

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

DIVERSIFIED MAINTENANCE
SYSTEMS, INC., and
TRAVELERS INSURANCE
COMPANY,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

Appellants,

v.

CASE NO. 1D10-5499

FRANCISCO SOTO FUERTE,

Appellee.

Opinion filed February 28, 2011.

An appeal from an order of the Judge of Compensation Claims.
Nolan S. Winn, Judge.

Date of Accident: November 20, 2009.

R.G. McCormick, Jr., of the Bleakley Law Firm, Tampa, for Appellants.

Jane-Robin Wender of Jane-Robin Wender, P.A., Delray Beach, for Appellee.

PER CURIAM.

In this workers' compensation case, Claimant requested an alternate primary care provider (PCP) under the parties' managed care arrangement (MCA), but was dissatisfied when the Employer/Carrier (E/C) agreed to authorize one of only three

PCPs whose names it provided Claimant. Claimant then filed a petition for benefits seeking to choose a PCP from any of the multiple PCPs participating in the provider network. The E/C now appeals from the order of the Judge of Compensation Claims (JCC) awarding authorization of a PCP “from among the provider network” and entitlement to attorney’s fees and costs for the prosecution of that benefit. Because the question presented has been resolved by Mack v. Westminster Suncoast Manor, 929 So. 2d 610 (Fla. 1st DCA 2006), we reverse the order. Specifically, in both cases, although the JCC had jurisdiction over the petition for benefits because the claimant exhausted the grievance procedure, the terms of the MCA govern resolution of the petition. Here, as in Mack, because the E/C did not deny treatment but only limited the claimant’s choice of provider in the manner prescribed by the applicable MCA, Claimant’s petition should have been dismissed.

REVERSED.

ROBERTS, CLARK, and WETHERELL, JJ., CONCUR.