

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

CHARLINA K. SIZEMORE, Petitioner

November 17, 2011
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

vs.) No. 101154 (BOR Appeal No. 2044043)
(Claim No. 2008027961)

**WEST VIRGINIA OFFICE OF
INSURANCE COMMISSIONER and
RALEIGH GENERAL HOSPITAL, LLC, Respondent**

MEMORANDUM DECISION

This appeal arises from the West Virginia Workers' Compensation Board of Review Final Order dated August 19, 2010, in which the Board affirmed a January 25, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's denial of authorization for hospitalization for hip injury. The appeal was timely filed by the petitioner and a response was filed by the Raleigh General Hospital, LLC. The Court has carefully reviewed the records, written arguments, and appendices contained in the petition, and the case is mature for consideration.

Pursuant to Rule 1(d) of the Revised Rules of Appellate Procedure, this Court is of the opinion that this matter is appropriate for consideration under the Revised Rules. Having considered the petition, response, 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.

Ms. Sizemore asserts her hip injury occurred as a direct result of her compensable lumbar sprain/strain injury. As such, her request for authorization for a hospitalization for the hip injury should be approved by this Court. Raleigh General Hospital asserts Ms. Sizemore's medical records do not establish a causal link between the compensable injury and the later hip injury.

In its Order affirming the Claim Administrator's denial of authorization the Office of Judges found the request for authorization was properly denied as unrelated to Ms. Sizemore's compensable lumbar sprain/strain. (January 25, 2010, Office of Judges Order, p. 10). It further noted the Claim Administrator found Ms. Sizemore presented no evidence relating the fall to the occupational injury and no medical documentation to correlate the alleged knee weakness to the lumbar sprain/strain injury. *Id.*, p. 9. The Office of Judges, too, found no basis for authorizing the hospitalization or for disputing the Claims Administrator's findings. The Board of Review reached the same reasonable conclusion in affirming the Office of Judges in its decision of August 19, 2010.

For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of constitutional or statutory provision, clearly the result of erroneous conclusions of law, or is based upon the Board's material misstatement or mischaracterization of particular components of the evidentiary record. Therefore, the Court affirms the Board of Review Order denying compensability for Mr. Sizemore's hospitalization.

Affirmed.

ISSUED: November 17, 2011

CONCURRED IN BY:

Chief Justice Margaret L. Workman

Justice Robin J. Davis

Justice Brent D. Benjamin

Justice Menis E. Ketchum

Justice Thomas E. McHugh