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Dec 18 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

The Honorable Avery B. Wilkerson, Jr., the Honorable Melody L. James,
and the Honorable R. Michael Campbell, II
Commissioners for the Appellate Panel

Appellate Case No. 2023-001155
Case No.: W.C.C. File No.: 1914733

William Oliver,
Employee.....Respondent,

v.

Syncreon, Employer, and Travelers Insurance Company, Carrier.....Appellant.

APPELLANT'S MEMORANDUM OF APPEALABILITY

December 18, 2023

s/Christopher C. Mingledorff
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On December 6, 2023, the South Carolina Court of Appeals issued a letter to the parties requesting a memorandum addressing the issue of appealability. This Memorandum is Appellant's response addressing the issue of appealability.

Appellant filed this appeal in response to the South Carolina Workers' Compensation Commission Appellate Panel's Decision and Order issued on June 19, 2023 (the "Order") (R. p. 3-15). The Order finds Respondent's claim compensable and demands the Appellant to provide causally related medical benefits and indemnity. Specifically, the Order finds:

- Respondent is entitled to past and future causally related medical treatment as ordered or directed by the authorized treating physician. (R. p. 13).
- That the authorized treating physician is to be Dr. William Owens. Should reason arise to change the authorized treating physician, that change can only occur by agreement of the parties or by order of the Commission. *Id.*
- That Mr. Oliver (Respondent) is entitled to Temporary Total Disability benefits from the date of the hearing on remand - August 12, 2022 - to present and continuing. *Id.*

Furthermore, the Order concludes as law:

- Pursuant to S.C. Code § 42-1-160 and 42-9-35, Respondent sustained a compensable injury by accident to his left shoulder as a result of an aggravation of a preexisting condition. *Id.*
- Pursuant to S.C. Code § 42-15-60, Respondent is entitled to ongoing medical treatment with Dr. William Owens, the authorized treating physician, as a result of his work accident. *Id.*

- Pursuant to S.C. Code § 42-9-10, Respondent is entitled to temporary total disability benefits from the date of the hearing on remand - August 12, 2022 - to present and continuing. *Id.*

South Carolina Code Ann. § 42-17-60 provides in pertinent part:

“either party to the dispute, within thirty days from the date of the award or within thirty days after receipt of notice to be sent by registered mail of the award, but not after, whichever is the longest, may appeal from the decision of the commission to the court of appeals.”

The Order is dated June 19, 2023. (R. p. 3). The Order was served on Appellant on June 19, 2023. (R. p. 15). Appellant timely filed a Notice of Appeal with the South Carolina Court of Appeals on July 18, 2023, which was within thirty (30) days of the South Carolina Workers’ Compensation Commission Appellate Panel’s Order and Decision. Appellant filed its’ appeal in compliance with South Carolina Code Ann. § 42-17-60.

South Carolina Code Ann. § 1-23-380 establishes the standard for judicial review of decisions of the Workers' Compensation Commission. *Price v. Peachtree Elec. Services, Inc.*, 405 S.C. 455, 748 S.E.2d 229 (2013); *Bone v. U.S. Food Service*, 404 S.C. 67, 744 S.E.2d 552 (2013). Pursuant to the APA, “[a] party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review.” *Price v. Peachtree Elec. Services, Inc.*; S.C. Code Ann. § 1-23-380 (Supp.2012).

The Order is final and orders the Appellant to provide Respondent benefits under the workers’ compensation Act. The Order does not send the matter back to the single hearing commissioner, nor does it provide for any further hearing on the claim. The Appellant has exhausted all administrative remedies available with the South Carolina Workers’ Compensation

Commission. The Appellant filed their appeal with the South Carolina Court of Appeals pursuant to South Carolina Code Ann. § 1-23-380 and § 42-17-60. Therefore, this Court has jurisdiction over the Appellant's appeal of the Order.

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William Oliver, Claimant..... Respondent,

v.

Syncreon, Employer, and Travelers Insurance Company, Carrier..... Appellants.

PROOF OF SERVICE

I certify that I have served the *Memorandum of Appellant on Appealability* by forwarding via electronic mail and/or U.S. mail on December 18, 2023 addressed to attorney of record, Jacob Smith, Esq., to the South Carolina Court of Appeals, and to the South Carolina Workers' Compensation Commission at the following:

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