

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F107499

MAURICE L. HILTON

CLAIMANT

REID & REID CHIPPING

RESPONDENT EMPLOYER

AMERICAN INTERSTATE INSURANCE CO.

RESPONDENT CARRIER

ORDER AND OPINION FILED AUGUST 24, 2004

Hearing before Administrative Law JUDGE LINDA K. MARSHALL

Claimant represented by the HONORABLE C. BURT NEWELL, Attorney at Law, Hot Springs, Arkansas.

Respondents represented by the HONORABLE MICHAEL E. RYBURN, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

The above claim came on for a hearing in Hot Springs, Arkansas on July 30, 2004. A prehearing conference was held on May 11, 2004 and a prehearing order was filed the same date. A copy of the prehearing order was marked as Commission Exhibit No. 1 and made a part of the record without objection.

At the prehearing conference, the parties agreed to the following stipulations:

1. There was a compensable injury on June 21, 2001.
2. The compensation rates are \$410/308.
3. The respondents have accepted a 9% anatomical impairment rating and are paying this rating.

The claimant contends he has a closed head injury resulting from the automobile accident on June 21, 2001 and is entitled to medical benefits.

The respondents contend the claimant has a condition that is slowly deteriorating and is not related to the traumatic head injury. The respondents rely on an opinion from Dr. Paul Tucker. The respondents paid some initial benefits but controverted the medical on the claimant's condition causing increased dementia on December 16, 2003.

Issue to be litigated:

1. Additional medical benefits associated with a closed head injury.

From a review of the record as a whole, to include medical reports, documents and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witnesses and to observe their demeanor, the following findings of fact and conclusions of law are made in accordance with Ark. Code Ann.

§11-9-704:

**FINDINGS OF FACT
AND
CONCLUSIONS OF LAW**

1. There was a compensable injury on June 21, 2001.
2. The compensation rates are \$410/308.
3. The respondents have accepted a 9% anatomical impairment rating and are paying this rating.
4. The claimant has failed to prove by a preponderance of the evidence that the additional medical treatment for the claimant's closed head injury is reasonable and necessary and related to the June 21, 2001, vehicle accident.

DISCUSSION

The claimant, 45 years old, testified that he lives alone and can drive a car and cooks some for himself. He previously worked at Midland Railroad before beginning work with the respondent employer. The claimant was a truck driver for the respondent employer and had a motor vehicle accident on June 21, 2001, where the claimant was unconscious and sustained a cervical injury requiring surgery.

Jo Ann Thomason, claims adjuster for the insurance company, testified that all of Dr. Arthur's bills had been paid where medical reports were attached. Dr. Arthur had a couple of 2002 bills that were unpaid because he did not file them timely and include readable medical reports. Once the reports are received, those bills will be placed in line for payment. Dr. Paul Tucker was last paid in December 2003.

Employers must promptly provide medical services which are reasonably necessary for treatment of compensable injuries. Ark. Code Ann. §11-9-508(a)(Repl. 1996). However, 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 Opinion filed February 17, 1989 (Claim No. D612291). In assessing whether a given medical procedure is reasonably necessary for treatment of the compensable injury, we analyze both the proposed procedure and the condition it is sought to remedy. *Deborah Jones v. Seba, Inc.*, Full Workers' Compensation Commission Opinion filed December 13, 1989 (Claim No. D511255). Also, respondents are only responsible for medical services which are causally related to the

compensable injury.

In the present case, the claimant sustained an admittedly compensable injury where he sustained a cervical injury requiring surgery and a closed head injury. Respondents accepted the claim as compensable and paid all related benefits until December 16, 2003, when the claim was controverted regarding further treatment for the claimant's mental condition. The claimant's closed head injury or mental condition and further medical treatment is the subject of this hearing. The claimant has treated with Darlene Abernathy, APN, Dr. Bettye Hoffman and Dr. Paul Tucker. The claimant was administered the Folstein Mini Mental State Exam (MMSE) following his accident and he scored 25 on this test. On May 6, 2002, the claimant was again administered the MMSE and he scored 15 with some prompting and on December 26, 2003, the claimant was again administered the MMSE and he scored 12 without prompting. On December 26, 2003, Dr. Tucker opined that the claimant was deteriorating and this was not related to the accident. Dr. Tucker further opined that the claimant was young to have Alzheimer's Disease but that was a possibility.

Dr. Tucker was deposed on June 29, 2004 and was questioned about the MMSE scores and he opined that the claimant's scores should improve over time following a closed head injury. Dr. Tucker testified that the scores can decline if other problems are causing the dementia such as a degenerative process. The claimant has undergone a MRI, a CT scan and an EEG of the brain and all result in normal findings. Dr. Tucker opined that several things could account for the claimant's inability to improve, such as Alzheimer's disease, alcohol use, and being insulin dependent diabetic. Dr. Tucker testified that it is really difficult to say with a reasonable degree of

medical certainty that the claimant's condition resulted from his motor vehicle accident. Dr. Tucker opined that the fact that the claimant's MMSE scores were declining make it less likely that his condition is related to the accident. Dr. Tucker testified there appeared to be something going on with the claimant causing his downward progression other than his closed head injury.

After considering the claimant's testimony and the medical evidence, I find the claimant has failed to prove by a preponderance of the evidence that the additional medical treatment for his closed head injury is reasonable and necessary and related to the compensable June 21, 2001, vehicle accident. The claimant, no doubt, has some serious mental health problems; however, the medical evidence simply did not support the claimant's contention that his problems were related to the work injury.

ORDER

The claimant has failed to prove by a preponderance of the evidence that the additional medical treatment for the claimant's closed head injury is reasonable and necessary and related to the June 21, 2001, vehicle accident. The claim for benefits is respectfully denied and dismissed.

IT IS SO ORDERED.

**LINDA K. MARSHALL
ADMINISTRATIVE LAW JUDGE**