

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

FILED
November 7, 2013
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

RICHARD H. DAVIS,
Claimant Below, Petitioner

vs.) No. 12-0113 (BOR Appeal No. 2046133)
(Claim No. 2001014456)

WEST VIRGINIA OFFICE OF
INSURANCE COMMISSIONER
Commissioner Below, Respondent

and

WAL-MART STORES, INC.,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Richard H. Davis, pro se, appeals the decision of the West Virginia Workers' Compensation Board of Review. The West Virginia Office of Insurance Commissioner, by Anna L. Faulkner, its attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated December 22, 2011, in which the Board affirmed a June 15, 2011, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's October 21, 2010, decision denying an orthopedic and chiropractic consultation. 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. Davis was employed as a night stocker at Wal-Mart Stores, Inc. He was injured on August 15, 2000, when a box of frozen food fell on him. One box struck his arm, which caused it to hyperextend. Another struck his head. He also fell into a stack of boxes. The claim was held compensable for a rotator cuff sprain, an unspecified shoulder sprain, and a neck sprain. Mr. Davis continued to have back and neck pain. He continued to receive various treatments and services based on this claim. But on July 14, 2010, Dr. Mukkamala issued a report, in which he found that there was no causal relationship between Mr. Davis's current symptoms and his ten year old compensable injury. Dr. Mukkamala believed that any additional chiropractic services would only provide Mr. Davis with temporary relief and were therefore unnecessary. He also believed that none of Mr. Davis's current medications were needed to treat his compensable injury. Based on Dr. Mukkamala's report, the claims administrator denied a request for orthopedic and chiropractic consultation on October 21, 2010. The Office of Judges affirmed the claims administrator's decision on June 15, 2011. The Board of Review affirmed the Order of the Office of Judges on December 22, 2011, leading Mr. Davis to appeal.

The Office of Judges concluded, based on the evidence in the record, that Mr. Davis did not demonstrate that he was entitled to the requested orthopedic and chiropractic consultation. The Office of Judges found that Mr. Davis had received treatment for his neck problems for many years but that Dr. Mukkamala had specifically found that he did not need any additional treatment. The Office of Judges found that there was no medical evidence in the record to the contrary. 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. Davis had not presented sufficient evidence to demonstrate that the requested orthopedic and chiropractic consultation is reasonably related and medically necessary to treat his compensable injury. The only relevant medical evidence in the record is the report of Dr. Mukkamala, who found no causal relationship between Mr. Davis's current symptoms and 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: November 7, 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