

**STATE OF WEST VIRGINIA**

**SUPREME COURT OF APPEALS**

**FILED**

**ROBERT L. CASTLE,**  
**Claimant Below, Petitioner**

**August 2, 2011**  
**RORY L. PERRY II, CLERK**  
**SUPREME COURT OF APPEALS**  
**OF WEST VIRGINIA**

**vs.) No. 101125 (BOR Appeal No. 2044089)**  
**(Claim No. 2006205911)**

**WEST VIRGINIA OFFICE OF**  
**INSURANCE COMMISSIONER**  
**Commissioner Below, Respondent**

**and**

**ROCKSPRING DEVELOPMENT,**  
**Employer Below, Respondent**

**MEMORANDUM DECISION**

This appeal arises from the West Virginia Workers' Compensation Board of Review's Final Order dated August 19, 2010, in which the Board affirmed a January 21, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the Claims Administrator's August 29, 2008 order denying medical benefits. The appeal was timely filed by the petitioner and a response was filed by the Employer. The Court has carefully reviewed the records, written arguments, and appendices contained in the petition, and the case is mature for consideration.

Pursuant to Rule 1(d) of the Revised Rules of Appellate Procedure, this Court is of the opinion that this matter is appropriate for consideration under the Revised Rules. Having considered the petition and the relevant decision of the lower tribunal, the Court is of the opinion that the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the Court determines that there is no prejudicial error. This case does not present a new or significant question of law. For these reasons, a memorandum decision is appropriate under Rule 21 of the Revised Rules of Appellate Procedure.

In its order, the Office of Judges held the requested medical benefits were not medically related and reasonably required to treat the compensable injury. Mr. Castle argues that he was suffering from a flare-up of the compensable injury with the requested medical benefits being the most inexpensive method of treatment, should be authorized. Rockspring Development asserts that the requested medical benefits are outside the recommended scope of treatment and Mr. Castle failed to provide evidence that the benefits are medically related and reasonably required to treat the compensable injury.

The Office of Judges in affirming the Claims Administrator's denial of medical benefits, noted the requested treatment was outside the treatment guidelines under 85 CSR 20. (January 21, 2010 Office of Judges Order, p. 4). It further noted a detailed reevaluation was absent to demonstrate the need for treatment outside the estimated duration of care. *Id.* The Office of Judges also noted that according to the records provided, the claimant had not been on any medications since August 2007. *Id.* It further found the claimant did not meet the burden of demonstrating that his claim was an extraordinary case to justify treatment outside the guidelines. *Id.* at p. 6. The Board of Review reached the same reasoned conclusions in affirming the Office of Judges in its decision of August 19, 2010.

For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of constitutional or statutory provision, clearly the result of erroneous conclusions of law, or is based upon the Board's material misstatement or mischaracterization of particular components of the evidentiary record. Therefore, the denial of the petitioner's request for medical benefits is affirmed.

Affirmed.

ISSUED: August 2, 2011

**CONCURRED IN BY:**

Chief Justice Margaret Workman

Justice Robin Jean Davis

Justice Brent D. Benjamin

Justice Menis E. Ketchum

Justice Thomas E. McHugh