

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F108048

CAROLYN SANDERS	CLAIMANT
SOUTH ARK. YOUTH SERVICES, INC.	RESPONDENT
AIG INSURANCE CARRIER	RESPONDENT

OPINION FILED JUNE 18, 2004

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

Claimant represented by R. GUNNER DELAY, Attorney, Fort Smith, Arkansas.

Respondents represented by JOHN TALBOT, Attorney, Pine Bluff, Arkansas.

STATEMENT OF THE CASE

A hearing was held on April 15, 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 March 11, 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 28, 2002, the relationship of employee-employer-carrier existed between the parties.

3. The claimant sustained a compensable injury to her low back on May 28, 2002.

4. Medical expenses have been paid to date.

5. The respondents accepted and paid a 6 percent impairment rating.

6. The claimant is entitled to a weekly compensation rate of \$280.00 for temporary total disability.

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

1. Additional medical.

In regard to the foregoing issues the claimant contends that the respondents have wrongfully denied her additional medical treatment.

In regard to the foregoing issues the respondents contend that the claimant is not entitled to additional benefits.

The documentary evidence submitted in this matter consists of the Commission's pre-hearing order marked Commission's Exhibit No.

1. This exhibit was admitted without objection.

DISCUSSION

The claimant testified and it has been stipulated by the parties that she sustained a compensable injury to her low back on May 28, 2002. The claimant testified that Dr. Martinbeau, an orthopedic surgeon, treated her for her compensable injury and ultimately assigned her a 6 percent impairment rating which was paid out by the respondent.

The claimant testified that she resigned her position with the respondent on August 5, 2003, but she is currently working for the Leflore County Children's Advocacy Network in Poteau, Oklahoma. The claimant testified that she has continued to have moderate back

pain on a daily basis and sometimes it gets so severe it affects her ability to walk. The claimant testified that when this pain is severe it causes her to walk stooped over and she has spasms down the back of her legs, her feet go to sleep and it is hard for her to get around. The claimant testified that in January 2004 her discomfort had gotten so great she attempted to return to her authorized treating physician, Dr. Martinbeau, but was not authorized by the carrier to see the doctor. The claimant testified that she also has not been allowed to have prescriptions for pain medication or anti-inflammatories. The claimant testified that these medications have helped her in the past and that the physical therapy prescribed by Dr. Martinbeau benefitted her problems. The claimant testified that she is seeking additional medical treatment in order to address her symptoms from her low back injury.

On cross examination, the claimant agreed that in her deposition she had verified that Dr. Martinbeau had released her and that on that day she was not having problems with her back and she was not taking medications.

On redirect examination, the claimant testified that when Dr. Martinbeau released her it was not a release not to come back and see him. The claimant stated that the doctor had returned her to work with lifting restrictions and relaxed the number of overtime hours she could work. The claimant stated, "I mean he left it open and said, when you need me, come back and see me." The claimant testified that in fact she did return to see Dr. Martinbeau within

a few months following her release and agreed on re-cross examination that that follow up visit was paid for by the respondent.

After a review of this file and the testimony given herein, I find that the claimant has proven by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable injury. The claimant and the respondents have stipulated that she sustained a compensable low back injury and was assessed a 6 percent impairment rating which was also accepted by the respondent and paid out. The claimant testified that following her release from active treatment by Dr. Martimbeau she has in fact returned to him for treatment and that currently her symptoms have increased to where she feels that she is in need of additional treatment. The claimant has testified that Dr. Martinbeau's treatment with medications as well as physical therapy has been beneficial to her in the past. It is noted that all meds to date have been paid by the respondent but I find that the claimant is entitled to additional medical treatment with Dr. Martimbeau for her compensable low back injury.

FINDINGS & CONCLUSIONS

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

2. On May 28, 2002, the relationship of employee-employer-carrier existed between the parties.

3. The claimant sustained a compensable injury to her low back on May 28, 2002.

4. Medical expenses have been paid to date.

5. The respondents accepted and paid a 6 percent impairment rating.

6. The claimant is entitled to a weekly compensation rate of \$280.00 for temporary total disability.

7. The claimant has proven by a preponderance of the evidence that she is entitled to additional medical treatment with Dr. Claud Martinbeau. See discussion above.

ORDER

The claimant has proven by a preponderance of the evidence that she is entitled to additional medical treatment by Dr. Claude Martinbeau.

IT IS SO ORDERED.

ELIZABETH DANIELSON
ADMINISTRATIVE LAW JUDGE