

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Sarah K. Rhodes v. Quad/Graphics, Inc.

No. 15-0795 · No. No. 15-0795; BOR Appeal Nos. 2049918, 2050087, 2050141, 2050183, 2050285; Claim No. 2012026228 · Decided August 11, 2016

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the Workers' Compensation Board of Review's decisions concerning Sarah K. Rhodes's claim arising from right ulnar neuropathy and right carpal tunnel syndrome. The court upheld the denials of additional compensable conditions, vocational rehabilitation, medical testing and referrals, reopening for temporary total disability benefits, and designation of a treating physician. The court concluded that the Board's decision was supported by the evidence and did not involve clear legal or constitutional error.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; Menis E. Ketchum, Chief Justice; Robin J. Davis; Brent D. Benjamin; Margaret L. Workman; Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	August 11, 2016
DOCKET	No. 15-0795; BOR Appeal Nos. 2049918, 2050087, 2050141, 2050183, 2050285; Claim No. 2012026228
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed the West Virginia Workers' Compensation Board of Review's affirmance of multiple Office of Judges orders and claims administrator decisions concerning compensability, medical treatment, vocational rehabilitation, temporary total disability benefits, and selection of a treating physician.
STANDARD OF REVIEW	The Court reviews the Board of Review's decision for clear violation of a constitutional or statutory provision, clearly erroneous conclusions of law, or a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Unpublished memorandum decision; nonprecedential
PARTIES	Sarah K. Rhodes v. Quad/Graphics, Inc.

TOPICS

workers compensation

administrative law

appellate procedure

standard of review

PRACTICE AREAS

workers compensation

employment law

administrative law

QUESTIONS PRESENTED

1. Whether the Board of Review properly affirmed denial of EMG/NCV testing and orthopedic referrals.
2. Whether Rhodes established prima facie cause to reopen the claim for temporary total disability benefits.
3. Whether Rhodes could designate Dr. Whyte as her treating physician despite the employer's approved managed care plan.
4. Whether additional bilateral carpal tunnel syndrome and left upper-extremity conditions were compensable components of the claim.
5. Whether Rhodes was entitled to vocational rehabilitation benefits based on the compensable right upper-extremity conditions.

HOLDINGS

1. The Board of Review properly affirmed the denials because the evidence did not establish entitlement to additional benefits, testing, referrals, or treatment related to the compensable conditions.
2. Rhodes failed to establish prima facie cause for reopening the claim for temporary total disability benefits.
3. Rhodes could not designate Dr. Whyte as her treating physician because the employer had an approved managed care health plan and Dr. Whyte was not a participating provider, with no applicable exception.
4. The Board of Review's decision was affirmed because it did not clearly violate a constitutional or statutory provision, rest on clearly erroneous conclusions of law, or materially misstate or mischaracterize the evidentiary record.

KEY QUOTATIONS

"The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument." (at 1)

"Therefore, the decision of the Board of Review is affirmed." (at 5)

FACTUAL BACKGROUND

Sarah K. Rhodes worked as an ink jet operator for Quad/Graphics and reported right arm, elbow, and wrist symptoms that began before or around August 2011. She underwent right cubital tunnel and right carpal tunnel releases, and the claim was ultimately held compensable for right ulnar neuropathy and right carpal tunnel syndrome. She later sought additional testing, referrals, vocational rehabilitation, temporary total disability benefits, designation of her preferred physician, and addition of bilateral conditions, but medical evidence cited

by the tribunals did not establish that the additional conditions or requested treatment were related to the compensable injury.

PROCEDURAL HISTORY

The claims administrator ultimately held compensable right ulnar or cubital tunnel syndrome and right carpal tunnel syndrome, while denying requests for additional conditions, testing, referrals, vocational rehabilitation, reopening for temporary total disability benefits, and designation of a particular treating physician. The Workers' Compensation Office of Judges affirmed the claims administrator's decisions in several orders. The Board of Review adopted the Office of Judges' findings and conclusions and affirmed, leading to this appeal.

DISPOSITION

affirmed

CASES CITED

- Harper v. State Workmen's Compensation Commissioner, 160 W. Va. 364, 234 S.E.2d 779 (1977)

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