

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Patricia Chambers v. Jackson County Commission

No. 14-0651 (BOR Appeal No. 2049005; Claim No. 2008025620) · No. No. 14-0651 (BOR Appeal No. 2049005; Claim No. 2008025620) · Decided November 4, 2015

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Patricia Chambers’s request to reopen her workers’ compensation claim for temporary total disability benefits. The court held that the evidence did not establish that her anterior cruciate ligament tear and resulting surgery were related to the compensable 2007 left knee sprain. The court concluded that the Board of Review’s decision was not legally or factually erroneous.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Margaret L. Workman; Justice Robin J. Davis; Justice Brent D. Benjamin; Justice Allen H. Loughry II; Justice Menis E. Ketchum
JURISDICTION	West Virginia
DECIDED	November 4, 2015
DOCKET	No. 14-0651 (BOR Appeal No. 2049005; Claim No. 2008025620)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner's appeal from the West Virginia Workers' Compensation Board of Review's order affirming the Office of Judges' order that affirmed the claims administrator's denial of her application to reopen the claim for temporary total disability benefits.
STANDARD OF REVIEW	The Court affirmed unless the Board of Review's decision was in clear violation of a constitutional or statutory provision, clearly resulted from erroneous conclusions of law, or was based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Unpublished memorandum decision; limited precedential value
PARTIES	Patricia Chambers v. Jackson County Commission

TOPICS

workers compensation

judicial review of agency action

administrative law

appellate procedure

standard of review

PRACTICE AREAS

workers compensation

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether the workers' compensation claim should be reopened to add an anterior cruciate ligament tear and meniscus tear as compensable diagnoses.
2. Whether petitioner was entitled to temporary total disability benefits for recovery from the anterior cruciate ligament reconstruction surgery.
3. Whether the Board of Review's decision was clearly erroneous under the applicable standard of judicial review.

HOLDINGS

1. The claim was properly not reopened because the evidence did not establish that the anterior cruciate ligament tear, meniscus tear, or related disability was an aggravation or progression of the compensable 2007 left knee sprain.
2. Temporary total disability benefits were properly denied because the surgery and resulting period of disability were not related to a compensable injury under the claim.
3. The Board of Review's decision was not in clear violation of a constitutional or statutory provision, did not clearly result from an erroneous conclusion of law, and was not based on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

“Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error.” (at 1)

“For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of any constitutional or statutory provision, nor is it clearly the result of erroneous conclusions of law, nor is it based upon a material misstatement or mischaracterization of the evidentiary record.” (at 3)

FACTUAL BACKGROUND

Patricia Chambers injured her left knee while working as a janitor for Jackson County Commission on December 18, 2007, and the claim was accepted only for a left knee sprain. She returned to work and received no medical treatment for the left knee for several years. In 2013, an MRI suggested an anterior cruciate ligament injury and a degenerative meniscus tear, and she underwent anterior cruciate ligament reconstruction surgery that was not authorized or covered under the claim. She then sought to reopen the claim for additional compensable diagnoses and temporary total disability benefits during her surgical recovery.

PROCEDURAL HISTORY

The claims administrator accepted the 2007 injury as a left knee sprain and closed the claim for temporary total disability benefits after determining that the injury caused no more than three days of disability. After petitioner underwent anterior cruciate ligament reconstruction surgery in 2013, she sought to reopen the claim and add a meniscus tear and old anterior cruciate ligament disruption as compensable diagnoses and to obtain temporary total disability benefits. The claims administrator denied the request; the Office of Judges affirmed, the Board of Review affirmed, and the Supreme Court of Appeals of West Virginia affirmed the Board.

DISPOSITION

affirmed

OPINION

PER CURIAM.

STATE OF WEST VIRGINIA FILED SUPREME COURT OF APPEALS November 4, 2015 RORY L. PERRY II, CLERK SUPREME COURT OF APPEALS PATRICIA CHAMBERS, OF WEST VIRGINIA Claimant Below, Petitioner vs.) No. 14-0651 (BOR Appeal No. 2049005) (Claim No. 2008025620) JACKSON COUNTY COMMISSION, Employer Below, Respondent MEMORANDUM DECISION Petitioner Patricia Chambers, by Otis R. Mann Jr, her attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review.

Jackson County Commission, by Alyssa A. Sloan, its attorney, filed a timely response. This appeal arises from the Board of Review's Final Order dated May 27, 2014, in which the Board affirmed a November 22, 2013, Order of the Workers' Compensation Office of Judges.

In its Order, the Office of Judges affirmed the claims administrator's June 26, 2013, decision to deny the request to reopen the claim for payment of temporary total disability benefits. The Court has carefully reviewed the records, written arguments, and appendices contained in the briefs, and the case is mature for consideration. This Court has considered the parties' briefs and the record on appeal.

The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error.

For these reasons, a memorandum decision is appropriate under Rule 21 of the Rules of Appellate Procedure. Ms. Chambers was working as a janitor for Jackson County Commission on December 18, 2007, when she was injured. According to the report of injury, her foot slipped on some gravel and she twisted her left knee.

On December 26, 2007, Ms. Chambers reported to Daniel Trent, D.O., for an evaluation of her left knee. Dr. Trent signed her application for workers' compensation benefits and diagnosed a left knee sprain. Dr. Trent further opined that she would not miss any more than four days due to the injury.

On January 7, 2008, the claims administrator held the claim compensable for a left knee sprain. On April 4, 2008, the claims administrator determined that Ms. Chambers was not disabled for more than three days related to her sprain so her claim was closed for temporary total disability benefits.

On May 31, 2011, Ms. Chambers reported to Stephanus Serfontein, M.D., complaining of pain in her left knee related to her 2007 sprain. On July 6, 2011, Ms. Chambers reported to Clifford Roberson, M.D., for an orthopedic evaluation. Dr. Roberson's diagnosis was chronic right knee pain, internal derangement of the right knee, atrophy of the left lower extremity, and internal derangement of the left knee.

Dr. Roberson requested an MRI of the left knee. The claims administrator denied the request for an MRI. On February 1, 2013, Ms. Chambers underwent an MRI of her left knee. It was interpreted as revealing a small amount of joint effusion, a possible anterior cruciate ligament injury with abnormal signal intensity and a possible lateral meniscus tear, which was degenerative in nature, and a parameniscal cyst was also seen adjacent to lateral meniscus.

Based upon the MRI, a follow-up was suggested. On February 12, 2013, Ms. Chambers underwent anterior cruciate ligament reconstruction surgery. The surgery was not covered under workers' compensation. A reopening application dated April 9, 2013, was signed by Dr. Roberson, which requested that the diagnosis of a meniscus tear of the left knee and old disruption of the anterior cruciate ligament of the left knee be added to the compensable diagnosis of the claim.

Dr. Roberson indicated that there had been aggravation or progression of Ms. Chambers's disability since she was released to return to work. Dr. Roberson requested physical therapy and certified Ms. Chambers as temporarily and totally disabled from March 11, 2013, through June 11, 2013. Rebecca Thaxton, M.D., performed a record review on September 13, 2011.

Dr. Thaxton opined that Ms. Chambers continuing disability following the surgery should not be covered under the claim because the surgery was not covered under the claim, was in no way related to a compensable diagnosis, and was not a progression or aggravation of the compensable injury.

The claims administrator denied Ms. Chambers reopening application on June 26, 2013, and she protested. The Office of Judges determined that the claim should not be reopened for further temporary total disability benefits.

The Office of Judges noted that Dr. Roberson requested temporary total disability benefits from March 11, 2013, through June 11, 2013, due to the February 12, 2013, surgery to repair her anterior cruciate ligament tear in the left knee.

The Office of Judges determined that the anterior cruciate ligament tear was not a compensable diagnosis in this claim. The Office of Judges noted that the only accepted diagnosis was a left knee sprain in 2007. The Office of Judges also noted that the anterior cruciate ligament reconstruction surgery was not authorized under this claim.

Accordingly, the Office of Judges determined that the claims administrator's decision to deny the reopening request was correct. The Office of Judges determined that the request was not based upon an aggravation or progression of a compensable diagnosis.

The Office of Judges also found that the evidence did not support a finding that the anterior cruciate ligament tear was causally related to the compensable injury of December 18, 2007. The Office of Judges noted that the evidence showed that Ms. Chambers received no medical treatment for her left knee injury from approximately 2007 until 2011, which supported the inference that her sprain and anterior cruciate ligament tear were not related.

The Office of Judges further noted that Dr. Roberson's diagnosis of chronic pain and internal derangement of the uninjured right knee further supported its decision because it suggests that Ms. Chambers's most recent left knee symptoms were unrelated to the compensable injury.

We agree with the Office of Judges and Board of Review. There is not enough credible or reliable evidence to show that the anterior cruciate ligament surgery and the resulting period of disability is in any way related to the 2007 sprain.

On the other hand, there is ample evidence that the anterior cruciate ligament tear and the knee symptoms were not related to the 2007 injury. Ms. Chambers sprained her knee in 2007 and did not seek medical treatment for her anterior cruciate ligament problems until 2011.

In 2012, her treating physician Dr. Serfontein noted that she had significant left knee pain due to a recent injury. She also returned to work after her 2007 sprain and continued to work by her own admission until March 12, 2013. Furthermore, her MRI and anterior cruciate ligament reconstruction surgery have not been approved under this claim.

Because Ms. Chambers surgery on her anterior cruciate ligament was not related to a compensable injury, temporary total disability benefits for her recovery from that surgery were properly denied by the Office of Judges and Board of Review.

For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of any constitutional or statutory provision, nor is it clearly the result of erroneous

conclusions of law, nor is it based upon a material misstatement or mischaracterization of the evidentiary record.

Therefore, the decision of the Board of Review is affirmed. Affirmed. ISSUED: November 4, 2015
CONCURRED IN BY: Chief Justice Margaret L. Workman Justice Robin J. Davis Justice Brent
D. Benjamin Justice Allen H. Loughry II DISSENTING: Justice Menis E. Ketchum 3

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