

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

JOHN D. WOOD, Petitioner

February 22, 2012
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

vs.) No. 101361 (BOR Appeal No. 2044379)
(Claim No. 2004038013)

WEST VIRGINIA OFFICE OF
INSURANCE COMMISSIONER and
PERFORMANCE COAL CO., Respondent

MEMORANDUM DECISION

Petitioner John D. Wood, by Patrick Maroney, his attorney, appeals the West Virginia Workers' Compensation Board of Review's Order denying the requested medical benefits. Performance Coal Company, by Paul E. Pinson, its attorney, filed a timely response.

This appeal arises from the West Virginia Workers' Compensation Board of Review's Final Order dated September 22, 2010, in which the Board affirmed a March 9, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the Claims Administrator's March 27, 2009, denial of medical benefits. 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.

The Board of Review affirmed the holding that the claimant's current condition did not relate to the injury held compensable in this claim. Mr. Wood disputes this finding and asserts that the record supports a finding that the current condition relates to the March 1,

2004, injury. He contends that Dr. Ramesh clearly relates the current symptoms to the previous injury which demonstrates the requested medications were medically related and reasonably required.

In its order affirming the Claims Administrator's denial of medical benefits, the Office of Judges found the preponderance of the evidence did not support a finding that the requested medications were medically related to the compensable injury in the claim. The Office of Judges noted a subsequent injury under the current employer. (March 9, 2010, Office of Judges Order, p. 5). It further noted the request for authorization included additional conditions that were not held compensable in this claim. *Id.* The Board of Review reached the same reasoned conclusions in affirming the Office of Judges on September 22, 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 based upon the Board's material misstatement or mischaracterization of particular components of the evidentiary record. Therefore, the Board of Review Order is affirmed.

Affirmed.

ISSUED: February 22, 2012

CONCURRED IN BY:

Justice Robin J. Davis
Justice Margaret L. Workman
Justice Thomas E. McHugh

DISSENTING:

Chief Justice Menis E. Ketchum
Justice Brent D. Benjamin (Disqualified)