

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E119933

JUDY REED, EMPLOYEE

CLAIMANT

**CONTINENTAL GRAIN/
WAYNE FARMS, EMPLOYER**

RESPONDENT

**INSURANCE CO. OF NORTH AMERICA/
ESIS (TPA),
INSURANCE CARRIER**

RESPONDENT

OPINION FILED JULY 30, 2003

Hearing before Administrative Law Judge Dail Stiles on June 27, 2003, in Hot Springs, Garland County, Arkansas.

Claimant represented by Mr. C. Burt Newell, Attorney at Law, Hot Springs, Arkansas.

Respondents represented by Ms. Betty J. Demory, Attorney at Law, Little Rock, Arkansas.

A hearing was held on June 27, 2003, to determine the claimant's entitlement to continuing medical benefits.

It was stipulated that the claimant sustained a compensable injury on February 26, 1990. Her earnings were sufficient to entitle her to weekly indemnity benefits of \$161.00 for temporary total disability and \$154.00 for permanent partial disability benefits. It was stipulated that appropriate periods of temporary total disability benefits have been paid. Respondents have accepted and paid a four percent physical impairment rating to the claimant's right upper extremity and a five percent physical impairment rating to the claimant's left upper extremity.

The claimant contends she is entitled to ongoing medical benefits. The claimant is asking specifically that she be allowed to refill at the expense of the respondents prescriptions for Amitriptyline, Sulindac and Protonix.

The respondents controvert continuing medical benefits after September 2002, contending that continuing medical claimed by the claimant is not

causally related to the February 26, 1990 compensable injury, and that continuing medical benefits would constitute unreasonable, unnecessary and unrelated medical.

STATEMENT OF THE CASE

The claimant testified that since her injury to her hands and wrists in February of 1990, she has had the prescriptions for Amitryptiline, Sulindac and Protonix, along with some others, filled at the Family Pharmacy in Danville, Arkansas, and that those bills have routinely been submitted to the workers' compensation carrier for payment.

The claimant said that some time in September of 2002, she was told that the respondents would no longer pay for the filling of those prescriptions. The claimant stated that she ran out of all three medications some time in March of 2003. She was asked if she had noticed a change in her physical condition since she ceased taking those three specific drugs. She responded:

A. A big change. My hands swell, cramp. I don't even have to use them much anymore. I wear the splints a lot.

Q. Did you wear them before?

A. Amitryptiline kept me from having to wear them to bed all the time. I can't say all the time; there was times that I'd have to still wear them to bed. But it helped.

Q. Do you feel like the medications were really helping you out?

A. I never realized how much they did until I quit using them. I was just on them so long.

In reviewing the medical reports and particularly clinic notes from the Chambers Memorial Hospital physical therapy department, it is obvious that the claimant, starting in February of 2003, has had a good deal of physical therapy directed at relieving some difficulty she is experiencing with her shoulders.

FINDING OF FACT

The claimant is entitled to continuing medical treatment, specifically, the refilling of periodic prescriptions for Amitryptiline, Sulindac, and Protonix, as prescribed by an authorized treating physician.

DISCUSSION

Employers must promptly provide medical services which are reasonably necessary for treatment of compensable injuries. Ark. Code Ann. §11-9-508(a) (Repl. 1997). Injured employees have the burden of proving, by a preponderance of the evidence, that medical treatment is reasonably necessary for treatment of the compensable injury. Norma Beatty v. Ben Pearson, Inc., Full Workers' Compensation Commission, February 17, 1989 (D612291).

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 claimant's testimony that she received beneficial effects from the taking of the three prescription drugs in question, coupled with her testimony that her condition dramatically deteriorated when she was no longer taking the medication, is evidence that preponderates in the claimant's favor that continuation of those drugs constitutes reasonably necessary treatment of her compensable injury.

There is nothing in the medical evidence which indicates that the continued refilling and taking of the prescriptions in question is contraindicated for reasonably necessary treatment of the claimant's compensable injury.

AWARD

Respondents are directed to continue to pay reasonable and necessary medical benefits to the claimant including, but not limited to, the refilling of prescriptions for Amitryptiline, Sulindac, and Protonix.

IT IS SO ORDERED.

DAIL STILES
Administrative Law Judge