

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Carter Messer v. Chesapeake Appalachia, LLC

Messer · No. No. 19-0927 · Decided December 11, 2020

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of authorization for left ankle injections requested by Carter Messer in a workers' compensation claim. The court held that Messer failed to establish that the injections were medically related to and reasonably necessary for the compensable 2010 injury. Justice Margaret L. Workman dissented.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Tim Armstead; Justice Elizabeth D. Walker; Justice Evan H. Jenkins; Justice John A. Hutchison; Justice Margaret L. Workman
JURISDICTION	West Virginia
DECIDED	December 11, 2020
DOCKET	No. 19-0927
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed the West Virginia Workers' Compensation Board of Review's affirmance of the denial of authorization for left ankle injections.
STANDARD OF REVIEW	The court reviewed whether the Board of Review's decision was in clear violation of a constitutional or statutory provision, clearly the result of erroneous conclusions of law, or based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Carter Messer v. Chesapeake Appalachia, LLC

TOPICS

workers compensation

judicial review of agency action

administrative law

appellate procedure

standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Board of Review erred in affirming the denial of authorization for left ankle injections as treatment for Messer's compensable workers' compensation injury.
2. Whether Messer established that the requested injections were medically related to and reasonably required for the compensable injury.

HOLDINGS

1. The denial of authorization was proper because Messer failed to establish that the requested injections were medically related to and reasonably required for his compensable injury.
2. The Board of Review's decision was not in clear violation of a constitutional or statutory provision, was not clearly based on erroneous conclusions of law, and was not based on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"The burden of proof is on the claimant, and Mr. Messer failed to show that the requested treatment is medically related and reasonably required for the compensable injury." (at 2)

"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 2)

FACTUAL BACKGROUND

Carter Messer injured his left ankle on October 19, 2010, while walking to his truck at work. After authorization and performance of surgical repair in 2013, his treating physician administered ankle injections in 2015 and 2017. An independent medical evaluation in 2018 concluded that Messer had reached maximum medical improvement and that his ongoing treatment was unrelated to the compensable injury. Messer subsequently sought authorization for additional left ankle injections, but the claims administrator denied the request.

PROCEDURAL HISTORY

The claims administrator denied authorization for left ankle injections on May 21, 2018. The Workers' Compensation Office of Judges affirmed the denial on April 29, 2019, and the Board of Review affirmed the Office of Judges on September 17, 2019. The Supreme Court of Appeals of West Virginia affirmed the Board of Review in a memorandum decision.

DISPOSITION

affirmed

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