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## SYLLABUS:

1. The Bureau of Workmen's Compensation or the Industrial Commission cannot pay or disburse funds for the purchase of eyeglasses to correct a loss of vision resulting from an injury sustained in the course of and arising out of employment.

2. Under Section 4123.66, Revised Code, the Bureau of Workmen's Compensation or the Industrial Commission may pay or disburse funds for the purchase of eyeglasses to replace those previously worn by an employee when an accidental injury has increased a pre-existing loss of vision.

Columbus, Ohio, July 31, 1963

Hon. Homer H. Hickling  
Acting Secretary  
Industrial Commission of Ohio  
Columbus 15, Ohio

Dear Sir:

Your request for my opinion reads as follows:

"The Industrial Commission of Ohio has directed the undersigned as Acting Secretary for said Commission to request your opinion on the following matter.

"The Bureau of Workmen's Compensation has adopted a rule which provides in part as follows:

"It is hereby directed that pursuant to R. C. 4123.66 that . . . . . if there is an industrial accident which injures an employee and also causes damage to the employee's eyeglasses while same are in place on the employee's face, the Bureau shall disburse and pay a reasonable amount for the repair or replacement of such eyeglasses.

"These provisions of law shall not be construed by employees of the Bureau to include payment by the Bureau for the purchase of glasses to correct a loss of vision, except in those cases wherein it is the opinion of the Medical Section that glasses are necessary in the nature of treatment for a temporary eye condition resulting from an industrial accident.'

"At the time said rule was adopted, Section 4123.66 R. C. provided:

“ ‘In addition to the compensation provided for in sections 4123.01 to 4123.94, inclusive, of the Revised Code, the industrial commission shall disburse and pay from the state insurance fund such amounts for medical, nurse, and hospital services and medicine as it deems proper . . . . In case an industrial accident which injures an employee also causes damage to the employee’s eyeglasses while the same are in place on the employee’s face, the commission shall disburse and pay a reasonable amount to repair or replace such eyeglasses.’

“By virtue of an amendment effective November 2, 1959, Section 4123.66 R. C. now provides :

“ ‘In addition to the compensation provided for in sections 4123.01 to 4123.94, inclusive, of the Revised Code, the industrial commission shall disburse and pay from the state insurance fund such amounts for medical, nurse and hospital services and medicine as it deems proper. . . . In case an injury or industrial accident which injures an employee also causes damage to the employee’s eyeglasses while the same are in place on the employee’s face, *or in the event an injury or occupational disease makes it necessary or advisable to replace, repair, or adjust said eyeglasses*, the commission shall disburse and pay a reasonable amount to repair or replace such eyeglasses.’ (emphasis ours)

“Section 4123.01 R.C. as amended November 2, 1959 provides that as used in Sections 4123.01 to 4123.94 inclusive, of the Revised Code, ‘compensation’ includes, but is not limited to, the payment of or furnishing of benefits, and that ‘benefits’ includes, but is not limited to money, as well as :

- “ ‘(2) The payment for or furnishing of any;
- (a) Hospital, medical, or nursing services;
  - (b) Medicine, therapeutic or orthopedic device;
  - (c) Other service, item, proprietary, or device occasioned by reason of injury or occupational disease.’

“Your opinion is respectfully requested as to whether



however, to find specific statutory authority for payment of money for the purchase of this type of benefit for there is no general statutory authority to pay or disburse funds for benefits.

Section 4123.66, Revised Code, cited above provides for the payment of certain additional compensation after an employee is injured. This section reads in part as follows:

“In addition to the compensation provided for in section 4123.01 to 4123.94, inclusive, of the Revised Code, the industrial commission shall disburse and pay from the state insurance fund such amounts for *medical, nurse, and hospital services and medicine* as it deems proper and, in case death ensues from the injury or occupational disease, \* \* \*. The commission may adopt rules and regulations with respect to furnishing *medical, nurse, and hospital services and medicine* to injured or disabled employees entitled thereto, and for the payment therefor. \* \* \* In case an injury or industrial accident which injures an employee also causes *damage to the employee’s eyeglasses while the same are in place on the employee’s face, or in the event an injury or occupational disease makes it necessary or advisable to replace, repair, or adjust said eyeglasses*, the commission shall disburse and pay a reasonable amount to repair or replace such eyeglasses.”

(Emphasis added)

It is provided that additional compensation may be paid for medical, nurse and hospital services and medicine. It should be noted that these items have been specifically defined as benefits in Section 4123.01, Revised Code. Conversely, Section 4123.66, Revised Code, *does not* provide for the payment for “an item or device occasioned by reason of injury or occupational disease.” A review of Sections 4123.01 to 4123.94, Revised Code, fails to reveal authority to pay or disburse funds for “an item or device occasioned by reason of injury or occupational disease.” The only provision for payment for eyeglasses is to be found in that part of Section 4123.66, Revised Code, specifically mentioning eyeglasses. Furthermore, an examination of the statutes dealing with workmen’s compensation does not reveal any other authority to pay and disburse money for eyeglasses. In answer to your first question, therefore, I find no authority for the initial purchase of eyeglasses to correct a loss of vision resulting from an injury unless such purchase is necessary to *replace* eyeglasses. The statute only provides for *replacement, repair or adjustment* of eyeglasses.

The purchase of original eyeglasses needed to increase visual acuity is authorized under Section 3303.28, Revised Code, as a matter of vocational rehabilitation. While not a part of the Workmen's Compensation Act this section removes any gap in the law and enables an injured employee to secure glasses needed because of a visually disabling injury.

In answering your second question, further examination of Section 4123.66, Revised Code, must be made. The specific portion of this statute dealing with eyeglasses reads in the alternative and is descriptive of two fact patterns. The first covers eyeglasses damaged while in place on an employee's face in an accident causing accidental injury to the employee. The second covers the replacement, repair or adjustment of eyeglasses necessitated or made advisable because of an injury or occupational disease.

In this latter situation, eyeglasses very obviously need not be damaged in place on an employee's face before funds can be expended for necessary replacement, repair or adjustment.

Accordingly, in specific answer to your inquiry, it is my opinion and you are advised:

1. The Bureau of Workmen's Compensation or the Industrial Commission cannot pay or disburse funds for the purchase of eyeglasses to correct a loss of vision resulting from an injury sustained in the course of and arising out of employment.

2. Under Section 4123.66, Revised Code, the Bureau of Workmen's Compensation or the Industrial Commission may pay or disburse funds for the purchase of eyeglasses to replace those previously worn by an employee when an accidental injury has increased a pre-existing loss of vision.

Respectfully,  
WILLIAM B. SAXBE  
Attorney General