

Shephard v. O'Quinn

(United States District Court, Eastern District of Tennessee, 2006 U.S. Dist. LEXIS 24252 (E.D. Tenn. 2006))

Incompetent or fraudulent, take your pick. That is how a District Court recently described an employer's conduct in failing to offer COBRA coverage.

Four days before scheduled knee surgery, Gary Shephard learned that his employer – O'Quinn Enterprises – terminated his employment. The owner, John O'Quinn, described the termination as a temporary layoff and said that Shephard's insurance coverage would be paid for one additional month and for the first two months of COBRA thereafter.

These assurances did not ring true. First, O'Quinn Enterprises was not forwarding premium payments to the insurance carrier, resulting in a lapse of coverage. Second, Shephard never received a COBRA election notice.

The resulting unpaid medical bills had the predictable result: collection activities, stress, frustration and a worsening credit score. The resulting opinion from the Court also had a predictable result: a slam-dunk victory for Shephard.

The Court awarded \$90,860 in statutory penalties at the \$110 per day maximum for not providing an election notice. Attorney's fees were another \$16,909, and medical claims totaled \$12,200. Interestingly, rates of \$225 per hour for attorney time and \$95 per hour for paralegal time were deemed to be reasonable by the Court.

The Court stated that it wanted the result in this case to "act as a deterrent and caution to other employers who may purport to provide a group health insurance benefit to their employees."

This case is a good reminder about the importance of COBRA compliance and how outsourcing COBRA administration can eliminate these burdens. Former employees have several remedies at their disposal to right any COBRA wrongs by employers.