

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F107847**

<b>VINCENT E. BRADLEY, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>SINGLE SOURCE TRANSPORTATION CO., EMPLOYER</b>	<b>RESPONDENT</b>
<b>FIDELITY &amp; GUARANTY INSURANCE CO., CARRIER</b>	<b>RESPONDENT</b>

**ORDER FILED JULY 14, 2005**

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

Claimant is not represented by counsel, but appears pro se.

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

**ORDER**

Presently before the Commission is claimant's Motion to Submit New Evidence or Motion to Remand to the Administrative Law Judge. After consideration of the claimant's motion, respondents' response thereto, and all other matters properly before the Commission, we find that the motion should be denied.

A hearing was held before the Administrative Law Judge on December 2, 2004, to determine whether additional medical treatment was reasonable and necessary medical treatment in connection with the claimant's compensable injury. In an opinion filed December 30, 2004, the Administrative Law Judge found that the claimant failed to

establish by a preponderance of the evidence that additional medical treatment was reasonably necessary in connection with his injury. The claimant filed a Notice of Appeal from this finding.

The claimant has continued to obtain medical treatment from Dr. Lon Burba. Through his motion claimant seeks to introduce medical reports and referral for medical treatment that have been generated by Dr. Burba since the hearing in this claim. It has long been held that in order to introduce new or additional evidence after a claim has been decided the moving party must show that the newly discovered evidence: (1) is relevant; (2) is not cumulative; (3) would change the result; and (4) the party seeking to introduce the evidence was diligent. Haygood v. Belcher, 5 Ark. App. 127, 633 S.W.2d 391 (1982). The medical reports the claimant seeks to introduce are clearly new evidence and contain new recommendations for medical treatment than those made prior to the hearing. Thus, we find that this evidence is not relevant to the issue of whether the treatment sought at the time of the December 2, 2004, hearing was reasonable and necessary. Accordingly, we find that the claimant has failed to overcome the first hurdle in order to submit additional evidence on appeal. In our opinion, the evidence claimant seeks to introduce addresses a new means of

treatment. The respondents have not been provided the opportunity to conduct discovery into whether this treatment is reasonable and necessary in connection with the claimant's compensable injury. Therefore, we find that the claimant's motion to introduce additional evidence must be denied.

We further find that claimant's motion to Remand to the Administrative Law Judge must be denied. Treatment sought prior to the hearing and treatment sought subsequent to the hearing are two separate and distinct issues. The issue of whether claimant may receive the occipital nerve blocks is not related to the issues presently pending on appeal. Therefore, we find that the claimant's motion to remand must be, and hereby is denied. The claimant may proceed with a subsequent hearing on this new medical treatment after the present claim has been settled on appeal.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.