

**FORM 13
BRIEF OF APPELLANT***

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2025-001248

Tractor Supply Company, Employer, and
Starr Specialty Insurance Company, Carrier,

Respondents,

v.

Walter R. Hoover, Jr.,

Appellant.

[INITIAL] BRIEF OF APPELLANT

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Rules

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I. Statement of Issues on Appeal

1. Whether the Commission erred by failing to rule on Appellant's properly filed Form 50.
2. Whether the Commission erred under § 42-15-60 by disregarding medical necessity and effectively ratifying the Carrier's termination of physical therapy for insurance authorization issues despite Drayer Physical Therapy's documented plan of care.
3. Whether the Commission erred under § 42-17-60 by relying on Dr. Edward Tavel's IME opinions—including an MMI projection—issued despite his admission that a new lumbar MRI was not available for review, and despite Appellant's continuous, authorized care culminating in Dr. Boyd's IME and active treatment plan.

II. Statement of the Case

Appellant suffered a compensable lumbar spine injury on May 25, 2022. The Commission denied ongoing benefits and credited a late-raised overpayment claim. The order rests on three core errors:

1. Failure to rule on Form 50 – On May 16, 2023, Appellant filed a Form 50 seeking determination of benefits and issues related to his compensable injury. The Commission's order omitted any ruling on this filing.
2. Medically necessary PT denied – On August 29, 2022, Drayer Physical Therapy evaluated Appellant, documented chronic lumbar pain, noted rehabilitation potential as good, and prescribed a six-week plan of care. The Carrier authorized only one session and terminated physical therapy the same day, citing insurance authorization issues. Despite this, the Commission ratified the denial.
3. IME without imaging and pivoted diagnosis – On February 14, 2023, Dr. Edward Tavel performed an IME and projected maximum medical improvement (MMI) within 3–6 months, despite acknowledging that an updated lumbar MRI was not available for review. He nonetheless recommended steroid injections (contraindicated by prior reactions) and pivoted his diagnosis to suggest compliance issues, even though Appellant remained under continuous, authorized care, culminating in Dr. Boyd's November 13, 2023 IME and active referral.

Appellant seeks vacatur of the Commission's order, or, alternatively, remand for proceedings consistent with proper application of the law.

III. Standard of Review

Commission findings must be supported by substantial evidence. S.C. Code Ann. § 42-17-60; Tiller v. Natl. Health Care Ctr., 334 S.C. 333, 513 S.E.2d 843 (1999).

IV. Argument

A. Failure to Rule on Form 50

On May 16, 2023, Appellant filed a Form 50 seeking determination of benefits and issues related to his compensable injury. The Commission's order did not address this filing, despite its direct bearing on the matters raised. Failure to rule on a properly filed Form 50 constitutes legal error, depriving the Appellant of a ruling on issues squarely before the Commission. Under § 42-17-60, this omission requires remand for proper adjudication.

B. Medically Necessary PT Denied for Authorization Reasons (Drayer Physical Therapy)

On August 29, 2022, Drayer Physical Therapy evaluated Appellant, documented chronic lumbar pain, noted rehabilitation potential as good, and prescribed a six-week PT plan. The Carrier authorized only one visit. That same day, Appellant's course of PT was terminated, citing insurance authorization issues. Prognosis was recorded as poor. The Commission disregarded this contemporaneous evidence and upheld the Carrier's administrative denial as though further treatment were unwarranted. Later referrals cannot cure the error, as they were made without review of the updated lumbar MRI. Ratifying this denial violates § 42-15-60.

C. IME Without Foundation, Pivoted Diagnosis, and Continuous Care (Tavel/Boyd)

On February 14, 2023, pain specialist Dr. Edward Tavel performed an IME. He acknowledged Appellant's documented adverse reaction to corticosteroids, yet nonetheless recommended renewed steroid injections and projected MMI within 3–6 months. In the same note, Dr. Tavel wrote: "Since he has seen Dr. Gunter he has had a new lumbar MRI, but we do not have the report available for review today." Although he referenced Dr. Samuel Davis's June 22, 2022 MRI, he did not review the most recent imaging before rendering his conclusions. Thus, the IME suffers from three foundational defects: (1) it recommended treatment specifically contraindicated by Appellant's medical history, as documented by Dr. Gundu in 2022; (2) it issued an MMI projection without review of the updated diagnostic MRI that Dr. Tavel acknowledged was missing; and (3) it pivoted his diagnosis and suggested compliance issues despite Appellant's continuous, authorized care—culminating in Dr. Boyd's IME and active treatment plan on November 13, 2023.

V. Conclusion

The Commission's order misapplies controlling law and is unsupported by substantial evidence. It relied on an IME without review of updated imaging; credited treatment plans contraindicated by adverse reactions; ratified termination of medically necessary physical therapy for insurance authorization reasons; and failed to rule on Appellant's properly filed Form 50. Appellant respectfully requests that this Court vacate the order or remand for proceedings consistent with law.

Respectfully submitted,

/s/ Walter R. Hoover, Jr.



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