

**STATE OF WEST VIRGINIA**

**SUPREME COURT OF APPEALS**

**FILED**

**LAWRENCE M. JECKER, Petitioner**

**July 17, 2012**  
**RORY L. PERRY II, CLERK**  
**SUPREME COURT OF APPEALS**  
**OF WEST VIRGINIA**

**vs.) No. 11-0202 (BOR Appeal No. 2044662)**  
**(Claim No. 2004054294)**

**WEST VIRGINIA OFFICE OF**  
**INSURANCE COMMISSIONER and**  
**HUFFMAN CORPORATION, Respondent**

**MEMORANDUM DECISION**

Petitioner Lawrence M. Jecker, pro se, appeals the West Virginia Workers' Compensation Board of Review's Order affirming the decision to withhold authorization of the requested medications pending an independent medical examination. The West Virginia Office of Insurance Commissioner, by Anna Faulkner, its attorney, filed a timely response.

This appeal arises from the West Virginia Workers' Compensation Board of Review's Final Order dated January 6, 2011, in which the Board affirmed a June 3, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's January 7, 2010, decision withholding authorization of Ibuprofen and Lortab pending the completion of an independent medical examination. The Court has carefully reviewed the records, written arguments, and appendices contained in the petition, and the case is mature for consideration.

Having considered the petition 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. This 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.

Mr. Jecker injured his lower back on June 15, 2004, while working for the Huffman Corporation. The claim was subsequently held compensable and he was treated for the injury. On January 7, 2010, the claims administrator withheld authorization for the medications Ibuprofen and Lortab pending the completion of an independent medical examination.

On appeal, Mr. Jecker disagrees with the decision to withhold the authorization for the medications. The Office of Judges, in reaching its decision to affirm the claims administrator's Order withholding authorization, noted that under West Virginia Code § 23-4-8 (2009), the Insurance Commissioner, private carrier or self-insured employer, may order a claimant to appear for examination before a medical examiner. It also noted that Mr. Jecker failed to keep his appointment for an independent medical examination, and failed to provide an explanation upon the claims administrator's request. The Office of Judges concluded that the claims administrator did not err in withholding authorization of Ibuprofen and Lortab pending the completion of an independent medical examination. The Board of Review reached the same reasoned conclusion in its decision of January 6, 2011.

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 Board of Review Order is affirmed.

Affirmed.

**ISSUED: July 17, 2012**

**CONCURRED IN BY:**

Chief Justice Menis E. Ketchum  
Justice Robin J. Davis  
Justice Margaret L. Workman  
Justice Thomas E. McHugh

Justice Brent D. Benjamin not participating