

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F213338

MARCUS ROSE, EMPLOYEE

CLAIMANT

**MASSMAN TRAYLOR JOINT VENTURE,
EMPLOYER**

RESPONDENT

**ST. PAUL GUARDIAN INSURANCE COMPANY,
INSURANCE CARRIER**

RESPONDENT

OPINION FILED DECEMBER 8, 2003

Submitted on the record before Administrative Law Judge Dail Stiles.

Claimant represented by Mr. Kenneth A. Harper, Attorney at Law, Monticello, Arkansas.

Respondents represented by Mr. A. Gene Williams, Attorney at Law, Little Rock, Arkansas.

The issue to be addressed in this opinion is the claimant's entitlement to change physicians for the second time.

An Order allowing the claimant to change physicians was entered by Pat Capps Hannah of the Medical Cost Containment Department on June 5, 2003.

On March 10, 2003, a conference was had relative to the claimant's petition to change physicians at that time between the respondents' attorney and the claimant's attorney. On the next day, March 11, 2003, Judge Curdie entered the following Order:

The claimant has requested, and is entitled to a change of authorized treating physicians from Dr. Verindar Verma to Dr. P. B. Simpson, Pine Bluff, Arkansas. Claimant is entitled to a one time evaluation by Dr. P. B. Simpson, to be paid for by respondent. The parties shall insure that Dr. Simpson has the records and reports previously made in this case prior to seeing the claimant.

IT IS SO ORDERED.

The claimant did see Dr. Simpson on March 31, 2003, and an MRI of the lumbar spine was ordered. Dr. Simpson diagnosed the claimant as having a lumbar strain. Subsequent to seeing Dr. Simpson, the claimant, without notifying his attorney, made a change of physician request directly to the Workers' Compensation Commission. As a result of that request, an Order was entered allowing claimant to change physicians on June 6, 2003, by the Medical Cost Containment Department.

The claimant's deposition was taken on September 11, 2003, preparatory to a hearing on a separate issue which was held in Monticello on October 31, 2003. At his deposition on September 11, 2003, the claimant was asked about how he went about seeking a change of physician for the second time. The following exchange took place between respondents' attorney and the claimant:

Q. Okay. How did you get to Dr. Pennington?

A. Same process.

Q. Well, tell me how you did that.

A. I wrote in for a request.

Q. Well, if you had already been granted a change of physician, why did you write for another one?

A. Because he said he couldn't do nothing for me because I didn't want to have an operation.

Q. Now this second request, you didn't do that through your lawyer, I take it?

A. No.

Q. You just wrote a letter directly to the work comp commission?

A. Yes.

FINDINGS OF FACT

1. The claimant has been granted his one-time right to change physicians by the Order quoted from supra, which was entered by Judge Curdie on March 11, 2003.

2. The claimant is not entitled to yet another change of physician, and the Order emanating from the Medical Cost Containment Department dated June 5, 2003, is set aside.

IT IS SO ORDERED.

DAIL STILES
Administrative Law Judge