

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F107847

VINCENT BRADLEY, EMPLOYEE	CLAIMANT
SINGLE SOURCE TRANSPORTATION, EMPLOYER	RESPONDENT
FIDELITY & GUARANTY INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT

OPINION FILED AUGUST 18, 2003

Upon review before the FULL COMMISSION, Little Rock, Pulaski County, Arkansas.

Claimant represented by HONORABLE RONALD MARC CHAUFY,
Attorney at Law, Texarkana, Texas.

Respondent represented by HONORABLE WILLIAM C. FRYE,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The claimant appeals from a decision of the
Administrative Law Judge filed November 12, 2002.

The Administrative Law Judge entered the following
findings of fact and conclusions of law:

1. The stipulations agreed to by the parties at the prehearing telephone conference conducted on July 1, 2002, and contained in the Prehearing Order filed that same date are hereby accepted as fact.

2. Claimant earned an average weekly wage of \$477.75, which computes to a temporary total disability rate of \$319.00 per week.

3. Claimant requested and was granted a change of physician from Dr. Reginald Rutherford to Dr. Lon Burba through an order issued February 27, 2002.

4. Claimant has failed to prove by a preponderance of the evidence that the medical treatment recommended by Dr. Burba is reasonably necessary in connection with his compensable injury.

5. Claimant has proven by a preponderance of the evidence that he was within his healing period and totally incapacitated from earning wages from March 28, 2002, through April 16, 2002.

6. Claimant has failed to prove by a preponderance of the evidence that he remains within his healing period and totally incapacitated from earning wage from October 3, 2001, through the present with the exception of that period set forth in the previous filing.

7. Claimant received knowledge, either actual or constructive, of the change of physician rights when he petitioned the Commission on December 7, 2001 for a change of physician.

8. There is no evidence that the claimant had either actual or constructive knowledge of his change of physician rights prior to December 7, 2001, therefore the preponderance of the evidence demonstrates that the Change of physician rules do not apply prior to claimant receiving notice.

9. Claimant has failed to prove by a preponderance of the evidence that the respondents controverted his entitlement to additional medical treatment after he was released by Dr. Rutherford.

10. Respondents are liable for the medical treatment claimant received from Dr. Covert and through his referrals

after claimant was released by Dr. Rutherford and prior to claimant filing a request for a change of physician.

11. After receiving knowledge of claimant's medical treatment through Dr. Covert and his referrals, respondents controverted claimant's entitlement to such treatment.

We have carefully conducted a de novo review of the entire record herein and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

JOE E. YATES, Commissioner

Commissioner Turner dissents.