

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F301991

CHARLES COLLINS, EMPLOYEE	CLAIMANT
PLANTERS COTTON OIL MILLS, INC., EMPLOYER	RESPONDENT
AGRI GROUP-COMP SI FUND, INSURANCE CARRIER	RESPONDENT

OPINION FILED OCTOBER 22, 2003

Hearing before Administrative Law Judge Dail Stiles on September 18, 2003, in Little Rock, Pulaski County, Arkansas.

Claimant appeared Pro Se.

Respondents represented by Mr. Guy Alton Wade, Attorney at Law, Little Rock, Arkansas.

A hearing was held on September 18, 2003, to determine the claimant's entitlement to change physicians.

It was stipulated that the claimant sustained a compensable injury on February 14, 2003.

The claimant contends he is entitled to change physicians to Dr. John Dodson, a general practitioner.

The respondents controvert the change to Dr. Dodson contending that the claimant made an unauthorized change to Dr. Dodson, and that further there is no causal relationship between the claimant's compensable injury of February 14, 2003, and the treatment Dr. Dodson is rendering to the claimant. In addition to contending that the claimant has made an unauthorized change to Dr. Dodson, respondents contend that Dr. Dodson's treatment of the claimant constitutes unreasonable and unnecessary treatment.

STATEMENT OF THE CASE

The claimant sustained injuries to his low back on February 14, 2003, as he was pulling a cart or carriage with a bale of cotton on it which weighed approximately 580 to 620 pounds.

The claim was accepted as compensable and the employer instituted medical treatment for the claimant with Dr. Lester Alexander, a general practitioner in Pine Bluff.

Dr. Alexander prescribed some physical therapy for the claimant, and on February 21, 2003, the claimant saw a physical therapist. The claimant testified that the therapist pulled on his leg which caused him to have additional pain. The claimant terminated his physical therapy session and called Dr. Alexander's office to complain about the physical therapist and asked to be seen by some other physician.

On February 27, 2003, in a handwritten note sent to the Commission, the claimant requested a change of physician. On that same day, the claimant returned to Dr. Alexander's office and was told by Dr. Alexander's office that the claimant would no longer be treated there.

Tammie Hester, the adjuster in this matter, was contacted by the claimant and initially an appointment was made for the claimant to be seen by Dr. Dodson in Little Rock on March 13, 2003. Before that appointment, however, Ms. Hester testified that she obtained information by way of medical reports and a report from another adjuster that the claimant had been in an automobile accident on February 28, 2003, and had complained of low back pain at the emergency room in Pine Bluff, and that she had also learned that the claimant had had at least three previous low back injuries back in the 1990's. Ms. Hester testified that based on

that information, the respondent ceased paying any medical benefits, and the initial appointment with Dr. Dodson on March 13, 2003, was not kept.

Ms. Hester further testified that on March 11, 2003, she wrote the claimant a letter telling him that since he had filed a petition to change physicians, no payments would be authorized until and unless an order from the Commission was given to the respondent carrier relative to additional treatment.

The claimant acknowledged that he received the letter from Ms. Hester and understood that if he proceeded to treat with Dr. Dodson, it would be at his own expense. The claimant did proceed to treat with Dr. Dodson.

While treating with Dr. Dodson, the claimant was also treating with Dr. Jernigan, a chiropractor in Pine Bluff. A fax cover sheet from Dr. Jernigan's office dated March 20, 2003, to the attention of Tammie Hester, the adjuster in this matter, states: "This is an auto accident claim. We are not treating this patient for a worker's comp claim."

When the claimant was initially seen by Dr. Jon Dodson on March 27, 2003, Dr. Dodson stated in the last paragraph of his clinic note, "These symptoms and clinical findings are consistent with a musculo-ligamentous sprain of the lumbar spine secondary to the recent automobile accident. . . ."

On April 24, 2003, Dr. Dodson, in an office note, stated, "This patient remains under my care for the evaluation and treatment of injuries sustained in an accident on the above date [2/14/03]. The response to treatment is as anticipated. The patient's symptoms are improving but are still present on a daily basis. . . ." Brackets mine.

On May 8, 2003, Dr. Dodson stated that he saw the claimant on that day, and that the claimant had returned to a full level of activity without complaint.

The claimant acknowledged that he was provided a form by his employer advising him of rights and obligations vis-a-vis change of physician.

FINDINGS OF FACT

1. The claimant's treatment with Dr. Jon Dodson from March 27, 2003 through May 8, 2003, constitutes an unauthorized change of physician.

2. The respondents are not liable for any charges made by Dr. Jon Dodson.

DISCUSSION

Where claimant has been notified of his rights and obligations vis-a-vis change of physician and seeks unauthorized non-emergency treatment, that treatment will not be found to be compensable. See Sharp v. Lewis Ford, Inc., 78 Ark. App. 164, 78 S.W.3d 746 (2002).

The Courts have found that the claimant has an absolute right to change physicians, see Collins v. Lennox Industries, Inc., 77 Ark. App. 303, 75 S.W.3d 204 (2002), but that finding does not relieve the claimant of following the prescribed procedure in order to make that change. The claimant is to petition the Commission, which he did, but the claimant then is to wait for some disposition on that petition before moving forward with treatment. If the claimant proceeds prior to receiving an order approving or granting his request for a change, then the services furnished or prescribed by that physician are going to be at the claimant's expense. See Ark. Code Ann. §11-9-514(b).

In the instant case, the claimant did reduce to writing his request to change physicians, but he did not wait for any disposition of that petition but instituted treatment on his own with Dr. Dodson.

It is difficult for this examiner to understand if the claimant had any continuing physical difficulties from his February 14, 2003 compensable injury, or

rather if the symptoms he presented initially with Dr. Dodson on March 27, 2003, were related to an automobile accident of February 28, 2003. In his initial office notes, Dr. Dodson states that he is treating the claimant for an automobile accident, but a month later, he says he is treating him for injuries sustained on February 14, 2003.

Based on the evidence of record, I find the claimant made an unauthorized change when he began treating with Dr. Jon Dodson, and the respondents have no liability for any charges made by Dr. Dodson.

The above claim is respectfully denied and dismissed.

IT IS SO ORDERED.

DAIL STILES
Administrative Law Judge