

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. C808856

LARRY CRAVEN	CLAIMANT
UNITED BRANDS CO.	RESPONDENT
LIBERTY MUTUAL INSURANCE CARRIER	RESPONDENT

OPINION FILED SEPTEMBER 9, 2004

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH DANIELSON in Fort Smith, Sebastian County, Arkansas.

Claimant represented by FRED CADDELL, Attorney, Fort Smith, Arkansas.

Respondents represented by JAMES ARNOLD, II, Attorney, Fort Smith, Arkansas.

STATEMENT OF THE CASE

A hearing was held on August 12, 2004, in Fort Smith, Arkansas.

A pre-hearing conference was held in this claim, and as a result a pre-hearing order was entered in the claim on May 14, 2004. This pre-hearing order set forth the stipulations offered by the parties, the issues to litigate and the contentions thereto.

The following stipulations were submitted by the parties and are hereby accepted:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. On May 24, 1978, the relationship of employee-employer-carrier existed between the parties.

3. The claimant sustained a compensable injury to his left leg on May 24, 1978.

By agreement of the parties the issues to litigate are limited to the following:

1. Compensability of the claimant's hypertension.
2. Medicals for the claimant's hypertension.
3. Attorney's fees.

In regard to the foregoing issues the claimant contends that he continues with treatment as a result of the on the job injury. Until recently the Insurance Carrier paid for the treatment and the prescriptions. Evidently, based on the changes in adjustors, the Insurance Carrier has now elected to deny various pharmacy expenses. The claimant contends that he is entitled to continued medical treatment.

In regard to the foregoing issues the respondents contend that they have paid all reasonably necessary medical expenses associated with the treatment of Mr. Cravens' compensable injury. The respondents have acknowledged responsibility for all medical treatment, including prescriptions, except for a prescription for medication for high blood pressure or hypertension which the respondents contend is a personal condition unrelated to his compensable injury.

The documentary evidence submitted in this matter consists of the Commission's pre-hearing order marked Commission's Exhibit No. 1. The claimant submitted documentary evidence marked Claimant's Exhibit No. 1. The respondents submitted medical records marked Respondents' Exhibit No. 1 and the deposition of the claimant

marked Respondents' Exhibit No. 2. All these exhibits were admitted without objection.

#### DISCUSSION

The claimant testified that in 1978 he sustained a crush injury to his left leg. The claimant testified that he has had reconstructive surgeries on his leg, noting that he has had thirteen surgeries as a result of his compensable injury. The claimant testified he has continued to leave his claim open for continuing treatment for his compensable injury. The claimant testified that over these many years he has continued to take medications as well as have treatment for his leg. The claimant testified that due to his injury, he suffers from depression and has had treatment and taken medications for this problem which was paid for by the respondent. The claimant stated that in the early 90s he was diagnosed with hypertension and high blood pressure and was prescribed medications for these problems which the respondent accepted and paid.

The claimant testified that at the first of the year, 2004, a new case worker was assigned to him, Debra Foehser, and that she terminated payment on all of his medications. The claimant testified that when he contacted Ms. Foehser he understood he was to provide her with letters from his doctor explaining why he still needed to be on medications. The claimant agreed that he obtained letters from his various physicians and provided them to his case worker. The claimant agreed that in the past he has provided letters from his physicians to the carrier setting forth his need

for medications. The claimant agrees that after he provided letters to his case worker all of his medications were continued except the one for high blood pressure.

The claimant testified that Dr. Linker is a behavioral specialist and that he is now his treating physician since Dr. Chambers has retired. The claimant testified that Dr. Chambers was the physician he was being treated by for his depression. The claimant agreed that as a result of his compensable injury, his lifestyle has changed and in fact he has gained around fifty pounds due to his inactivity. The claimant further agreed that as a result of all of this he has suffered significant depression. The claimant testified that he currently is taking three medications, one of them is for his high blood pressure.

On cross examination, the claimant testified that Dr. Travis was most likely the physician who initially prescribed medication for his high blood pressure. The claimant indicated that he thinks that it was in the early 90s when Dr. Travis initially prescribed medication for his high blood pressure. The claimant agreed that when he first began to be seen by Dr. Jennings in 1998 he was already taking medication for his high blood pressure. The claimant agreed that in May 1978 he was not taking high blood pressure medications. The claimant stated that he was unaware that in March 1978 a hospital record indicated that he had blood pressure of 140 over 90. The claimant also indicated that he was unaware that Dr. Jennings had stated that with a blood pressure at these levels he normally prescribed medications.

On redirect examination, the claimant agreed that in March 1978 he was seen at Sparks regional medical center for surgery of his left thumb. The claimant explained that he was working as a meat cutter and a bone broke off and approximately one inch of the bone had gone up inside his thumb and that the doctor had to go in and cut it out. The claimant agreed that when the blood pressure reading was taken in March 1978 that was what was going on.

The medical records set forth that the claimant was seen at Sparks Regional Medical Center on March 25, 1978, for complaints of a foreign body in the left thumb indicating that he had a small puncture wound mid left thumb complaining of pain and swelling. The claimant's blood pressure was noted as being 140 over 90. These medical records indicate that the claimant was sent to surgery to remove a beef bone sticking out of the claimant's left thumb. On August 17, 1978, the claimant was seen at the Sparks Regional Medical Center Outpatient Care for removal of pins and application of long leg cast left leg. At this time it is noted that the claimant's blood pressure was recorded as being 142 over 90. The claimant was seen again at Sparks Regional Medical Center on April 21, 1979, for an outpatient surgery procedure at which time his blood pressure was registered at 145 over 90. Dr. Pat Chamber's records indicate that on December 6, 1985, he saw the claimant and that at that time the claimant was taking medications prescribed by Dr. Travis for high blood pressure.

There is a letter from Dr. Pat Chambers dated April 29, 1999, where the doctor writes that he has been treating the claimant for

a number of years for chronic pain and secondary depression associated with his lower extremity injury. The doctor continues to write that it is his professional opinion that the claimant's elevated blood pressure is in significant part secondary to his chronic pain, associated depression and attendant severe limitation in his previous very active lifestyle. Dr. Charles Jennings writes on April 29, 2003, that the claimant suffered a severe motor vehicle accident in 1978 that has kept him from maintaining a physical fit status. Dr. Jennings writes that this may well have contributed to his developing hypertension since regular exercise, weight control, etc., has certainly been proven beneficial in preventing and even controlling hypertension. Dr. Jennings writes again on February 10, 2004, that the claimant's severe injury to his left leg in 1978 has made it difficult for him to maintain a physically fit status. The doctor writes that this has been shown in many studies to contribute to development of hypertension and that because of this the claimant has required medical treatment, specifically daily medications. Dr. Jennings notes that the claimant has difficulty with sleeping and he requires Trazadone and for pain control Vioxx. Dr. Gary Linker writes on March 18, 2004, that the claimant has been benefitting greatly from his use of the anti-depressant Trazadone and that he would recommend the claimant's continued use of this medication. Dr. Linker writes that given the severity of the claimant's initial injury and the number of reconstructive surgeries to save his grossly deformed left leg, it is remarkable that the claimant is not requiring

additional medications for his pain control. Dr. Linker notes that the claimant's insurance carrier has denied payment for the claimant's necessary medication for his hypertension. The doctor notes that he would strongly recommend evaluation by experts in the dietary and exercise physiological fields to help the representatives of the insurance carrier more completely understand the complex relationship of injury and subsequent physical morbidity to include, in the claimant's case, the increased possibility of developing diabetes, renal insufficiency and stroke due to obesity and hypertension.

In Dr. Charles Jennings' deposition, he stated that he first came in contact with the claimant in November 1998. Dr. Jennings agreed that beginning with the initial visit in 1998, he instituted a course of treatment for the claimant for a variety of conditions which the claimant had and that he has continued to follow the claimant since that time. Dr. Jennings testified that on the initial examination of the claimant his blood pressure was 140 over 90. The doctor explained that his reading is considered borderline, noting that it was the upper limits of what is acceptable. Dr. Jennings stated that he instituted high blood pressure medication at that time. Dr. Jennings acknowledged that in a letter which he initiated on February 10, 2004, he set forth that, "The necessity of him (the claimant) requiring these medications can clearly be traced back to his accident because of the pain relating from it as well as his poor physical status." The doctor explained that the premise for this letter would be that

because of the claimant's leg injury he was not able to adequately exercise and keep his weight off and also the claimant has some degree of pain that could cause an elevation in his blood pressure. Dr. Jennings was told that there was a report from Sparks Regional Medical Center dated March 25, 1978, concerning the claimant which showed that his blood pressure at that time was 140 over 90. Dr. Jennings stated that since his blood pressure was the same before his leg accident as it was when he saw him initially in 1998 that would change his opinion as to the cause of the claimant's high blood pressure.

On cross examination, Dr. Jennings was shown the Spark's report of 1978 and he agreed that with the claimant in the emergency room with a bone sticking out of his hand headed for surgery, his blood pressure certainly could be elevated. Referring to the doctor's letter of February 10, 2002, Dr. Jennings stated, "Unless I see blood pressure readings prior to the accident with the claimant in a stable and steady state that are not elevated, I could say the accident contributed, or at least from a preponderance of the evidence would suggest that it contributed to the development of his hypertension."

On redirect examination, Dr. Jennings agreed that the pain associated with the injury which the claimant appears to have sustained that took him to the emergency room on March 25, 1978, could have caused an elevation in his blood pressure. Dr. Jennings clarified by stating that not everyone that is in pain has an elevation of blood pressure. Dr. Jennings stated on recross

examination that he could not say for 100 percent sure that the injury contributed to the claimant's blood pressure because it made it more difficult for him to stay in a conditioned state due to his inability to exercise and thus be able to control his weight. Dr. Jennings admitted that some people with age become deconditioned out of choice due to lack of activity thus elevating their blood pressure. Dr. Jennings then stated that he cannot say that the claimant still would not be in need of blood pressure medication regardless of his accident. On recross examination, Dr. Jennings stated that at this point the claimant needs blood pressure medication.

After review of this entire record, I find that the claimant has proven by preponderance of the evidence that his hypertension and elevated blood pressure is more likely than not a result of his compensable leg injury of 1978. The only blood pressure reading prior to the claimant's accident does indicate that he had a 140 over 90 blood pressure reading but he was in the emergency room with a beef bone sticking out of his thumb and waiting to go into surgery to have this object removed. Dr. Jennings has indicated that it is not uncommon under stressful situations and particularly where pain is present that a patient will have an elevation in their blood pressure. The medical records as well as the claimant's testimony have indicated that he had a very serious crush injury to his leg in 1978 for which he has undergone several surgeries and required consistent treatment and medication for control of pain as well as depression. With the persistence of

pain throughout the claimant's life as well as a severely altered lifestyle resulting from his compensable injury, the doctors have clearly set forth that his elevated blood pressure is a result of these problems necessitating his need for medication. Therefore, I find that the claimant's hypertension and elevated high blood pressure is a result of his compensable injury and he is entitled to medication to try and minimize or lower his blood pressure.

#### FINDINGS & CONCLUSIONS

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. On May 24, 1978, the relationship of employee-employer-carrier existed between the parties.

3. The claimant sustained a compensable injury to his left leg on May 24, 1978.

4. The claimant has proven by a preponderance of the evidence that his hypertension and elevated blood pressure is as a result of his compensable injury. See discussion above.

5. The respondents should pay for this claimant's medication for his high blood pressure.

6. The respondents have controverted the compensability of the claimant's hypertension and his need for medications for his high blood pressure.

7. The claimant's attorney is entitled to the maximum statutory attorney's fee based on the benefits awarded herein.

ORDER

The claimant has proven by a preponderance of the evidence that his hypertension and high blood pressure is as a result of his compensable injury of 1978.

The respondents should pay for the medications needed for this claimant's high blood pressure.

The respondents shall pay to the claimant's attorney the maximum statutory attorney's fee on the additional benefits awarded herein, with one half of said attorney's fee to be paid by the respondents in addition to such benefits and one half of said attorney's fee to be withheld by the respondents from such benefits.

All benefits herein awarded which have heretofore accrued are payable in a lump sum without discount.

This award shall bear the maximum legal rate of interest until paid.

IT IS SO ORDERED.

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ELIZABETH DANIELSON  
ADMINISTRATIVE LAW JUDGE