

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

April 19, 2013

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

SHERRY L. WILLIAMS,
Claimant Below, Petitioner

vs.) No. 11-1016 (BOR Appeal No. 2045446)
(Claim No. 2001041018)

**WEST VIRGINIA OFFICE OF
INSURANCE COMMISSIONER**
Commissioner Below, Respondent

and

BECKLEY MEDICAL IMAGING, INC.,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Sherry L. Williams, by John Hastings Shumate, Jr., her attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. West Virginia Office of Insurance Commissioner, by David L. Stuart, its attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated June 7, 2011, in which the Board affirmed a December 21, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's orders of April 21, 2010, May 14, 2010, and May 20, 2010. 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.

Sherry L. Williams was employed as an office manager for Beckley Medical Imaging, Inc. when she sustained an injury to her back while moving a box of computer forms on August 22, 2000. Ms. Williams's claim was held compensable for major depressive affective disorder, recurrent episode, moderate degree, sacroiliitis, and spinal stenosis of lumbar region. Ms. Williams received a 15% permanent partial disability award and a 5% permanent partial disability award for the psychiatric component of her injury. Ms. Williams continued to receive multiple medical benefits under the compensable diagnosis including medications, an MRI and a cane until 2010.

An MRI in January 2010, revealed multilevel degenerative disc disease with a broad-based disc bulge at L3-4 and central canal stenosis at that level. On March 26, 2010, Dr. Ranson referred Ms. Williams to Dr. Patel for a surgical evaluation because of his impression of lumbar degenerative disc disease with myelopathy. On April 26, 2010, Dr. Ranson requested an evaluation with Dr. Patel for possible Cauda Equina Syndrome. On May 19, 2010, Dr. Ranson made another request for Ms. Williams to be evaluated by Dr. Patel and for Percocet, Baclofen and Neurontin. Dr. Ranson opined that Ms. Williams's injury and resulting degenerative changes occurred as a result of the August of 2000 compensable disc injury.

Dr. Prasadaroao Mukkamala, conducted an independent medical examination on Ms. Williams and found that the requested consultation with Dr. Rajesh Patel, for lumbar transforaminal injections, and for Percocet, Baclofen, and Neurontin were all to treat disorders that were non-compensable under this claim. In its Order, the Office of Judges held that the preponderance of the evidence showed that the current treatment was for degenerative disc disorder, which is not a compensable component in this claim. The Board of Review reached the same reasoned conclusion in its decision of June 7, 2011. We agree with the reasoning and conclusions of the Board of Review that the requested benefits are not medically related and reasonably required medical treatment for the claimant's compensable conditions in this claim.

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 19, 2013

CONCURRED IN BY:

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

DISSENTING:

Chief Justice Brent D. Benjamin
Justice Menis E. Ketchum