



State of Wisconsin \ Department of Industry, Labor and Human Relations

WORKER'S COMPENSATION DIVISION

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July 22, 1991

01-434969

WAUSAU INSURANCE COMPANIES
ATTN: CHARLES P. EMERSON
2000 WESTWOOD DRIVE
WAUSAU WI 54401

Re: Police Officers and Deputy Sheriffs
Helping Out/Mutual Aid

Thank you for your letter requesting information concerning worker's compensation coverage for law enforcement officers responding to requests for mutual aid in other locations. I apologize for the lateness of my response.

It is my opinion based upon your letter and the attachments; that the lending employer or governmental unit regularly employing the law enforcement officer is liable for the worker's compensation liability resulting from an injury to the law enforcement officer while injured when on a mutual aid assignment to another municipality or department. Although sec. 66.315(2) of the Statutes gives the regular employer a right to claim reimbursement against the borrowing employer, this section clearly provides that worker's compensation liability is with the regular employer. This opinion is consistent with sec. 102.01(2)(f) of the Statutes. I also believe that my opinion is consistent with secs. 102.29(6) and (7) of the Statutes since an action by the law enforcement officer against the borrowing employer would be precluded, but the regular employer's right to claim reimbursement under sec. 66.315(2) would not be affected. Two recent court cases dealing with worker's compensation coverage for employes of temporary help agencies and loaned employes which you may wish to review are Gansch v. Nekoosa Papers, Inc., 158 Wis.2d 743 and Kaelber Plumbing & Heating v. LIRC, 150 Wis.2d 342.

In summary, it is my opinion that the worker's compensation insurance carrier for the City of Marathon is liable for the compensation and medical expense resulting from the injury specified in your letter. The City of Marathon and

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its insurer have the right to claim reimbursement against Marathon County and its worker's compensation insurance carrier for all payments made on the injured worker's behalf under the Worker's Compensation Act.

I hope this information satisfactorily responds to your letter. If you have any further questions, please do not hesitate to contact me.

Sincerely,

James T. O'Malley
Administrative Law Judge

JTO:jl