

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

SAMUEL A. ROBINSON,
Claimant Below, Petitioner

FILED
August 26, 2016
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

vs.) **No. 15-0841** (BOR Appeal No. 2050185)
(Claim No. 2000045824)

EASTERN ASSOCIATED COAL, LLC,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Samuel A. Robinson, by Patrick Maroney, his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Eastern Associated Coal, LLC, by Henry Bowen, its attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated July 29, 2015, in which the Board affirmed a January 5, 2015, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's August 28, 2014, decision denying a request for authorization of the medication Lyrica. The Court has carefully reviewed the records, written arguments, and appendices contained in the briefs, and the case is mature for consideration.

This Court has considered the parties' briefs and the record on appeal. The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Rules of Appellate Procedure.

Mr. Robinson was injured in the course of his employment as an underground coal miner on March 5, 2000.¹ Mr. Robinson is currently requesting authorization for the medication

¹ Neither the Report of Injury nor the Order holding the claim compensable was submitted into evidence. However, it appears that the primary injury involved the lower back.

Lyrica.² On August 8, 2013, Prasadarao Mukkamala, M.D., performed an independent medical evaluation and authored a report memorializing his findings on August 9, 2013. Dr. Mukkamala opined that Mr. Robinson has reached maximum medical improvement and requires no further medical treatment with respect to the compensable injury.

On August 28, 2014, the claims administrator denied authorization of a request for the use of the medication Lyrica. In its Order affirming the claims administrator's decision, the Office of Judges held that Mr. Robinson has failed to demonstrate by a preponderance of the evidence that the use of the medication Lyrica represents reasonably required medical treatment in relation to the March 5, 2000, injury. The Board of Review affirmed the reasoning and conclusions of the Office of Judges in its decision dated July 29, 2015. On appeal, Mr. Robinson asserts that the evidence of record demonstrates that the medication Lyrica is necessary for the treatment of the March 5, 2000, injury.

The Office of Judges noted that the only evidence submitted by Mr. Robinson in support of his appeal of the August 28, 2014, claims administrator's decision consists of a copy of the claims administrator's decision and an undated information guide for the medication Lyrica. The Office of Judges further noted that the information guide is in no way specific to Mr. Robinson's case or the issue at bar in the instant appeal, but rather merely contains general information concerning the medication. Further, the Office of Judges found that a request for authorization of the medication Lyrica was previously denied based upon the conclusions expressed by Dr. Mukkamala in his August 9, 2013, report.³

We agree with the reasoning and conclusions of the Office of Judges, as affirmed by the Board of Review. As was previously noted, we recently affirmed the denial of authorization of a prior request for the use of the medication Lyrica in relation to the treatment of the March 5, 2000, injury. Mr. Robinson has failed to submit any additional evidence that was not considered in our previous affirmation of the denial of the prior request for authorization of the use of the medication Lyrica in relation to the treatment of the March 5, 2000, injury.

² Neither the request for authorization nor any treatment notes detailing the use of the medication were submitted into evidence before the Office of Judges.

³ The prior request for authorization of the medication Lyrica was denied by the claims administrator on May 2, 2014. The denial of the request for authorization of the medication Lyrica was affirmed by the Office of Judges, Board of Review, and by this Court in *Samuel A. Robinson v. Eastern Associated Coal, LLC*, No. 15-0240 (W.Va. Supreme Court, April 14, 2016)(memorandum decision).

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 decision of the Board of Review is affirmed.

Affirmed.

ISSUED: August 26, 2016

CONCURRED IN BY:

Chief Justice Menis E. Ketchum

Justice Robin J. Davis

Justice Brent D. Benjamin

Justice Margaret L. Workman

Justice Allen H. Loughry II