

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F506898

WILLIAM DUNAVAN	CLAIMANT
COMSTAR ENTERPRISES	RESPONDENT
PROVIDENCE PROPERTY & CASUALTY CO. INSURANCE CARRIER	RESPONDENT

OPINION FILED MARCH 24, 2006

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH DANIELSON in Springdale, Washington County, Arkansas.

Claimant represented by CONRAD ODOM appearing for EVELYN BROOKS, Attorney, Fayetteville, Arkansas.

Respondents represented by MICHAEL WHITE, Attorney, North Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on February 21, 2006, in Springdale, Arkansas.

A pre-hearing conference was held in this claim, and as a result a pre-hearing order was entered in the claim on January 13, 2006. 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 all pertinent dates, the relationship of employee-employer-carrier existed between the parties.

3. The claimant sustained a compensable injury to his lower right leg.

4. The claimant is entitled to a weekly compensation rate of \$466.00 for temporary total disability.

5. Medical expenses have been paid to June 27, 2005.

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 he was injured on March 7, 2005. His lower right leg was injured while he was helping with a dock-plate malfunction.

In regard to the foregoing issues the respondents contend that they have paid all benefits to which the claimant is entitled.

The documentary evidence submitted in this matter consists of the Commission's pre-hearing order marked Commission's Exhibit No., 1. The respondents submitted a packet of documentary evidence marked Respondents' Exhibit No. 1. All these exhibits were admitted without objection.

DISCUSSION

The claimant testified that he was forty-six years old and last worked for Bob's Road Service repairing trucks. The claimant agreed that in March 2005 he was working for the respondent as a truck driver. It has been stipulated by the parties that the claimant sustained a compensable injury to his lower right leg while working for the respondent and that all of his medical expenses have been paid up to June 27, 2005, for the treatment of his compensable injury. The claimant testified that the injury to his right leg was below the knee. The claimant stated that

initially his wound was cleaned, bandaged and he was given antibiotics. The claimant testified that from the date of his injury on March 17, 2005, through July 20, 2005, he was at Washington Regional Medical Center almost every day for treatment of his wound. The claimant explained that the dressings were changed, the wound was cleaned and it was then redressed. The claimant testified that his leg has been extremely painful and although he can walk on it, it is difficult. The claimant testified that laying down and propping his leg up helps with the discomfort that he feels with his leg. The claimant testified that he has had two surgeries on his leg and although it still hurts it is bearable.

The claimant testified that after he finished his wound care he was released to go back to work. The claimant testified that he has not redamaged his leg in any way but that the pain from his leg makes him sick. The claimant testified that the only thing that will help make his leg feel better is to be able to lie down and prop it up. The claimant stated that he is never pain free but if he is not doing anything it is not as bad. The claimant testified that after he began driving a truck again he was coming back from Michigan and the pain in his leg got so intense he got physically ill and could not focus. The claimant testified that he pulled over so he could lay down and prop his leg up and because of this he was given a ticket for illegally parking. The claimant testified that the respondents have sent him for an independent medical examination and during this evaluation he was cooperative.

The claimant testified that this IME doctor did not prescribe additional treatment. The claimant testified that he would like to go back to a doctor to see if there is any treatment that could be done to alleviate his pain.

On cross examination, the claimant agreed that during his deposition he was asked how he would rate his pain on a scale of one to ten and he responded a 55. The claimant agreed that when he was released to return to work he was released with no work restrictions. The claimant further agreed that the day he was released he started driving again for the respondent. The claimant testified that he returned to the wound center on July 10, 2005, for treatment and then returned to work for the respondent following this date. The claimant testified that he stopped working for the respondent because of the pain. The claimant agreed that shortly after he quit work he moved to Indiana where he began doing diesel work. The claimant testified that because of his leg he had problems doing this diesel repair work. The claimant agreed that even though he has private health insurance he did not attempt to obtain any treatment for his leg nor did he ask the respondents to provide treatment for his leg. The claimant also agreed that in his deposition he testified that he did not feel that there was any kind of treatment that would help alleviate the pain in his leg. The claimant also stated that in his deposition he has set forth that he did not get medical treatment for his leg on his group health insurance because he did not feel like it was their responsibility. The claimant agreed that he did

not attempt to get any kind of medical treatment even though he was experiencing pain that was so severe that he could not perform the normal activities of his daily life. The claimant testified that prior to his injury, although he does not recall the date, he sustained an injury to his right shoulder and his right leg below the knee. The claimant testified that he had surgery on his right leg to treat a blood clot. The claimant testified that he is very safety conscious when driving his truck and that is why he does not take his pain meds when driving. The claimant was asked if he did not think driving his truck with a level of pain at a rating of 55 was a safety concern and the claimant responded that he did not know at the time what kind of affect driving his truck was going to have on his leg. The claimant stated that it was not until after he was out on the road that he realized what kind of pain he was going to experience.

On redirect examination, the claimant testified that Dr. Kelly watts is his family physician in Indiana and he tried to get the workers' compensation carrier to authorize her to treat his leg. The claimant agreed that he in fact did try to get medical treatment for his leg but that the respondents would not authorize it. The claimant testified that after he had treatment for a blood clot in his leg he had no lingering problems with it. The claimant guesstimated that this blood clot problem was some three to four years prior to his accident. The claimant recalled that when he was returning to Arkansas on his last run he requested a change of physician and was turned down by the respondents.

The medical records set forth that the claimant was seen by Dr. Ronald Bertram on March 17, 2005, for a laceration to his right leg. It is noted that the claimant's leg is red, swollen and painful. After examination, the claimant was assessed with cellulitis of his right leg from a blunt trauma. A venous doppler right lower extremity was scheduled and warm compresses to the affected area were recommended as well as to rest and elevate the leg. Medications were also prescribed. The claimant was seen by Dr. Bertram on March 22, March 23 and March 29 for treatment of his right leg. On March 29 the claimant was referred to the wound center for debridement and further care of his right leg. On March 31, 2005, the claimant was seen at the Washington Regional Medical Center Wound Care Clinic. A debridement was performed and it is noted that there was a minimal amount of drainage noted and no purulen discharge from the wound. An accuzyme dressing with dekins damp gauze topping was applied and this was to be done daily. The claimant continued treatment for his right leg at the Washington Regional Medical Center by Dr. Ronald Mullis and he also had wound treatment by Dr. Jeffery Kellar. The medical records set forth that the claimant went through extensive, dramatic treatment for his wounds and was instructed on VAC care and use and once again the claimant's wound was opened surgically. The claimant's wound treatment continued on through April and May 2005. On June 27, 2005, the claimant was seen by Dr. Kellar for treatment and the doctor returned him to work with no restrictions and regular duty. The claimant was seen at the Regional Wound Care Clinic on July 20,

2005, where it is indicated that his wound has not healed and that his dressing was changed. The clinician writes that Xenaderm and Periound were applied to the wound base and topped with Silver Foam. It is also noted that the wound was secured with Hypafix and that the claimant is to return in one week.

After a complete review of this entire matter, I find that the claimant has proven by a preponderance of the evidence that he is entitled to additional medical treatment for his compensable injury to his lower right leg. The claimant sustained a traumatic injury which was accepted by the respondents as compensable and medical treatment was provided to this claimant up through June 27, 2005. On June 27, 2005, the claimant was returned to work with no restrictions. The claimant was then seen at the wound center for a dressing change on July 20, 2005, where it is noted that his wound has not healed and he is to return for another treatment or dressing change in one week. The claimant has testified that he has continued to have problems with his right leg and that he has sought medical treatment for his leg but that his requests for medical treatment were denied by the respondents. It is noted that the claimant had moved out of state and that the claimant was requesting treatment by his local physician in Indiana. I find that this claimant has proven by a preponderance of the evidence that he is entitled to additional medical treatment and in fact is in need of additional medical treatment for his compensable injury. The respondents should pay for all reasonable and necessary medical

treatment for this claimant's compensable right leg injury subsequent to June 27, 2005.

FINDINGS & CONCLUSIONS

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

2. On all pertinent dates, the relationship of employee-employer-carrier existed between the parties.

3. The claimant sustained a compensable injury to his lower right leg.

4. The claimant is entitled to a weekly compensation rate of \$466.00 for temporary total disability.

5. Medical expenses have been paid to June 27, 2005.

6. The claimant has proven by a preponderance of the evidence that he is entitled to additional medical treatment for his compensable injury. See discussion above.

ORDER

The claimant has proven by a preponderance of the evidence that he is entitled to additional medical treatment for his compensable right leg injury. The respondents, therefore, should pay for all reasonable and necessary medical treatment for this claimant's compensable injury.

IT IS SO ORDERED.

ELIZABETH DANIELSON
ADMINISTRATIVE LAW JUDGE