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JAN 25 2016

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals  
Appellate Case No. 2016-000039

SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION  
MEDICAL SERVICES DIVISION

Grant W. Duffield, Medical Services Division Director

Carlisle Medical, Inc.....Respondent.

v.

South Carolina State Accident Fund/South Carolina Uninsured Employers  
Fund.....Appellant.

APPELLANT'S MEMORANDUM IN LAW IN SUPPORT OF THE APPEALABILITY OF  
THE DECISION FROM THE SOUTH CAROLINA WORKERS' COMPENSATIONS  
COMMISSSION MEDICAL SERVIES DIVISION

SUMMARY

The Appellant asserts that the South Carolina Court of Appeals has jurisdiction over the present matter as it is a final decision from the South Carolina Workers' Compensation Commission. The Appellant contends that the decision from the Medical Services Division of the South Carolina Workers Compensation (Medical Services Division) is not appealable to either the Appellate Panel of the South Carolina Workers' Compensation Commission or the South Carolina Administrative Law Court. Pursuant to S.C. Code Ann. § 14-8-200, the Court of Appeals is the only appellate body with jurisdiction to hear this matter on appeal. The Appellant contends that the decision of the Medical Services Division was in error and not supported by the evidence. The Appellant further contends that its right to due process under the United States Constitution was violated in that the Medical Services Division failed to conduct a hearing with proper notice and including, but not limited to, the opportunity to present evidence, including the right to call witnesses, the right to cross examine adverse witnesses, and the requirement that the tribunal prepare a record of the evidence presented.

## FACTS

In 2014, the Respondent furnished medical equipment, prescriptions, products and services (services) to injured workers filing claims against the Appellant/Uninsured Employers Fund. The Respondent alleges it received either no payment or insufficient pay for services rendered during the 2014 calendar year and submitted documentation to the State Accident Fund requesting payment for services on February 14, 2015. On May 21, 2015, the Respondent issues a second request for payment to Appellant/State Accident Fund.

On September 15, 2015, pursuant to South Carolina Regulation 67-1303, the Respondent petitioned the Medical Services Division and formerly disputed the unpaid balances for the calendar year of 2014; confirmed that no contractual relationship exists supporting a payment of less than the stated Maximum Allowable Payment as set forth by the South Carolina Workers' Compensation Commission; and affirmed that an unpaid balance of \$38,949 was due and payable.

On October 15, 2015, the Medical Services Division issued a Notice of Dispute asking the Appellant to issue a formal response no later than thirty days following the date of the Notice of Dispute. The Appellant issued a response denying its responsibility to pay the amounts listed by the Respondent on November 13, 2015, disagreeing with the amount and stating that they had insufficient evidence to render a formal response as requested. The Medical Services Division submitted a second request for a final response on November 20, 2015. The Appellant sent correspondence to the Medical Services Division denying the responsibility of paying the amount alleged by the Respondent on December 4, 2015. On December 22, 2015, the Medical Services Division Director issued the "Final Determination and Decision" of the South Carolina Workers' Compensation Commission in this matter.

## ARGUMENT

The process for a Medical Bill Review by the Medical Services Division is set forth in S.C. Reg. 67-1305. South Carolina Regulation 67-1305(c)(3) provides that the decision of the Medical Services Division "shall be final." This regulation does not specifically provide for the mechanism to appeal a decision from the Medical Services Division to the Appellate Panel of the Workers Compensation Commission or any other appellate body.

South Carolina Code § 14-8-200 provides that the South Carolina Court of Appeals "has jurisdiction over any case in which an appeal is taken from ... a final decision of an agency ... or the final decision of the Workers' Compensation Commission." Reading this statute in conjunction with S.C. Reg 67-1305(c)(3), which states that the decision of the Medical Services Division "shall be final," this matter is properly appealed to the South Carolina Court of Appeals pursuant to S.C. Code § 14-8-200.


Appellants contend that the Administrative Law Court is not the proper venue for this appeal.<sup>1</sup> South Carolina Code §1-23-600(D) states, “[a]n administrative law judge also shall preside over all appeals from final decisions of contested cases pursuant to the Administrative Procedures Act, Article I, Section 22, Constitution of the State of South Carolina, 1895, or another law, except that ... an appeal from the Workers’ Compensation Commission is to the court of appeals.”

**CONCLUSION**

In conclusion, Appellants assert that this matter is properly appealable to the South Carolina Court of Appeals and Appellants request that the court considers this matter on appeal for the reasons set forth above.

Respectfully submitted, council for the Appellant, South Carolina State Accident Fund/South Carolina Uninsured Employers Fund, by their attorney, Page Preston Snyder.

January 22, 2016

  
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Page P. Snyder, Esquire  
South Carolina State Accident Fund  
PO Box 102100  
Columbia, SC 29221  
(803) 896-5896  
Attorney for Appellants

Cc: Allen McLean  
Carlisle Medical, Inc.

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<sup>1</sup> Appellant simultaneously filed Notices of Appeal with the Administrative Law Court and the South Carolina Court of Appeals out of an abundance of caution.

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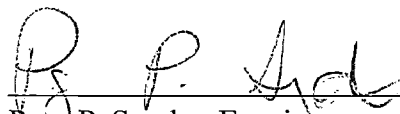
PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the CEO of Carlisle Medical, Inc., as well as the South Carolina Workers' Compensation Commission by depositing a copy of it in the United States Mail, postage prepaid, on January 22, 2016, address as follows:

Allen McLean  
501 Medical Park East  
Mobile, Alabama 36609.

Grant Duffield  
S.C. Workers Compensation Commission  
1333 Main Street, Suite 500  
Columbia, SC 29201

January 22, 2016

  
\_\_\_\_\_  
Page P. Snyder, Esquire  
Chief Counsel  
South Carolina State Accident Fund  
PO Box 102100  
Columbia, SC 29221  
(803) 896-5896



SOUTH CAROLINA  
STATE ACCIDENT FUND

RECEIVED  
HARRY B. GREGORY, JR., Director

JAN 25 2016

January 22, 2016

SC Court of Appeals

VIA US MAIL

The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, SC 29201

**RE: Carlisle Medical, Inc., Respondent v. South Carolina State Accident Fund/South Carolina Uninsured Employers Fund, Appellant**  
**Appellant Case No.: 2016-0039**

Dear Ms. Kitchings:

Enclosed please find for filing the **original** and **two (2) copies** of Appellant's Memorandum in Law in Support of the Appealability of the Decision from the South Carolina Workers' Compensations Commission Medical Services Division and the original Proof of Service. I would appreciate you returning the clocked-in copies to me in the self-addressed stamped envelope provide.

By copy of this letter, I am serving Allen McLean, CEO of Carlisle Medical, Inc. and Grant Duffield at SC Workers Compensation Commission with a copy of the same.

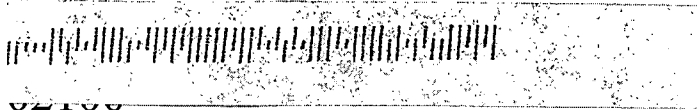
Sincerely,

Page D. Snyder  
Chief Counsel, State Accident Fund  
S.C. Bar Number 100239

/bjt

Enclosures

cc: Allen McLean  
Grant Duffield



S.C. 29221-5000



The Honorable Jenny A. Kitchings  
Clerk for the SC Ct of Appeals  
1015 Sumter St  
Columbia SC 29201