

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

March 18, 2014

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

**GEORGETTA FRANCIS MULLINS,
Claimant Below, Petitioner**

vs.) **No. 12-0763** (BOR Appeal No. 2046750)
(Claim No. 2008031500)

**LOGAN COUNTY BOARD OF EDUCATION,
Employer Below, Respondent**

MEMORANDUM DECISION

Petitioner Georgetta Francis Mullins, by John Blair, her attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. The Logan County Board of Education, by Steven Wellman, its attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated June 1, 2012, in which the Board affirmed a December 29, 2011, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's June 30, 2011, decision denying Ms. Mullins's request to add right ulnar neuropathy as a compensable component of her 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. Mullins developed compensable bilateral carpal tunnel syndrome in the course of her employment as a custodian with the Logan County Board of Education. She was found to be at maximum medical improvement with regard to the carpal tunnel syndrome in 2010. On April 19, 2011, Robert McCleary, D.O., Ms. Mullins's treating physician, completed a diagnosis update form listing carpal tunnel syndrome as the primary condition and right ulnar neuropathy as a secondary condition. On April 29, 2011, Prasadarao Mukkamala, M.D., performed a records review and concluded that the record does not justify adding right ulnar neuropathy as a

compensable component of the claim. On June 24, 2011, the StreetSelect Grievance Board determined that the evidence of record reveals no clinical signs of ulnar neuropathy and stated that the request to add right ulnar neuropathy should be denied. The claims administrator denied Ms. Mullins's request to add right ulnar neuropathy as a compensable component of the claim on June 30, 2011.

In its Order affirming the claims administrator's June 30, 2011, decision, the Office of Judges held that right ulnar neuropathy is not a compensable condition. Ms. Mullins disputes this finding and asserts that the evidence of record demonstrates that right ulnar neuropathy should be added as a compensable component of her claim.

The Office of Judges noted that an EMG performed in 2008 was within normal limits. The Office of Judges further found that Dr. McCleary's diagnosis update submission simply listed ulnar neuropathy as a secondary condition and contained no evidence connecting the condition of right ulnar neuropathy to Ms. Mullins's compensable carpal tunnel syndrome or her occupation. Finally, the Office of Judges found that the treatment notes from Dr. McCleary contained in the evidentiary record make no mention of the diagnosis of ulnar neuropathy. The Board of Review reached the same reasoned conclusions in its decision of June 1, 2012. 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: March 18, 2014

CONCURRED IN BY:

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