

IN THE COURT OF APPEALS OF IOWA

No. 9-458 / 08-1801
Filed August 6, 2009

**TEEN CHALLENGE INTERNATIONAL USA
d/b/a TEEN CHALLENGE OF THE
MIDLANDS, and TRAVELERS
INSURANCE COMPANIES,**
Petitioners-Appellees/Cross-Appellants,

vs.

ALAN DALE PAULER,
Respondent-Appellant/Cross-Appellee.

Appeal from the Iowa District Court for Polk County, D.J. Stovall, Judge.

Alan Pauler appeals from the district court's ruling on judicial review reversing his workers' compensation award. **AFFIRMED.**

Barrie J. Terrones and Gregory T. Racette of Hopkins & Huebner, P.C.,
Des Moines, for appellant.

Peter M. Sand of Scheldrup Blades, P.C., Cedar Rapids, for appellee.

Considered by Vaitheswaran, P.J., and Potterfield and Doyle, JJ.

POTTERFIELD, J.

Alan Pauler appeals from the district court's ruling on judicial review reversing his workers' compensation award. The workers' compensation commissioner determined that a nonprofit organization had workers' compensation liability for injuries that occurred while Pauler performed construction work as a participant in its residential program. The district court ruled the agency misapplied the law to the facts when it found there was an employment relationship that resulted in workers' compensation liability. We affirm.

I. Background Facts and Proceedings.

The following facts were established at the workers' compensation arbitration hearing. Alan Pauler, a resident of Wichita, Kansas, was forty-four years old at the time of the hearing. He completed the tenth grade and later received his GED. He has worked primarily in drywall installation. Pauler has a long history of substance abuse, including the use of marijuana and cocaine. He has been through several drug rehabilitation programs since 1986, but continued to relapse and struggle with sobriety. In September 2003, Pauler sought a faith-based program for help for his drug addiction. He searched the internet to find a program that was based on the Christian principle of "discipleship" and found Teen Challenge of the Midlands.¹

¹ Teen Challenge International USA is an international charity founded in the late 1950s by Reverend David Wilkerson, a Pennsylvania minister affiliated with the Assembly of God Church. The program has grown into a network of approximately 170-180 centers in the United States and overseas. The national office provides accreditations, training materials, and curricula for the independent centers. Teen Challenge International USA does not control the day-to-day operations of Teen Challenge of the Midlands.

Teen Challenge of the Midlands (Teen Challenge) is a faith-based organization located on an 80-acre complex in Colfax, Iowa, with a smaller “reentry” facility in Omaha, Nebraska, and a non-residential facility in Des Moines. Teen Challenge is a 501(c)(3) corporation that was founded to assist men to overcome their addictions by accepting Christ into their lives. Executive Director Reverend Warren Hunsberger receives a salary and lives in an on-campus home provided by the corporation. Approximately twenty paid staff members live and work at Teen Challenge. Teen Challenge pays staff members regular wages and provides housing for staff and their families. Medical insurance and retirement programs are also offered to staff members. Several staff members are members of Reverend Hunsberger’s family.

There are no certified substance abuse counselors at the Colfax site. Reverend Hunsberger distinguishes the “discipleship” program from drug treatment, saying that discipleship is “based on scriptural model,” “eating meals together, hanging out together, and living together in a community.”

Pauler completed a required written application form requesting admission to the Teen Challenge program. His signature on the form evidenced an agreement to abide by eighteen conditions or rules, some of which are set forth below:

1. I have read the rules and consent to abide by all of them, whether I agree with them or not.
2. It is my intention to complete the 15-month minimum Teen Challenge residential discipleship program.
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7. I understand that withdrawal from drugs, alcohol, and cigarettes will be done “cold turkey” aided only by prayer. If this is not agreeable, withdrawal should be done prior to entrance.

. . . .

9. I release Teen Challenge from all financial or legal responsibilities in case of accident, injury, illness or other misfortune.

10. I understand that I will not receive payment for the work I do while in the Teen Challenge program. I also understand that the purpose of this work is to aid in my character development.

14. I, Alan D. Pauler, state that I am seeking help at Teen Challenge of the Midlands.

17. In consideration for the opportunity to obtain this help, I promise that I will not take any legal action in the future for anything said, done or omitted by the organization of Teen Challenge . . . during this program. I agree to hold Teen Challenge . . . harmless for any legal claims of negligence or damage of any sort which a person could assert related to the Teen Challenge of Midlands program.

Pauler submitted the application with a \$20 application fee.

Upon acceptance, Teen Challenge required Pauler to pay a \$380 non-refundable fee, with which the program purchases a \$150 pair of steel-toed work boots, an elastic back brace, a new pillow, and a Bible, and defrays a small portion of the participant's room and board. Participants take the purchases when leaving the program. Teen Challenge provides dormitory housing and meals to participants during the residential phase (approximately the first nine months) of the program. Reverend Hunsberger testified Teen Challenge relies on charitable gifts from individuals, churches, businesses, and foundations for much of its funding needs. No funds are received from the government other than food stamps and a portion of an eligible participant's entitlement to disability assistance. Reverend Hunsberger testified that two and one-half percent of Teen Challenge's revenues come from work projects.

Pauler was accepted into the Teen Challenge program on September 23, 2003. At the time of admission, Pauler did not have health insurance. Teen

Challenge does not provide health insurance to its participants—called students, but did provide information during orientation regarding the purchase of health insurance at the student’s own expense. Pauler declined. Pauler also received the Student Guidelines at orientation. According to the Student Guidelines, Teen Challenge offers a fifteen-month voluntary program for participants with a stated purpose “to reach and train men ages 18 and over who have life-controlling problems.” The Student Guidelines explain,

The following pages contain guidelines that have been developed in order to maximize the discipleship process. The guidelines are strict. They are not intended to make you miserable — they are designed for your protection and growth. They assist staff personnel in maintaining an orderly environment in which 60 adults can live harmoniously. Without these guidelines, chaos reigns. With them, a structured environment is maintained in which everyone can grow together.

Approximately twenty pages of information follow, describing the “discipleship structure,” expectations, prohibitions, and the daily regimented schedule that includes periods dedicated to hygiene, church, devotions, classroom time,² work, meals, and free time. The Student Guidelines stated:

You will not hold an outside job while in Teen Challenge until the Re-entry phase. Work is provided to aid in your character development. Work detail includes tasks such as building maintenance, construction, yard work, and food service.³

² Teen Challenge provides its participants with literacy training, GED offerings for those without a high school diploma, bible instruction, and vocational instruction.

³ Pauler testified he received this form of the Student Guidelines. However, the Student Guidelines were revised September 11, 2002, to read:

You may not hold outside jobs while in Teen Challenge until the re-entry phase. Work is provided for you at Teen Challenge to aid in your character development. Work detail will include such tasks as cleaning, yard work, snow shoveling, dish crew, lawn crew, wood cutting, gardening, special details, and general maintenance.

Pauler was assigned to perform construction work on campus duplexes for use by Teen Challenge staff members. He was also selected to work on several construction projects at off-campus locations for which he was not paid, but from which Teen Challenge benefited financially.⁴ Staff members directed his work. On November 8, 2003, Pauler was helping lay the sub-floor for the second floor of a campus duplex, a residence for staff members. A piece of plywood shifted and he fell through an open stairwell and landed on the basement floor. He was flown by helicopter to a Des Moines hospital. Pauler sustained a fractured patella, which required surgery and a laceration to his head which required sutures. He has suffered ongoing pain and restricted movement.

While recuperating in the hospital, Pauler's staff advisor,⁵ Ed Aubuchon, visited him. Pauler asked Aubuchon if Teen Challenge would pay his medical bills as his family could not afford to do so. Aubuchon told him he would see what could be done. Teen Challenge carried workers' compensation insurance coverage for its staff, but not for participants. Coverage was denied. The issue whether program participants are to be considered employees has been a source of debate within the organization for several years.

Pauler remained at the hospital for three days and was discharged on November 11, 2003. He returned to Teen Challenge with a prescription for

⁴ Teen Challenge of the Midlands buys off-campus old homes, remodels them, and sells them for a profit. The students perform the remodeling tasks as part of their discipleship program. It also often contracts with other businesses to provide maintenance or lawn care service. The students perform the services and Teen Challenge of the Midlands receives the contractual payments.

⁵ Each participant was assigned a staff advisor; the advisor met with the participant once a week to counsel, pray, listen to concerns, and answer questions.

narcotic pain medication. All prescription medications are kept and dispensed by Teen Challenge staff. Teen Challenge staff dispensed Pauler's medications to him, but weaned him off of the narcotic and substituted non-prescription pain relievers. After a week of rest, Pauler was assigned to work on the laundry crew. He was eventually again assigned to construction tasks.

Pauler voluntarily left the Teen Challenge program on February 28, 2004. He testified he left "because of the strictness" and he "asked [his] wife if it was okay if I came on home. And she said yes, I could. So I chose to go ahead and leave." Pauler returned to Kansas.

Pauler filed a petition for workers' compensation. Teen Challenge denied there was an employer-employee relationship. An arbitration hearing was held before a deputy commissioner, who issued a proposed ruling finding that Pauler was not an employee of Teen Challenge. On intra-agency appeal, the commissioner concluded that Pauler was an employee of Teen Challenge.⁶

Teen Challenge sought judicial review in the district court. The court ruled that the commissioner's conclusion was based on a misapplication of law to fact, regarding the intention of Teen Challenge and Pauler, and the purpose of the work which resulted in Pauler's injuries. The court concluded "[t]here is no evidence that the parties intended to create an employer-employee relationship" and denied workers' compensation liability. Pauler appeals.

⁶ We note that the commissioner concluded that "the participants of Teen Challenge who are injured while performing construction labor are employees" without distinction between Teen Challenge International USA and Teen Challenge of the Midlands and ordered "Defendants" to pay permanent partial disability benefits, medical expenses, weekly benefits, and costs. Appellees argue the commissioner erred in so ruling. Because we conclude the commissioner erred in finding there was an employer-employee relationship, we need not address this contention.

II. Scope and Standard of Review.

The Iowa Administrative Procedure Act, chapter 17A of the Iowa Code, governs the scope of our review in workers' compensation cases. Iowa Code § 86.26 (2007); *Meyer v. IBP, Inc.*, 710 N.W.2d 213, 218 (Iowa 2006). "Under the act, we may only interfere with the commissioner's decision if it is erroneous under one of the grounds enumerated in the statute, and a party's substantial rights have been violated." *Meyer*, 710 N.W.2d at 218. The district court acts in an appellate capacity to correct errors of law on the part of the agency. *Grundmeyer v. Weyerhaeuser Co.*, 649 N.W.2d 744, 748 (Iowa 2002). In reviewing the district court's decision, we apply the standards of chapter 17A to determine whether our conclusions are the same as those reached by the district court. *Clark v. Vicorp Rests., Inc.*, 696 N.W.2d 596, 603 (Iowa 2005).

"If the claim of error lies with the agency's findings of *fact*, the proper question on review is whether substantial evidence supports those findings of fact." *Meyer*, 710 N.W.2d at 219. If the claim of error "lies with the agency's interpretation of the *law*, the question on review is whether the agency's interpretation is erroneous, and we may substitute our interpretation for the agency's." *Id.* Finally, if the claim of error

lies with the *ultimate conclusion* reached, then the challenge is to the agency's application of the law to the facts, and the question on review is whether the agency abused its discretion by, for example, employing wholly irrational reasoning or ignoring important and relevant evidence.
Id.

We allocate some degree of discretion in our review of the agency's application of the law to the facts, but not the breadth of discretion given to the findings of

fact. *Id.*; accord *Schuler v. Holmes*, 242 Iowa 1303, 1305-06, 49 N.W.2d 818, 819 (1951) (noting that where there is no substantial conflict of facts the question becomes one of law for the court).

III. Merits.

“The threshold determination in deciding whether a worker falls into the workers’ compensation scheme is whether the worker entered into a contract of hire, express or implied.” *Parson v. Procter & Gamble*, 514 N.W.2d 891, 893 (Iowa 1994). When an express contract is absent, courts must look for evidence of the employer-employee relationship. *Id.* at 894.

Pauler contends the commissioner’s finding of an employment relationship is supported by substantial evidence, which was thus binding upon the district court. Teen Challenge argues that the district court correctly determined the commissioner misapplied law to fact. We conclude Teen Challenge has the better argument.

The commissioner correctly cited several factors that are relevant in determining whether there exists an employer-employee relationship, focusing on the benefit Teen Challenge gains from the work done by the program participants. The commissioner stated, “the workers’ compensation statute is intended to cast upon the industry in which the worker is employed a share of the burden resulting from industrial accidents.” The commissioner largely ignored the purpose of the work required of the participants in the discipleship program in concluding,

Teen Challenge has entered the competitive marketplace for home construction and rehabilitation and it is certainly competing against others who are paying workers’ compensation for their workers. . . .

Teen Challenge required claimant to be a productive laborer to which the cost of his protection under workers' compensation was necessarily attached.

Therefore the participants of Teen Challenge who are injured while performing construction labor are employees regardless of whether Teen Challenge makes a profit for the participants' labor or merely breaks even.

We believe the commissioner's conclusions constitute a misapplication of the law to fact.

Our task—as was the commissioner's—is to determine whether there is an employer-employee relationship in the context of workers' compensation liability. Our supreme court recently wrote:

Whether an employee/employer relationship exists is not determined by one particular fact or circumstance. Rather we look to all the circumstances of a case to decide the nature of the relationship. In making this determination, we look foremost to the intention of the parties. We may also consider, for example, the actual relationship that exists between the parties and the extent to which the parties are economically interdependent. We may also consider the fact of compensation and the manner of paying it.

Heinz v. Heinz, 653 N.W.2d 334, 343 (Iowa 2002) (citations omitted); *see also Wernimont v. Wernimont*, 686 N.W.2d 186, 190-91 (Iowa 2004) (noting the importance of the elements bearing on the existence of an employment situation varies depending on situation and question presented); *accord Iowa Mut. Ins. Co. v. McCarthy*, 572 N.W.2d 537, 542 (Iowa 1997). The factors relevant to whether an employment relationship exists at all are different than those when the question is whether a person is an employee or independent contractor. *See Heinz*, 653 N.W.2d at 343 n.7 (distinguishing *Gaffney v. Dep't of Employment Servs.*, 540 N.W.2d 430, 433 (Iowa 1995)); *Gaffney*, 540 N.W.2d at 434 (noting two lines of cases arising in workers' compensation context and concluding

where the question is whether a person is an independent contractor “exclusive reliance on the parties’ intent could be misleading”).

In *Heinz*, the court noted that whether an employment relationship exists is usually one of fact that should be decided by the trier of fact. *Id.* at 344. However, the court concluded that where there were not sufficient facts for the trier of fact to decide the issue, it was correctly decided as a matter of law. *Id.* at 344.

We believe the commissioner erred in concluding an employer-employee relationship existed between Pauler and Teen Challenge. Our supreme court has identified five relevant factors: (1) the right of selection, or to employ at will; (2) responsibility for payment of wages by the employer; (3) the right to discharge or terminate the relationship; (4) the right to control the work; and (5) identity of the employer as the authority in charge of the work or for whose benefit it is performed. See *Henderson v. Jennie Edmundson Hosp.*, 178 N.W.2d 429, 431 (Iowa 1970); *Usgaard v. Silver Crest Golf Club*, 256 Iowa 453, 455, 456, 127 N.W.2d 636, 637 (Iowa 1964). However, in determining the nature of the relationship “we look foremost to the intention of the parties.” *Heinz*, 653 N.W.2d at 343.

The district court noted that the Commissioner’s “analysis of the ‘benefits’ factor of the employee-employer relationship test simply goes too far” and “[t]here is no evidence that the parties intended to create an employer-employee relationship.” We agree. Rather, the relationship was one of faith-based recovery from addiction. Pauler testified that his purpose in going to Teen Challenge was “to get free from substance abuse.” Teen Challenge offered him

help in the form Pauler was seeking, a “residential discipleship program” providing biblical instruction and guidance, room and board, and educational instruction. Upon applying for admission to Teen Challenge’s program, Pauler signed an agreement that stated, among other things:

10. I understand that I will not receive payment for the work I do while in the Teen Challenge program. I also understand that the purpose of this work is to aid in my character development.

Pauler did not initially believe, nor was he ever told that, he was an employee. Rather, he understood that the work that he was required to perform was for his benefit, not for the benefit of Teen Challenge.

We conclude—as did the district court—that the commissioner misapplied the law to fact in analyzing the “benefits” factor of the employer-employee test and in concluding an employer-employee relationship existed in the absence of evidence that the parties intended to establish such a relationship. The primary purpose of the Teen Challenge program is to assist its participants in living a life of discipleship. Participants are assigned service tasks in order to facilitate their discipleship.

Other jurisdictions have concluded there is no workers’ compensation liability in analogous situations involving individuals seeking spiritual development from organizations that provide room, board, and a work requirement. See *Dixon v. Salvation Army*, 201 S.W.3d 386, 389 (Ark. 2005) (rejecting workers’ compensation claim of a participant in the Salvation Army performing labor or services “as part of the alcohol rehabilitation program in which he enrolled himself with the laudable goal of freeing himself from his addiction to alcohol”); *Joyce v. Pecos Benedictine Monastery*, 895 P.2d 286,

289-90 (N.M. 1995) (upholding finding that novice was not entitled to workers' compensation where "relationship between Claimant and the monastery was one of religious devotion rather than a contract for service" and noting her assigned service tasks were to facilitate her spiritual development, not to benefit the monastery).

As the district court noted, there was evidence to support the commissioner's finding that Teen Challenge received a benefit from Pauler's labor. However, the purpose of Pauler's work was to aid in his recovery from addiction, and he performed the work to further his own benefit. See *Dixon*, 201 S.W.3d at 389 ("Where a person engages in conduct that might be considered work, but does it to further his own benefit rather than to further the benefit of another, the person is not an employee.").

There is no evidence in the record to suggest these parties intended their relationship to be one of employer-employee. It was error for the commissioner to conclude otherwise. We therefore affirm the decision of the district court reversing the commissioner's finding of liability.

AFFIRMED.