

FINAL BRIEF OF APPELLANT

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION
COMMISSION

Appellate Case No. 2025-001248

Walter R. Hoover, Jr.,

Claimant, Appellant.

v.

Tractor Supply Company, Employer,
And Starr Specialty Insurance Company,

Carrier, Respondents,

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I. STATEMENT OF ISSUES ON APPEAL

1. Whether the Commission committed reversible error by failing to rule on Appellant's properly filed and pending Form 50, thereby denying Appellant a determination on issues squarely before the Commission.

2. Whether the Commission erred under S.C. Code Ann. § 42-15-60 by failing to address undisputed evidence of medical necessity and failing to require provision of prescribed physical therapy that was discontinued for administrative insurance authorization reasons.

3. Whether the Commission erred under S.C. Code Ann. § 42-17-60 by relying on an Independent Medical Examination that
 - a. was rendered without review of updated lumbar MRI imaging acknowledged to exist,
 - b. recommended treatment contraindicated by Appellant's documented adverse reactions, and
 - c. projected maximum medical improvement despite Appellant's continuous, authorized medical care culminating in a subsequent IME and active treatment plan.

II. STATEMENT OF THE CASE

Appellant sustained a compensable lumbar spine injury on May 25, 2022. Appellant received authorized medical treatment and remained under continuous care for that injury through November 13, 2023. Despite Appellant's ongoing course of authorized medical treatment, Appellant's benefits were terminated effective January 4, 2024. By order dated January 26, 2024, the Full Commission affirmed the Single Commissioner's decision in full, denied continued benefits, found medical non-compliance and constructive abandonment of the claim, authorized termination of all benefits, and imposed an overpayment determination in the amount of \$30,107.06. Appellants' benefits ceased without prior notice and without compliance with the statutory procedures governing termination. The resulting order rests on three fundamental and interrelated errors.

1. Failure to rule on Form 50.

On May 16, 2023, Appellant filed a Form 50 seeking determination of benefits and issues arising from his compensable injury, thereby invoking the Commission's jurisdiction. The Form 50 remained pending when Appellant's benefits were terminated and when the Commission later issued the order now on appeal; however, that order merely acknowledges the existence of the Form 50 without adjudicating the claims raised or ensuring compliance with the statutory procedures required before termination of benefits, including notice and the filing of Form 17. Appellant continued to pursue adjudication of the issues

raised to the Single Commissioner by way of Form 50, including through his Form 30, Request for Commission Review, dated January 10, 2024 which reiterated the need for reevaluation and reinstatement of benefits. Consequently, Appellant was deprived of a meaningful opportunity to be heard on matters properly before the Commission.

2. Denial of medically necessary physical therapy.

On August 29, 2022, Drayer Physical Therapy evaluated Appellant, documented chronic lumbar pain, assessed rehabilitation potential as good, and prescribed a six-week course of physical therapy. Only one session was authorized, and physical therapy did not continue thereafter due to "insurance authorization issues" until it was later re-prescribed in January 2023 by a different provider.

3. IME without imaging and unsupported MMI projection.

On February 14, 2023, Dr. Edward Tavel performed an Independent Medical Examination and projected maximum medical improvement (MMI) within three to six months, despite acknowledging that updated lumbar MRI imaging was not available for review. He nonetheless recommended steroid injections despite Appellant's documented prior adverse reactions.

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

III. STANDARD OF REVIEW

The Commission's findings must be supported by substantial evidence and must reflect correct application of the law. S.C. Code Ann. § 42-17-60. Errors of law, including reliance on legally insufficient evidence or failure to rule on matters properly before the Commission, require reversal or remand. *Tiller v. Nat'l Health Care Ctr.*, 334 S.C. 333, 513 S.E.2d 843 (1999). **Questions of law are reviewed de novo.**

IV. ARGUMENT

A. The Commission's Failure to Adjudicate Appellant's Pending Form 50 Constitutes Reversible Error

On May 16, 2023, Appellant filed a Form 50 seeking determination of benefits and additional medical care regarding issues arising from his compensable injury, thereby properly invoking the Commission's jurisdiction.¹ (Tr. P.20, II.15-20) The Form 50 remained pending throughout the proceedings. Although the Commission's order acknowledges the existence of the Form 50, it does not adjudicate the claims raised therein.(R. p. 83) Appellant continued to pursue adjudication of the issues raised in the Form 50, including through his Request for Commission Review, which reiterated the need for reevaluation and reinstatement of benefits. (R. pp. 233-234)

Failure to adjudicate a properly presented claim deprives the claimant of a determination on matters within the Commission's jurisdiction and constitutes legal error. Under S.C. Code Ann. § 42-17-60, meaningful appellate review requires that the Commission actually resolve the issues before it. The omission here requires remand for proper consideration and ruling.

B. The Commission Erred by Failing to Address the Termination of Prescribed Physical Therapy

The record reflects that Drayer Physical Therapy evaluated Appellant on August 29, 2022, documented chronic lumbar pain, assessed rehabilitation potential as good, and prescribed a six-week course of physical therapy.(R. pp. 380-383) Only one single

¹ The Single commissioner acknowledged the pending Form 50 during the hearing. The hearing transcript, which is part of the Record on Appeal, confirms that the issues raised therein remained before the Commission at the time benefits and prescribed care were terminated.

session was authorized, and physical therapy did not continue thereafter due to insurance authorization issues rather than medical judgment.(R. pp. 387-388)

The Commission's order does not address the termination of this prescribed course of care or otherwise evaluate whether the cessation of physical therapy complied with S.C. Code Ann. § 42-15-60, which requires provision of reasonably necessary medical treatment. Where the record contains undisputed evidence of prescribed care, failure to address the termination of that care constitutes legal error. Subsequent referrals do not cure the defect, particularly where those referrals occurred without review of updated diagnostic imaging and after the prescribed treatment had already ceased.

C. The Commission Improperly Relied on an IME Rendered Without Diagnostic Imaging and Recommending Contraindicated Treatment

Dr. Edward Tavel's February 14, 2023 Independent Medical Examination lacks the foundation required to constitute substantial evidence. In his report, Dr. Tavel noted that he did not review any imaging studies in connection with the examination. (R. pp. 402-403)

Nevertheless, he projected maximum medical improvement and recommended steroid injections. (R. p. 403)

The IME suffers from multiple foundational defects:

- (1) it rendered opinions regarding maximum medical improvement without review of any diagnostic imaging; (R. pp 402-403) and
- (2) it recommended steroid injections despite Appellant's documented prior

adverse reactions and limited efficacy of such treatment as reflected in the medical record.(R. p. 376)

Reliance on an IME rendered without diagnostic imaging and recommending treatment contraindicated by the claimant's documented medical history does not satisfy the substantial evidence standard and constitutes legal error under S.C. Code Ann. § 42-17-60.

V. CONCLUSION

The Commission's order misapplies controlling law and is unsupported by substantial evidence.

The Commission failed to adjudicate Appellant's properly filed Form 50, did not address the termination of prescribed medical treatment reflected in the record, and relied on an Independent Medical Examination rendered without review of any diagnostic imaging and recommending treatment despite Appellant's documented adverse reaction.

Appellant respectfully requests that this Court vacate the Commission's order or, alternatively, remand the matter for proceedings consistent with the Workers' Compensation Act.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Walter R. Hoover, Jr.", is written over a horizontal line.

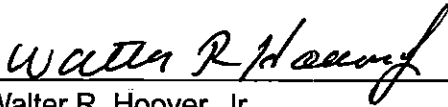
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February 6, 2026

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing Final Brief upon counsel for Respondent by depositing the same in the United States Mail, first-class postage prepaid, on Feb. 6, 2026 addressed as follows:

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