

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

October 7, 2015

RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

LADONA J. COCHRAN,
Claimant Below, Petitioner

vs.) **No. 15-0057** (BOR Appeal No. 2049667)
(Claim No. 2012021070)

GREENBRIER HOTEL CORPORATION,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Ladona J. Cochran, by Reginald Henry, her attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. The Greenbrier Hotel Corporation, by Gary Nickerson and James Heslep, its attorneys, filed a timely response.

This appeal arises from the Board of Review's Final Order dated December 23, 2014, in which the Board affirmed a July 29, 2014, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's July 5, 2013, and October 10, 2013, decisions denying Ms. Cochran's request for authorization of additional medical treatment and also denying her request to add additional diagnoses as compensable components of the claim. The Court has carefully reviewed the records, written arguments, and appendices contained in the briefs, and the case is mature for consideration.

This Court has considered the parties' briefs and the record on appeal. The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Rules of Appellate Procedure.

Ms. Cochran was injured on December 24, 2011, while employed at the casino contained within the Greenbrier Resort when she tripped on a carpet-covered depression in the floor of an access tunnel. Ms. Cochran's claim was held compensable for a lumbosacral sprain/strain with lumbar sprain specifically excluded as a compensable component of the claim. Following the compensable injury, Ms. Cochran sought treatment with Michael Brumfield, D.C., who noted in an undated report that Ms. Cochran complained of mild right hip pain, pain in the right side of

the lumbar spine, and pain in the lateral portion of the right leg. He diagnosed Ms. Cochran with lower back pain, lumbar facet syndrome, a lumbosacral sprain/strain, sciatica, sacroiliac syndrome, and unspecified myalgia and myositis. Dr. Brumfield recommended that Ms. Cochran complete her current rehabilitation program and opined that she may require additional chiropractic care if her symptoms continue.

On April 25, 2012, Joseph Grady II, M.D., performed an independent medical evaluation. Dr. Grady diagnosed Ms. Cochran with a lumbosacral sprain with no signs of radiculopathy. He opined that Ms. Cochran has reached maximum medical improvement and will require no further treatment for the compensable injury.

On July 5, 2013, the claims administrator denied Ms. Cochran's request for authorization of additional medical treatment. On July 30, 2013, Dr. Brumfield completed a diagnosis update request listing Ms. Cochran's primary diagnosis as lower back pain and her secondary diagnoses as a lumbosacral sprain, sciatica, and sacroiliac syndrome. On September 5, 2013, Michael Condaras, D.C., performed a records review. He recommended denying the request to add lower back pain, sciatica, and sacroiliac syndrome as compensable components of the claim and opined that the compensable diagnosis of lumbosacral sprain adequately addresses all aspects of Ms. Cochran's current condition. On October 9, 2013, the StreetSelect Grievance Board took note of Dr. Grady's finding that Ms. Cochran has reached maximum medical improvement and exhibits no symptoms of radiculopathy, and determined that the request to add additional diagnoses as compensable components of the claim should be denied. On October 10, 2013, the claims administrator denied Ms. Cochran's request to add lower back pain, sciatica, and sacroiliac syndrome as compensable components of the claim.

In its Order affirming the July 5, 2013, and October 10, 2013, claims administrator's decisions, the Office of Judges held that a preponderance of the evidence does not support the authorization of Ms. Cochran's request for additional treatment or the addition of additional diagnoses as compensable components of the claim. The Board of Review affirmed the reasoning and conclusions of the Office of Judges in its decision dated December 23, 2014. On appeal, Ms. Cochran asserts that the report of Dr. Brumfield clearly establishes that lower back pain, sciatica, and sacroiliac syndrome should be added as compensable components of the claim and that she is entitled to additional treatment for those conditions.

Regarding the request to add lower back pain, sciatica, and sacroiliac syndrome as compensable components of the claim, the Office of Judges found that the evidence of record establishes that the compensable diagnosis of lumbosacral sprain adequately addresses the additional diagnoses made by Dr. Brumfield. Regarding the request for additional treatment, this Court notes that the record does not indicate what type of treatment Ms. Cochran is requesting, although it is assumed based on her prior treatment history that she is seeking additional chiropractic treatment. The Office of Judges found that approximately one year elapsed between the last treatment received by Ms. Cochran for the compensable injury and her request for additional treatment. The Office of Judges then found that Ms. Cochran has failed to demonstrate that she requires additional treatment for the compensable lumbosacral sprain. We agree with the reasoning and conclusions of the Office of Judges as affirmed by the Board of Review.

For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of any constitutional or statutory provision, nor is it clearly the result of erroneous conclusions of law, nor is it based upon a material misstatement or mischaracterization of the evidentiary record. Therefore, the decision of the Board of Review is affirmed.

Affirmed.

ISSUED: October 7, 2015

CONCURRED IN BY:

Chief Justice Margaret L. Workman

Justice Robin J. Davis

Justice Brent D. Benjamin

Justice Menis E. Ketchum

Justice Allen H. Loughry II