

SUPREME COURT OF WYOMING

In the Matter of the Worker's Compensation Claim of Roberta J. Palmer v. State of Wyoming, ex rel. Wyoming Workers' Safety and Compensation Division

192 P.3d 125 (Wyo. 2008); 2008 WY 105 (Wyo. 2008) · No. S-07-0244 · Decided September 8, 2008

SUMMARY

The Wyoming Supreme Court reviewed a workers' compensation claim involving a preexisting degenerative spinal condition and a work-related L4-L5 foraminal disk herniation. The court affirmed the findings that the herniation was compensable and the degenerative conditions were preexisting, but held that ancillary treatment, including fusion at all affected levels, was compensable because it was necessary to treat the work-related injury. The case was remanded for an award of benefits consistent with the opinion.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Burke, Justice; Voigt, C.J.; Golden, J.; Hill, J.; Kite, J.; Burke, J.
JURISDICTION	Wyoming
DECIDED	September 8, 2008
DOCKET	S-07-0244
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Palmer appealed the district court's affirmance of an Office of Administrative Hearings decision awarding workers' compensation benefits for a work-related L4-L5 foraminal disk herniation but denying benefits for degenerative conditions at L3-L4 and L5-S1 and limiting benefits to the L4-L5 fusion.
STANDARD OF REVIEW	Under Wyo. Stat. Ann. § 16-3-114(c)(ii), agency factual findings are reviewed for substantial evidence and agency action may be set aside if arbitrary, capricious, an abuse of discretion, contrary to law, beyond statutory authority, procedurally defective, or unsupported by substantial evidence. Legal conclusions are reviewed de novo and affirmed only if in accordance with law.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential

PARTIES

Roberta J. Palmer v. State of Wyoming, ex rel. Wyoming Workers'
Safety and Compensation Division

TOPICS

workers compensation

judicial review of agency action

administrative law

standard of review

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether substantial evidence supported the hearing examiner's findings that Palmer's L4-L5 foraminal herniation was work-related and that her L3-L4 and L5-S1 degenerative conditions were preexisting and noncompensable.
2. Whether the hearing examiner improperly apportioned Palmer's injury between her preexisting condition and her workplace injury.
3. Whether Palmer was entitled under the ancillary treatment principle to benefits for the entire multilevel spinal fusion when treatment at the adjacent levels was reasonably and necessarily required to treat the compensable L4-L5 injury.

HOLDINGS

1. Substantial evidence supported the finding that Palmer's L4-L5 foraminal disk herniation resulted from her workplace injury and the finding that the degenerative conditions at L3-L4 and L5-S1 were preexisting and not work-related.
2. The hearing examiner did not improperly apportion Palmer's injury by awarding benefits for the work-related L4-L5 herniation while denying benefits for the separately caused preexisting degenerative conditions.
3. When ancillary treatment is reasonable and necessary to cure or provide significant relief for a compensable injury, the treatment is compensable even if it also addresses an otherwise noncompensable condition. Because the record established that the adjacent-level fusions were necessary to treat the compensable L4-L5 herniation, Palmer's benefits were not limited to the L4-L5 fusion.

KEY QUOTATIONS

“Thus, if ancillary treatments are reasonable and necessary to cure or relieve a compensable injury, then the worker is entitled to benefits for the ancillary treatments as well.” (129-130)

“The only determination that can reasonably be reached on this record is that Ms. Palmer's benefits are not limited to the L4-L5 fusion, but include the fusions at all levels.” (130)

FACTUAL BACKGROUND

Palmer had documented degenerative disk disease at multiple lumbar levels before she injured her lower back lifting inventory at work on May 30, 2003. After the workplace incident, physicians identified a foraminal disk herniation at L4-L5 compressing the L4 nerve root, and surgery confirmed the herniation. The surgery also fused the adjacent L3-L4 and L5-S1 levels because of degenerative changes and an annular tear, but the hearing examiner awarded benefits only for the L4-L5 injury.

PROCEDURAL HISTORY

The Wyoming Workers' Safety and Compensation Division denied Palmer's claim on the ground that her back condition was preexisting. After a hearing, the hearing examiner found the L4-L5 foraminal herniation compensable but found the L3-L4 and L5-S1 degenerative conditions preexisting and noncompensable. The district court affirmed. The Wyoming Supreme Court affirmed the compensability determinations, reversed the limitation of benefits to the L4-L5 fusion, and remanded for further remand to the agency.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the district court for further remand to the agency, with instructions to award benefits consistent with the opinion, including benefits for the fusions at all levels rather than limiting benefits to the L4-L5 fusion.

CASES CITED

- Dale v. S & S Builders, LLC, 2008 WY 84, ¶¶ 11, 21, 22, 26, 188 P.3d 554, 558, 561-62 (Wyo. 2008)
- Taylor v. State ex rel. Wyoming Workers' Safety & Compensation Division, 2005 WY 148, ¶ 9, 123 P.3d 143, 146 (Wyo. 2005)
- Boyce v. State ex rel. Wyoming Workers' Safety & Compensation Division, 2005 WY 9, ¶¶ 10-11, 105 P.3d 451, 455 (Wyo. 2005)
- Ramos v. State ex rel. Wyoming Workers' Safety & Compensation Division, 2007 WY 85, ¶ 17, 158 P.3d 670, 676 (Wyo. 2007)
- State ex rel. Wyoming Workers' Compensation Division v. Girardot, 807 P.2d 926, 930 (Wyo. 1991)
- Forni v. Pathfinder Mines, 834 P.2d 688, 694 (Wyo. 1992)
- Public Service Co. v. Industrial Claim Appeals Office, 979 P.2d 584 (Colo. Ct. App. 1999)
- Arrowhead Press, Inc. v. Industrial Commission, 134 Ariz. 21, 653 P.2d 371 (Ariz. Ct. App. 1982)
- Perry v. State ex rel. Wyoming Workers' Safety & Compensation Division, 2006 WY 61, ¶ 22 n. 2, 134 P.3d 1242, 1249 n. 2 (Wyo. 2006)

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