

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F302103

FLORENCE LAWRENCE

CLAIMANT

ST. EDWARD MERCY MEDICAL CENTER

RESPONDENT

SISTERS OF MERCY HEALTH CARE,
INSURANCE CARRIER

RESPONDENT

OPINION FILED APRIL 14, 2005

Hearing before ADMINISTRATIVE LAW JUDGE MICHAEL L. ELLIG in Fort Smith, Sebastian County, Arkansas.

Claimant represented by EDDIE WALKER, JR., Attorney, Fort Smith, Arkansas.

Respondents represented by RANDY MURPHY, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above styled claim on January 25, 2005, in Fort Smith, Arkansas. The deposition of Dr. Terry Clark was taken on February 13, 2004, and has been admitted as Respondent's Exhibit No. 3.

A pre-hearing order was entered in this case on December 1, 2004. This pre-hearing order set out the stipulations offered by the parties and outlined the issues to be litigated and resolved at the present time. A copy of the pre-hearing order was made Commission's Exhibit No. 1 to the hearing.

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

1. On September 12, 2002, the relationship of employee-self insured employer existed between the parties.
2. The appropriate weekly compensation rates are \$425.00 for total disability and \$319.00 for permanent partial disability.
3. On September 12, 2002, the claimant sustained a compensable injury to her back.
4. There is no dispute over the payment of accrued medical expenses.

5. There is no dispute over the payment of temporary total disability benefits.

By agreement of the parties, the issue to be litigated and resolved at the present time was limited to the following:

1. The claimant's entitlement to recommended MRI.

In regard to this issue, the claimant contends that she is entitled to the diagnostic MRI recommended by Dr. Rogers.

In regard to this issue, the respondents contend:

"Respondents contend that claimant has received all benefits to which she is entitled."

DISCUSSION

_____The sole issue presented is the question of the claimant's entitlement to receive a lumbar MRI study at the respondents expense. The burden rests upon the claimant to prove that this particular medical service represents a "reasonably necessary medical service" for the purposes of Ark. Code Ann. §11-9-508.

A medical service is "reasonably necessary" when it is connected with or necessitated by the compensable injury and has a reasonable expectation of accomplishing the purpose or goal for which it is intended. In the present case, the disputed MRI was recommended by Dr. James Rogers in his office notation of May 6, 2004. In this same report, Dr. Rogers notes the purpose of the claimant's visit for a "follow up" on her employment related injury at St. Edwards on September 12, 2002. Unfortunately, and most importantly, Dr. Rogers did not give any reason as to why he felt that another lumbar MRI was necessary or medically appropriate.

The record shows that Dr. Rogers is apparently the claimant's family physician. Although the claimant had consulted him in the past with her back difficulties (as well as other complaints), he was not one of her principle treating physicians for her compensable injury.

There is no evidence that any of the claimant's principle treating physicians for her compensable back injury concur with Dr. Rogers, in regard to the need for another lumbar MRI study. In fact, the majority of the claimant's principal treating physicians have indicated that no further evaluation of the nature and extent of her compensable injury is necessary or medically appropriate.

The claimant has had extensive diagnostic studies to accurately ascertain the nature and extent of her compensable injury. These studies include a myelogram with an accompanying enhanced CT scan and two lumbar MRI studies. The second MRI study was not actually necessitated directly by the claimant's compensable back injury, but was performed in order to accurately diagnose the nature and extent of a compensable consequence that took the form of an infection of the injection site of an epidural steroid injection which had been given as treatment for the compensable back injury. However, there appeared to be no change in the second study in regard to the noted lumbar defects. The claimant has also undergone electrodiagnostic testing in the form of nerve conduction velocity studies and electromyography of her lower extremities.

The greater weight of the evidence presented shows that the claimant has been provided with ample diagnostic testing and evaluation to reasonably insure an accurate assessment of the nature and extent of the claimant's compensable injury of September 12, 2002. There is no reason to believe that a third MRI would serve any useful purpose. Therefore,, the recommended lumbar MRI would not have a reasonable expectation of accomplishing any beneficial purpose. Such a study would not constitute "reasonably necessary medical services", under Ark. Code Ann. §11-9-508. As a result, the respondents cannot be held liable for the expense of this study.

FINDINGS OF FACT & CONCLUSIONS OF LAW

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

claim.

2. On September 12, 2002, the relationship of employee-self insured employer existed between the parties.
3. On September 12, 2002, the claimant earned wages sufficient to entitle her to weekly compensation benefits of \$425.00 for total disability and \$319.00 for permanent partial disability.
4. On September 12, 2002, the claimant sustained a compensable injury to her lower back and lumbar spine.
5. There is no dispute over the payment of accrued medical expenses.
6. There is no dispute over the payment of accrued temporary total disability benefits.
7. The claimant has failed to prove that the lumbar MRI scan recommended by Dr. James Rogers constitutes "reasonably necessary medical services" for her compensable injury. Thus, the respondents cannot be held liable for the expense of such services.
8. The respondents have controverted the claimant's entitlement to receive, at their expense, an additional lumbar MRI.

ORDER

Based upon my foregoing findings and conclusions, I have no alternative but to deny the claimant's request that the respondents be held liable for the expense of an additional lumbar MRI that had been recommended by Dr. James Rogers. Her claim for these additional benefits is dismissed.

IT IS SO ORDERED.

MICHAEL L. ELLIG
Administrative Law Judge

