

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 JUNE 11, 2007

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 April 3, 2007, in Fort Smith, Arkansas. A pre-hearing order was entered in this case on February 20, 2007. 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. The Opinion of November 30, 2005, has become final and is res judicata of all issues addressed therein.

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

1. The claimant's entitlement to additional medical services.

In regard to these issues, the claimant contends:

“a. The claimant contends that although the claimant’s authorized physician, Dr. James Rochelle, has recommended pain management through Dr. Rogers, the respondents have refused to authorize the recommended treatment. Further, the claimant contends that Dr. Rogers has closed his office and therefore, is no longer available to provide medical care; thus, if for some reason the Commission finds that Dr. Rogers is not the appropriate person to provide pain management some other physician should be designated by the Commission to provide the recommended care.

b. The claimant contends that her attorney is entitled to an appropriate attorney’s fee.”

In regard to these issues, the respondents have stated no contentions.

DISCUSSION

The sole issue presented for resolution is whether the claimant is entitled to additional medical services. These services appear to be in the form of periodic monitoring of the claimant’s long term medication. The burden rests upon the claimant to prove that these medical services are “reasonably necessary” for her compensable injury.

“Reasonably necessary medical services” are those medical services that are necessitated by or are connected with the compensable injury. Such services must also have a reasonable expectation of accomplishing the purpose or goal for which they are rendered.

In the present case, the medical services which appear in dispute consist of the services of Dr. James Rogers, a general practitioner. These services are in the form of periodic evaluations and the monitoring of medications for the claimant’s

long term chronic symptoms. These medical services would also consist of prescribing the actual medication needed.

The medical evidence presented shows that the claimant has experienced a permanent injury to her lumbar spine that will never completely resolve. The various specialists, who have evaluated and treated the claimant, have concluded that no further aggressive medical treatment, such as surgery, would have a reasonable expectation of either reducing the actual physical damage caused by the compensable injury or even reducing the claimant's chronic symptoms. These specialists have further indicated that the claimant has reached maximum medical improvement and that the damage caused by the compensable injury has stabilized. However, all of the physicians, who have seen or evaluated the claimant, have also concluded that the claimant is in need of a long term program of medical maintenance for the chronic symptoms resulting from her permanent injury. Such a program of medical maintenance would consist of periodic evaluations to monitor the status of the claimant's chronic symptoms and the effectiveness of the conservative treatment modalities being provided. Such long term programs of medical maintenance are generally recognized and commonly employed in cases of permanent injuries and chronic complaints, such as those experienced by the claimant.

Dr. James Rochelle, the claimant's last authorized treating specialist, specifically stated (in his report of August 11, 2005) that the claimant should continue her chronic pain management program through Dr. Rogers. Clearly, it was Dr. Rochelle's expert

opinion that such a long term pain management program was medically appropriate and reasonably necessary and that Dr. Rogers (a general practitioner) was an appropriate provider of these services.

“Reasonably necessary medical services”, under Ark. Code Ann. §11-9-508, are not limited to those medical services provided during the healing period and intended to resolve or stabilize the actual physical damage caused by the compensable injury. Medical services, which are rendered after the healing period, may also be “reasonably necessary”, if they are necessitated by or connected with the compensable injury and have a reasonable expectation of accomplishing the purpose or goal for which they are intended. In the present case, the medical services being provided the claimant by and at the direction of Dr. James Rogers for the management of the claimant’s chronic pain and associated symptoms, which result from her compensable injury, are medically appropriate and reasonably necessary in order to maintain the claimant’s current level of relief and functioning. As such, these medical services represent “reasonably necessary medical services” under Ark. Code Ann. §11-9-508. Pursuant to the provisions of this subsection, the respondents are liable for the expense of these services. This liability is subject to the medical fee schedule established by this Commission.

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 sustained a compensable injury to her lumbar spine.

4. The claimant has proven by the greater weight of the credible evidence that the medical services being provided her by and at the direction of Dr. James Rogers, in the form of monitoring and prescribing appropriate medication for the control of her chronic pain and associated symptoms, represents "reasonably necessary medical services" under Ark. Code Ann. §11-9-508. Pursuant to the provisions of this subsection, the respondents are liable for the expense of these services, subject to the medical fee schedule established by this Commission.

5. The respondents have controverted the claimant's entitlement to any additional medical services.

6. As no controverted benefits have been awarded directly to the claimant, no controverted attorney's fee can be awarded to the claimant's attorney.

ORDER

The respondents are liable for the expense incurred by the claimant as the result of medical services provided her by and at the direction of Dr. James Rogers for the management of her chronic pain and associated symptoms. This liability is subject to the Commission's medical fee schedule.

All benefits herein awarded, which have heretofore accrued, are payable in a lump sum without discount.

This award shall bear the maximum legal rate of interest until paid.

IT IS SO ORDERED.

MICHAEL L. ELLIG
ADMINISTRATIVE LAW JUDGE