

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Wannie R. Lusk v. Alpha Natural Resources, Inc.

Lusk · No. No. 13-0485 · Decided August 13, 2014

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the Board of Review’s denial of authorization for Flexeril, Lortab, and Opana in a workers’ compensation claim. The court held that the claimant had exceeded applicable opioid-treatment guidelines and had not shown that his case warranted treatment beyond those guidelines.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Robin J. Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II; Justice Brent D. Benjamin, disqualified
JURISDICTION	West Virginia
DECIDED	August 13, 2014
DOCKET	No. 13-0485
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed the West Virginia Workers’ Compensation Board of Review’s affirmance of an Office of Judges order upholding the claims administrator’s denial of authorization for Flexeril, Lortab, and Opana.
STANDARD OF REVIEW	The court affirmed unless the Board of Review’s decision clearly violated a constitutional or statutory provision, was clearly the result of erroneous conclusions of law, or was based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	nonprecedential memorandum decision
PARTIES	Wannie R. Lusk v. Alpha Natural Resources, Inc.

TOPICS

judicial review of agency action

administrative law

appellate procedure

health law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Board of Review erred in affirming the denial of authorization for Flexeril, Lortab, and Opana under the opioid-treatment guidelines in West Virginia Code of State Rules § 85-20-53.14.
2. Whether Lusk demonstrated that his claim presented an extraordinary case warranting treatment beyond the applicable opioid-treatment guidelines.
3. Whether the Board of Review's decision violated a constitutional or statutory provision, resulted from erroneous conclusions of law, or rested on a material misstatement or mischaracterization of the evidentiary record.

HOLDINGS

1. The denial of authorization for Flexeril, Lortab, and Opana was proper because Lusk's requested opioid therapy exceeded the treatment guidelines and the record lacked sufficient treatment documentation to support authorization.
2. Lusk failed to demonstrate that his claim was an extraordinary case warranting treatment beyond the opioid-treatment guidelines.
3. The Board of Review's decision was not in clear violation of a constitutional or statutory provision, was not clearly the result of erroneous conclusions of law, and was not based on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"We agree with the reasoning and conclusions of the Board of Review." (at 3)

"Therefore, the decision of the Board of Review is affirmed." (at 3)

FACTUAL BACKGROUND

Lusk sustained a compensable lumbar injury in 2008 and later received compensability determinations for lumbosacral sprain/strain, generalized anxiety disorder, recurrent major depressive disorder, and lumbar radiculitis. He had previously received opioid therapy, but the claims administrator determined in 2008 that the treatment exceeded the applicable guidelines and authorized only a short period followed by weaning and tapering. In 2012, his physicians requested authorization for Flexeril, Lortab, and Opana, but the medical documentation did not include adequate clinical notes supporting continued opioid therapy, and the grievance board found that opioid therapy had not been authorized since October 2008.

PROCEDURAL HISTORY

The claims administrator denied authorization for the requested medications on September 19, 2012, based on the opioid-treatment guidelines in West Virginia Code of State Rules § 85-20-53.14. The Workers' Compensation Office of Judges affirmed on January 30, 2013, and the Board of Review affirmed on April 24, 2013. The Supreme Court of Appeals of West Virginia affirmed the Board's decision.

DISPOSITION

affirmed

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