## STATE OF WEST VIRGINIA SUPREME COURT OF APPEALS

FILED August 27, 2024

C. CASEY FORBES, CLERK SUPREME COURT OF APPEALS OF WEST VIRGINIA

Tammy Y. Daniel, Claimant Below, Petitioner

v.) No. 23-324 (JCN: 2020021356) (ICA No. 22-ICA-291)

FedEx Ground Package System, Inc., Employer Below, Respondent

## **MEMORANDUM DECISION**

Petitioner Tammy Y. Daniel appeals the April 10, 2023, memorandum decision of the Intermediate Court of Appeals of West Virginia ("ICA"). *See Daniel v. FedEx Ground Package System, Inc.*, No. 22-ICA-291, 2023 WL 2861731 (W. Va. Ct. App. Apr. 10, 2023) (memorandum decision). Respondent FedEx Ground Package System, Inc. filed a timely response. The issue on appeal is whether the ICA erred in affirming the November 9, 2022, decision of the West Virginia Workers' Compensation Board of Review, which affirmed the claim administrator's order denying authorization requests for an anterior cervical discectomy and fusion at C5-C6, a neurological referral, and a pain management referral.

The claimant asserts that the surgical procedure and the two referrals are medically necessary and reasonably related to the compensable injury. The employer maintains that the claimant points to no erroneous procedure, no arbitrary or capricious conclusions, and no abuse of discretion or jurisdictional error by the tribunals below.

This Court reviews questions of law de novo, while we accord deference to the Board of Review's findings of fact unless the findings are clearly wrong. Syl. Pt. 3, *Duff v. Kanawha Cnty. Comm'n*, No. 23-43, 2024 WL 1715166 (W. Va. Apr. 22, 2024). Upon consideration of the record and briefs, we find no reversible error and therefore summarily affirm. *See* W. Va. R. App. P. 21(c).

Affirmed.

<sup>&</sup>lt;sup>1</sup> The petitioner is represented by counsel Reginald D. Henry and Lori J. Withrow, and the respondent is represented by counsel H. Dill Battle, III.

**ISSUED: August 27, 2024** 

## **CONCURRED IN BY:**

Chief Justice Tim Armstead Justice Elizabeth D. Walker Justice John A. Hutchison Justice William R. Wooton Justice C. Haley Bunn