C. Code § 1-623.06 (b) is a reasonable one. The subsection states, in part: “The Mayor shall require *each* employee receiving benefits *under this subchapter* to report his or her earnings” D.C. Code § 1-623.06 (b)(1) (2012 Repl.) (emphasis added).¹ Although, at the relevant time, this

¹ The legislative history of the statutory language quoted in this opinion is described in full in respondent’s brief and need not be repeated here. The language was permanently enacted as part of the “Fiscal Year 2013 Budget Support Act 2012,” D.C. Act 19-385. It took effect on September 20, 2012, and was in force during the events giving rise to this case. 59 D.C. Reg. 11,423 (2012). A new amendment, effective February 26, 2015, moved the reporting requirements and
(continued...)

subsection appeared in the section entitled “Partial disability,” a plain reading reveals that the requirement applies to every employee receiving benefits pursuant to the subchapter which governs Public Sector Workers’ Compensation. D.C. Code, Title 1, Chapter 6, Subchapter XXIII. As we have explained previously, statutory “headings and titles are not meant to take the place of the detailed provisions of the text.” *In re J.W.*, 100 A.3d 1091, 1095 (D.C. 2014) (alteration and citation omitted). Thus, as petitioner receives workers’ compensation benefits under the subchapter, she is subject to subsection (b)’s requirements and enforcement mechanisms.

The enforcement mechanisms are found in subsections (b)(2) and (b)(3):

An employee shall *forfeit* his or her right to workers’ compensation with respect to any period for which the report of earnings was required if the employee . . . [f]ails to file a complete report of earnings within 30 days of a written request for a report of earnings; . . . Workers’ compensation forfeited under this section, if already paid, may be recovered by a deduction from future workers’ compensation payments owed to the employee

D.C. Code § 1-623.06 (b)(2)-(3) (emphasis added) (currently codified at D.C. Code § 1-623.06b (b)-(c) (2015 Supp.)).

Petitioner argues that DOES could only *suspend* her benefits and was required to pay the accrued amount once she submitted her completed earnings and income tax forms. However, the word “suspend” does not appear anywhere in D.C. Code § 1-623.06 (b). Rather, subsection (b) explicitly states that an employee who fails to comply with a request for information “*forfeit[s]* his or her right to workers’ compensation with respect to any period for which the report of earnings was required” but not filed. D.C. Code § 1-623.06 (b)(2) (emphasis added). Black’s Law Dictionary defines “forfeiture” as “[t]he loss of a right, privilege, or property because of a crime, breach of obligation, or neglect of duty.” *Black’s Law Dictionary* 765 (10th ed. 2014).

(...continued)

enforcement mechanisms into a stand-alone section, separate from the section entitled “Partial disability.” D.C. Code § 1-623.06b (2015 Supp.).

DOES did use the word “suspended” in its February 13, 2013, Notice of Determination. However, Ms. Jones received the Notice of Determination well after the original request for information on October 18, 2012, which specifically cited D.C. Code § 1-623.06 (b) and notified petitioner of the consequences for failing to comply with the request within thirty days. Use of the word “suspended” in the Notice of Determination did not mislead petitioner when she failed to act, nor does it estop DOES from enforcing the statute as written.

Therefore, the CRB’s interpretation of the statute was reasonable and its resulting conclusions of law were not “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” *Brown*, 83 A.3d at 745 (citation omitted). Ms. Jones forfeited her workers’ compensation benefits for the period between February 13 and March 18, 2013, because she failed to provide the requested earnings and tax information within thirty days of DOES’s request. We affirm the permanent forfeiture of benefits for that period.

Finally, petitioner argues that forfeiture of her workers’ compensation benefits for this period infringes her due process rights and violates the “takings clause” of the Fifth Amendment. However, she “cites no authority suggesting that an agency commits an unconstitutional taking by denying benefits to a claimant who fails to comply with reasonable procedural requirements.” *Stackhouse v. District of Columbia Dep’t of Emp’t Servs.*, 111 A.3d 636, 639 (D.C. 2015) (rejecting a similar claim). Furthermore, due process guarantees only notice and an opportunity to be heard—both of which were afforded in this case. *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 428 (1982). The October 18, 2012, letter from DOES provided notice of the consequences of failing to comply with the request for information, and Ms. Jones has received two agency reviews of DOES’s decision to forfeit her benefits. For these reasons, we reject her constitutional arguments.

IV. Conclusion

The decision of the CRB is hereby

Affirmed.

ENTERED BY DIRECTION OF THE COURT:



JULIO A. CASTILLO
Clerk of the Court

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