

**STATE OF WEST VIRGINIA  
SUPREME COURT OF APPEALS**

**WILLIE D. ALDRIDGE**  
**Claimant Below, Petitioner**

**vs.) No. 35756 (BOR Appeal No. 203356)**  
**(Claim No. 2002049368)**

**WEST VIRGINIA OFFICE OF INSURANCE**  
**COMMISSIONER, and ROCKSPRING**  
**DEVELOPMENT, INC., Respondents**

**FILED**  
**June 22, 2011**  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

**MEMORANDUM DECISION**

This appeal arises from the West Virginia Workers' Compensation Board of Review Final Order dated January 28, 2010, in which the Board affirmed a June 30, 2009, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's February 12, 2009, Order denying authorization for an MRI of the lumbar spine and an EMG/nerve conduction study of the bilateral lower extremities. The appeal was timely filed by the petitioner, and a response was filed by the employer. The Court has carefully reviewed the records, written arguments, and appendices contained in the petition, and the case is mature for consideration.

Pursuant to Revised Rule 1(d), this matter should be, and hereby is, set for consideration under the Revised Rules of Appellate Procedure. Having considered the parties' submissions 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. The 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 denial of authorization for an MRI of the lumbar spine and an EMG/nerve conduction study of the bilateral lower extremities. Mr. Aldridge contends that the requested treatment is necessary to further diagnose and manage his condition. He maintains that the record shows that he sustained significant injuries which require further investigation to determine the proper course of treatment, and therefore, the MRI and EMG are medically related and necessary to treat the compensable injury.

The Report of Occupational Injury filed by Mr. Aldridge indicates that he was injured on March 16, 2002, while pulling a hose up a silo belt. The claim was held compensable by order dated April 12, 2002, with a diagnosis of sprain/strain of the lumbar region. Mr. Aldridge was found to have reached maximum medical improvement in 2005 by at least three different physicians. In February 2005, Mr. Aldridge was granted a 16% permanent partial disability award. The request for authorization for the MRI and EMG was submitted in February 2009, and was denied by the claims administrator on April 24, 2009.

The Office of Judges affirmed the claims administrator's denial of authorization for the requested treatment because Mr. Aldridge did not submit any evidence in support of his protest and, therefore, failed to demonstrate that the requested treatment was reasonably required and related to the compensable injury. (June 30, 2009, Office of Judges Order, p. 6). The Office of Judges noted that the only compensable condition is lumbar sprain/strain and that the evidence demonstrated that Mr. Aldridge has significant non-compensable conditions of the lumbar spine including degenerative disc disease. *Id.* The Board of Review reached the same reasoned conclusion as the Office of Judges and affirmed its decision.

Mr. Aldridge reached maximum medical improvement in 2005, and has presented no evidence to show that the requested medical treatment is reasonably required and related to the compensable injury. For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of constitutional or statutory provisions, 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 denial of Mr. Aldridge's request for an MRI of the lumbar spine and EMG/nerve conduction study of the bilateral lower extremities is affirmed.

Affirmed.

**ISSUED:** June 22, 2011

**CONCURRED IN BY:**

Chief Justice Margaret L. Workman  
Justice Robin Jean Davis  
Justice Brent D. Benjamin  
Justice Menis E. Ketchum  
Justice Thomas E. McHugh