

IN THE UTAH COURT OF APPEALS

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Dale T. Smith & Sons and	)	MEMORANDUM DECISION
Workers' Compensation Fund,	)	(Not For Official Publication)
	)	
Petitioners,	)	Case No. 20061169-CA
	)	
v.	)	F I L E D
	)	(September 20, 2007)
Labor Commission and Jeffrey	)	
D. Smith,	)	2007 UT App 306
	)	
Respondents.	)	

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Original Proceeding in this Court

Attorneys: Floyd W. Holm, Salt Lake City, for Petitioners  
Phillip B. Shell, Murray, and Alan L. Hennebold, Salt  
Lake City, for Respondents

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Before Judges Bench, McHugh, and Thorne.

McHUGH, Judge:

Dale T. Smith & Sons and the Workers' Compensation Fund (collectively Petitioners) seek review of the Utah Labor Commission's order requiring that they pay 100% of Jeffrey D. Smith's medical expenses related to treatment of his lumbar degenerative joint disease. Petitioners argue that the Labor Commission incorrectly interpreted Utah Code section 34A-3-110 when it determined that medical expenses are not "compensation" subject to apportionment under that section. See Utah Code Ann. § 34A-3-110 (2005).

In Ameritech Library Services v. Labor Commission, 2007 UT App 305, a companion case that was briefed concurrently with this case, we rejected arguments identical to those raised by Petitioners. In Ameritech we held that the term "compensation," as used in section 34A-3-110, does not include medical expenses and that apportionment of medical expenses is not appropriate

under that section of the Utah Occupational Disease Act. See id.  
at ¶¶14-16. For the reasons stated in that decision, we affirm.

Affirmed.

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Carolyn B. McHugh, Judge

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WE CONCUR:

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Russell W. Bench,  
Presiding Judge

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William A. Thorne Jr., Judge