

Workers' compensation can cover cosmetic surgery for injured employee

Employees injured while at work are entitled to medical treatment to correct those injuries. It turns out that treatment can include cosmetic surgery.

Recent case: Penny Richardson was a visiting, certified nursing assistant assigned to care for a paraplegic. While driving on an errand for the client, a hit-and-run motorist sideswiped Richardson's car. The impact caused Richardson to swerve and hit a concrete barrier. Her air bags did not activate, so her chest and head hit the dashboard. The impact ruptured one of Richardson's breast implants, causing it to deflate.

Richardson underwent plastic surgery to replace the ruptured implant. At the same time, she had the second implant replaced because it was "rippled." Her plastic surgeon theorized that it had simply been under-filled, but replaced it so that the two sides matched.

Richardson filed for workers' compensation and asked the employer to pay for the cosmetic surgery. But the employer argued the law doesn't cover breast implants.

The North Carolina Court of Appeals sided with Richardson. Because the law does cover the costs of replacing eyeglasses, dentures, hearing aids and other prosthetic devices that function as parts of the body, the court ruled the law also covers breast implants. The court did, however, say that the second implant, which had been under-filled, wasn't covered. It was defective before the accident and wasn't the employer's responsibility. (*Richardson v. Maxim Healthcare*, No. 265022, North Carolina Court of Appeals, 2007)