

**STATE OF WEST VIRGINIA**

**SUPREME COURT OF APPEALS**

**CARRIE M. BLAIR,**  
**Claimant Below, Petitioner**

**FILED**  
July 19, 2013  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

vs.) **No. 11-1587** (BOR Appeal No. 2046111)  
(Claim No. 2010097008)

**CAMDEN-CLARK MEMORIAL HOSPITAL CORPORATION,**  
**Employer Below, Respondent**

**MEMORANDUM DECISION**

Petitioner Carrie M. Blair, by William B. Gerwig III, her attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Camden-Clark Memorial Hospital Corporation, by Bradley Crouser, its attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated November 9, 2011, in which the Board affirmed a June 27, 2011, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's April 21, 2010, decision granting Ms. Blair a 13% permanent partial disability award for her lumbar spine injury. 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. Blair was working as a nurse for Camden-Clark Memorial Hospital when she injured her lumbar spine while assisting a patient on July 4, 2009. The claim was held compensable for a sprain/strain of the lumbar region, and displaced lumbar intervertebral disc. On April 21, 2010, the claims administrator granted Ms. Blair a 13% permanent partial disability award for the lumbar spine injury based on the evaluation by Dr. Mukkamala. Under the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, (4<sup>th</sup> ed. 1993), and West Virginia Code of State Rules § 85-20-Table C (2006), Dr. Mukkamala found that Ms. Blair suffered from a 13% whole person medical impairment due to the compensable injury.

In its Order affirming the claims administrator's decision, the Office of Judges held that the preponderance of the evidence failed to show that Ms. Blair was entitled to an additional permanent partial disability award. The Office of Judges noted that Dr. Mukkamala properly used the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, (4<sup>th</sup> ed. 1993), and West Virginia Code of State Rules § 85-20-Table C to find Ms. Blair's residual impairment. It further noted that this reflects the current law in the State of West Virginia. Finally, the Office of Judges found that Dr. Mukkamala's evaluation was persuasive and not refuted. Thus, it held that Ms. Blair was entitled to only a 13% permanent partial disability award. The Board of Review reached the same reasoned conclusions in its decision of November 9, 2011. We agree with the reasoning and conclusions of 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: July 19, 2013**

**CONCURRED IN BY:**

Chief Justice Brent D. Benjamin  
Justice Robin J. Davis  
Justice Margaret L. Workman  
Justice Menis E. Ketchum  
Justice Allen H. Loughry II