

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM F606590

**JEFFREY JAMES GRIFFITH,
EMPLOYEE**

CLAIMANT

**RENT A CENTER
EAST, INC.,
EMPLOYER**

RESPONDENT

**FIDELITY & GUARANTY
INSURANCE COMPANY,
INSURANCE CARRIER**

RESPONDENT

OPINION FILED JUNE 29, 2007,

Pursuant to a hearing conducted June 28, 2007, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Mr. M. Keith Wren, Attorney at Law, Little Rock, Arkansas, appearing for the claimant and

Mr. Michael E. Ryburn, Attorney at Law, Little Rock, Arkansas, appearing for the respondents.

STATEMENT OF THE CASE

This was a hearing to consider the claimant's request for additional medical benefits related to his admittedly compensable low back injury.

The claimant's specific request was for additional medical care recommended by Dr. Christopher K. Mocek, including a radio frequency procedure to isolate the source of his pain.

The respondents contended that the requested medical care was not reasonably necessary in connection with the claimant's compensable injury.

The record, which included documentary evidence and the testimony of the claimant, was closed at the conclusion of the hearing consistent with the Prehearing Order and Ark. Code Ann. §11-9-715(c).

Based upon the record as a whole, and without giving the benefit of the doubt to any party, as required by the Act, the following findings of fact and conclusions of law are hereby made:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction of the parties and subject matter of this claim.

2. Pursuant to the stipulations of the parties and the record, the employee-employer-insurance carrier relationship existed at all pertinent times; the claimant suffered a compensable low back injury June 1, 2006; and his average weekly wage was \$543.00.

3. The radio frequency procedure, recommended by Dr. Mocek, claimant's current treating physician, is reasonably necessary in connection with his compensable injury and may be performed at the expense of the respondents.

DISCUSSION

The claimant, 44 years of age at the time of the hearing, suffered a low back injury during his employment as an assistant store manager for the respondent employer when, while attempting to move a sofa, he twisted and felt sharp pain in his back and noticed that his right leg had begun to tremble.

After initial emergency room treatment, the claimant was sent by the respondents to Dr. Brent Sprinkle, an osteopathic physician, whose care included steroid injection therapy and physical therapy. The claimant testified that the injection therapy caused more pain and the physical therapy did not help. A June 12, 2006, MRI scan report indicated generative disc disease at L5-S1 and evidence of an annular tear and a small central and slightly left disc herniation without nerve root impingement. On September 27, 2006, Dr. Sprinkle wrote that the claimant was suffering from

degenerative disc disease, lumbar strain, and lumbar myofascial pain, but had reached maximum medical improvement and he suggested a return to less physically demanding work. The claimant testified that Dr. Sprinkle said he could not help him anymore.

The claimant continued to experience symptoms which he felt might benefit from additional medical care. Accordingly, he requested a change of physician and an Order was entered December 15, 2006, naming Dr. Christopher K. Mocek as the claimant's treating physician.

After examining the claimant on January 18, 2007, Dr. Mocek opined that the claimant's pain was consistent with lumbar facet arthritis pain in the low back and also discogenic pain with sitting intolerance. He recommended a radio frequency procedure of the facet nerves bilaterally and if the claimant's condition improves, he would recommend physical therapy. If the claimant continues to have sitting intolerance, he would recommend IDET as additional treatment. He further recommended against lifting over 25 pounds indefinitely, due to the risk of further disc injury. The respondents, who had previously terminated payment of benefits September 27, 2006, when the claimant was released by Dr. Sprinkle, denied the additional care suggested by Dr. Mocek.

Ark. Code Ann. §11-9-508 requires the employer to provide such medical care as may be reasonably necessary in connection with the claimant's compensable injury. The respondents do not contend that the claimant was not injured, but merely that he is not entitled to additional medical care to relieve his continuing symptoms. Dr. Mocek has recommended a course of treatment that was apparently not available from Dr. Sprinkle but appears to be reasonably necessary in connection with the claimant's compensable injury and continuing symptoms.

Accordingly, the claimant is entitled to undergo lumbar radio frequency procedure bilaterally, at the expense of the respondents.

The attorney's fee provision that applies to this case generally requires a contract between claimant's counsel and medical providers, an arrangement which medical providers typically, as here, have found unnecessary for collecting their fees. Accordingly, no attorney's fee is awarded.

AWARD

Pursuant to the foregoing opinion and the law, the respondents are ordered and directed to pay medical benefits on behalf of the claimant.

IT IS SO ORDERED.

RICHARD B. CALAWAY
Administrative Law Judge