

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F214212**

**DELOIS LEE, EMPLOYEE**

**CLAIMANT**

**ADVANCE AUTO PARTS, EMPLOYER**

**RESPONDENT**

**ROYAL INDEMNITY COMPANY,  
INSURANCE CARRIER**

**RESPONDENT**

**OPINION FILED AUGUST 28, 2003**

Submitted on the record before Administrative Law Judge Dail Stiles.

Claimant represented by Mr. Gary Davis, Attorney at Law, Little Rock, Arkansas.

Respondents represented by Mr. Randy P. Murphy, Attorney at Law, Little Rock, Arkansas.

The issue to be resolved in this matter is claimant's entitlement to continue to treat with physicians whom she has chosen since an admittedly compensable injury of December 5, 2002.

The claimant contends that she is entitled to continue to treat with Drs. Chakales, Hadi and Cowherd as opposed to treating with physicians chosen by the respondents.

The respondents contend that continued treatment with Drs. Chakales, Hadi and Cowherd constitutes unreasonable and unnecessary treatment, and that the claimant's treatment should be continued and monitored by Dr. Bruce Safman, a physiatrist, and Dr. Judy White Johnson, a psychologist.

**STATEMENT OF THE CASE**

The claimant was a victim of an armed robbery and assault while working for the respondent employer on December 5, 2002.

Two men came in at approximately closing time with the intent to rob the premises.

The claimant was grabbed around the neck and dragged by one of the assailants while the assailant held a gun to her head.

The other assailant shot the claimant's supervisor multiple times causing his death.

The claimant met with Bill Cobble and Greg Harper of the risk management division of Advance Auto Parts the next day, and the claimant was advised that she could seek medical treatment from anyone she chose. A family friend recommended Dr. Harold Chakales in Little Rock, and the claimant started seeing Dr. Chakales in the latter part of December, 2002. Dr. Chakales has continued to treat the claimant for cervical difficulties which he has diagnosed as degenerative disc disease aggravated by trauma. As late as March, 2003, Dr. Chakales stated that the claimant continued to be symptomatic.

The claimant has been treated for her psychological injuries by Drs. Cowherd and Hadi at U.A.M.S.

The respondents are seeking to transfer the claimant's treatment from Dr. Chakales to Dr. Bruce Safman, a physiatrist, and transfer the claimant's psychological treatment from Drs. Cowherd and Hadi to Dr. Judy White Johnson.

The claimant, through her deposition, states that she has a good relationship and rapport with Drs. Cowherd and Hadi, and that she does not like Dr. Judy White Johnson.

#### **FINDINGS OF FACT**

1. The claimant may continue to treat with Drs. Chakales, Cowherd and Hadi.
2. The respondents do not demonstrate by a preponderance of the evidence that continued treatment with Drs. Chakales, Cowherd and Hadi

constitutes unreasonable and unnecessary medical treatment as it relates to the claimant's admittedly compensable injury of December 5, 2002.

### **DISCUSSION**

What constitutes reasonable and necessary treatment under the workers' compensation statute obligating the employer to provide such medical services "as may be reasonably necessary" for an injured employee is a question of fact for the Workers' Compensation Commission. Ark. Code Ann. §11-9-508(a); Georgia-Pacific Corp. v. Dickens, 58 Ark. App. 266, 950 S.W.2d 463 (1997).

In the instant case, the respondent employer allowed the claimant to seek treatment from whomever she chose. She chose Drs. Chakales, Cowherd and Hadi.

The respondents now seek to transfer that treatment from Drs. Chakales, Cowherd and Hadi to a physiatrist for the claimant's physical complaints and to another psychologist for her psychological difficulties. The respondents seemingly argue that while continued treatment with Drs. Chakales, Cowherd and Hadi constitutes unreasonable and unnecessary medical treatment, that same treatment rendered by Drs. Safman and Johnson would constitute reasonable and necessary treatment. I do not agree.

The treatment being rendered by Drs. Chakales, Cowherd and Hadi appears to be, to this examiner, reasonable and necessary as that treatment relates to the claimant's admittedly compensable injury of December 5, 2002.

### **AWARD**

The claimant is to continue treatment with Drs. Chakales, Cowherd and Hadi.

IT IS SO ORDERED.

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DAIL STILES  
Administrative Law Judge