

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

January 14, 2014

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

THOMAS E. RADER,
Claimant Below, Petitioner

vs.) **No. 12-0559** (BOR Appeal No. 2046524)
(Claim No. 2001031106)

HUNTINGTON ALLOYS CORPORATION,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Thomas E. Rader, by Edwin H. Pancake, his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Huntington Alloys Corporation, by Steven K. Wellman, its attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated April 3, 2012, in which the Board affirmed a September 26, 2011, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's January 28, 2011, decision denying the medications Naprelan and Neurontin. 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.

Mr. Rader was employed by Huntington Alloys Corporation as an equipment operator. On October 18, 2000, Mr. Rader injured his neck from the jarring motion of a machine. The claims administrator held the claim compensable for a cervical strain. Following a course of treatment, Dr. Scott found, in an independent medical evaluation, that Mr. Rader had reached the maximum degree of medical improvement with respect to his neck strain. Dr. Agana then found that Mr. Rader had degenerative disc disease, progressive osteoarthritis, and disc spondylosis. Mr. Rader soon afterwards came under the care of Dr. Caraway, who found that he had cervical

pain, ongoing lower back pain, and degenerative changes. Dr. Caraway planned to treat Mr. Rader's ongoing symptoms with pain medications and made numerous authorization requests for various medications. Dr. Caraway's requests were frequently denied but he continued to prescribe various medications to treat Mr. Rader's pain. Dr. Caraway then requested authorization for a variety of medications including Naprelan and Neurontin. Dr. Klein reviewed Mr. Rader's records and found that the prescriptions for Naprelan and Neurontin were not solely related to his compensable cervical injury but were also for management of his spinal degenerative disc disease, progressive osteoarthritis, and spinal disc spondylosis which were not compensable conditions. On January 28, 2011, the claims administrator denied the request for Naprelan and Neurontin based on Dr. Klein's report. Dr. Caraway then issued a letter in which he stated that he believed Mr. Rader's conditions were causally related to his work injury. On September 26, 2011, the Office of Judges affirmed the claims administrator's decision. The Board of Review then affirmed the Order of the Office of Judges on April 3, 2012, leading Mr. Rader to appeal.

The Office of Judges concluded that a preponderance of the evidence failed to demonstrate that the medications Naprelan and Neurontin are medically related and reasonably necessary to treat Mr. Rader's compensable injury. The Office of Judges found that Dr. Caraway's request lacked adequate explanation. The Office of Judges found that Dr. Caraway's request was not accompanied by a narrative report relating the medications to the compensable injury. The Office of Judges also found that Dr. Klein's report showed that the requested medications could also be used to treat Mr. Rader's diagnosed spinal degenerative disc disease, progressive arthritis, and spinal disc spondylosis. The Board of Review adopted the findings of the Office of Judges and affirmed its Order.

We agree with the conclusions of the Board of Review and the findings of the Office of Judges. Mr. Rader has not presented sufficient evidence to show that the requested medications are medically related and reasonably necessary to treat his compensable neck strain. The medical records in this case demonstrate that this injury was superimposed on pre-existing and non-compensable degenerative conditions. The only evidence Mr. Rader submitted in support of authorizing these medications is the opinion of Dr. Caraway. But Dr. Caraway did not adequately support his opinion and did not show that Mr. Rader's ongoing pain is related to his compensable injury.

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: January 14, 2014

CONCURRED IN BY:

Chief Justice Robin J. Davis
Justice Margaret L. Workman
Justice Allen H. Loughry II

DISSENTING:

Justice Menis E. Ketchum

Justice Brent D. Benjamin, not participating