

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

BONNIE M. GREATHOUSE, Petitioner

April 13, 2012
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

vs.) No. 101566 (BOR Appeal No. 2044652)
(Claim No. 2009069225)

WEST VIRGINIA OFFICE OF
INSURANCE COMMISSIONER and
FREDDIE HUFFMAN JR., Respondent

MEMORANDUM DECISION

Petitioner Bonnie M. Greathouse, by Patrick Maroney, her attorney, appeals the West Virginia Workers' Compensation Board of Review's Order denying a request for additional compensable components and closing the claim for temporary total disability benefits. Freddie Huffman Jr., by James Heslep, his attorney, filed a timely response.

This appeal arises from the West Virginia Workers' Compensation Board of Review's Final Order dated November 9, 2010, in which the Board affirmed a May 12, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's March 27, 2009, and July 13, 2009, Orders denying a request for additional compensable components and closing the claim for temporary total disability benefits. The Court has carefully reviewed the records, written arguments, and appendices contained in the petition, and the case is mature for consideration.

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.

The Board of Review affirmed the holding that osteoarthritis of the hip and hip bursitis were not compensable components in this claim. Additionally, the Board of Review affirmed the holding that as the petitioner had reached maximum medical improvement in relation to the compensable injury, the claim was closed for temporary total disability benefits. The petitioner disagrees with these findings and asserts that because her job duties aggravated her preexisting conditions, the additional compensable components should be covered by workers' compensation benefits.

The Office of Judges held that the petitioner had reached maximum medical improvement based on the April 1, 2009, finding by Dr. Mukkamala that her continued disability was unrelated to the physical compensable injuries in this claim. The Office of Judges concluded that the record, including diagnostic testing and testimony of the petitioner's supervisor and co-workers, demonstrated that the petitioner had hip problems dating as far back as 2005. The Board of Review reached the same reasoned conclusion in affirming the Office of Judges in its decision of November 9, 2010.

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: April 13, 2012

CONCURRED IN BY:

Justice Robin J. Davis

Justice Brent D. Benjamin

Justice Margaret L. Workman

Justice Thomas E. McHugh

DISSENTING:

Chief Justice Menis E. Ketchum