

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F103000

TOBY MARKHAM,
EMPLOYEE

CLAIMANT

SUTTON LUMBER, INC.,
EMPLOYER

RESPONDENT

BITUMINOUS CASUALTY CORPORATION,
INSURANCE CARRIER

RESPONDENT

OPINION FILED NOVEMBER 15, 2004

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

Claimant represented by HONORABLE SHANNON MUSE CARROLL,
Attorney at Law, Hot Springs, Arkansas.

Respondents represented by HONORABLE RANDY MURPHY, Attorney
at Law, Little Rock, Arkansas.

Decision of the Administrative Law Judge: Reversed.

OPINION AND ORDER

The above-styled matter is back before the Full
Commission upon remand from the Arkansas Court of Appeals.
Markham v. Sutton Lumber Co., CA04-59 (Ark. App. October 27,
2004).

The Administrative Law Judge found that claimant was
not entitled to additional medical treatment but did not
address the change of physician request. The Full
Commission's opinion affirmed and adopted the Administrative
Law Judge's order.

The Arkansas Court of Appeals reversed and
remanded this case with directions for the Full Commission
to grant the change of physician request. We find that

claimant is entitled to a one-time change of physician. Ark. Code Ann. § 11-9-514(a)(3)(A)(ii). Wal-Mart Stores, Inc. v. Brown, 82 Ark. App. 600, 120 S.W.3d 153(2003).

Therefore, we reverse the opinion of the Administrative Law Judge. Respondents must pay for the initial visit to the new physician in order to fulfill their obligation to provide adequate medical services under the provisions of Ark. Code Ann. § 11-9-508. Wal-Mart Stores, Inc. v. Brown, supra.

Since the claimant's injury occurred prior to July 1, 2001, the claimant's attorney's fee is governed by Ark. Code Ann. § 11-9-715(b)(2)(Repl. 1996) and the attorney is hereby awarded two hundred fifty dollars (\$250). For prevailing on this appeal on the issue of change of physician, claimant's attorney is hereby awarded an additional attorney's fee of two hundred dollars (\$200) in accordance with Ark. Code Ann. § 11-9-715(c)(1)(Repl. 1996).

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

KAREN H. MCKINNEY, Commissioner