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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS COMPENSATION COMMISSION

RECEIVED
MAR 30 2016
SC Court of Appeals

Appellant Case No. 2014-001788

Clarence Winfrey, Employee, Claimant Respondent,

v.

Archway Services Inc, Employer, and
American Fire & Casualty Insurance Company c/o
Liberty Mutual Group, Carrier, Appellants,

**APPELLANT'S PETITION FOR REHEARING OF
THIS COURT'S MARCH 18, 2016 ORDER GRANTING
RESPONDENT'S MOTION FOR REHEARING OF A PRIOR ORDER**


TO: PRESTON F. MCDANIEL, ESQUIRE, ATTORNEY FOR RESPONDENT

YOU WILL PLEASE TAKE NOTICE that Appellants hereby petition this Court for a Rehearing pursuant to the South Carolina Appellate Court Rules¹. This Petition relates to the Orders issued by this Court on March 7, 2016 and March 18, 2016 related to medical care requested by Respondent "pursuant to an Award of the Workers' Compensation Commission." Because there is a genuine question as to whether the care

¹ Appellants would note Respondent filed his original Motion for Rehearing "pursuant to Rule 240(j)." However, Rule 240(i) explicitly forbids a Motion for Rehearing in this situation. Nevertheless, this Court granted the requested Motion for Rehearing and, therefore, this instant Motion is filed pursuant to the same procedure utilized by Respondent. This issue will also be addressed in the attached memorandum.

requested is causally related and, therefore, subject to the Award of the Workers' Compensation Commission, this issue should be handled by the Workers' Compensation Commission as originally decided by Judge Lockemy in the Order issued March 7, 2016. This Motion is based upon the Memorandum attached hereto and incorporated by reference.

McANGUS GOUDELOCK & COURIE, L.L.C.



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*Attorneys for Appellants, Archway Services Inc.,
American Fire & Casualty Insurance Company,
and Liberty Mutual Group*

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS COMPENSATION COMMISSION

Appellant Case No. 2014-001718

Clarence Winfrey, Employee, ClaimantRespondent,

v.

Archway Services Inc, Employer, and
American Fire & Casualty Insurance Company c/o
Liberty Mutual Group, Carrier,..... Appellants

**MEMORANDUM IN SUPPORT OF APPELLANTS' PETITION
FOR REHEARING ON RESPONDENT'S MOTION
FOR REHEARING TO COMPEL MEDICAL CARE**

Appellants would respectfully show the following:

1. As a threshold matter, Rule 240(i), SCACR expressly prohibits a motion for rehearing on a motion "...unless the action of the court on the motion or petition has the *effect of dismissing or finally deciding the party's appeal.*"² The effect of the March 7, 2017 Order by Judge Lockemy dismissing the motion **had absolutely no effect on dismissing or finally deciding the appeal**. That Order only related to a request for

² Appellants acknowledge the seemingly inconsistent position of filing a "Petition for Rehearing" of an order ruling on a prior motion or petition while arguing that motions for rehearing are not permitted under these circumstances. This Petition is filed pursuant to the same rule or procedure that permitted Respondent's March 10, 2016 Petition for Rehearing to be heard by this Court. Appellant would respectfully submit *both* Motions should be rejected/vacated/dismissed and the original March 7, 2016 Order should be reinstated pursuant to Rule 240(i).

medical care and the appeal remained active despite the March 7, 2016 Order. Therefore, the Motion for Rehearing filed by Respondent was expressly prohibited by Rule 240(i). As a result, this Court should vacate the March 18, 2016 Order and reinstate the March 7, 2016 Order.

2. Despite the fact that Rule 240(i) prohibits the Motion filed by Respondent on March 10, 2016, this Court considered the Motion and issued an Order reversing the March 7, 2016 Order and requiring the provision of contested medical care. It appears the sole basis for this decision was this Court's acceptance of representations made by Respondent's counsel in an "affidavit" and Motion about the necessity and emergency need for the contested surgery. The undersigned would note that neither the "affidavit" nor the Motion not supported by a single piece of medical evidence—not a doctor's note, not an opinion, not a medical record, not a doctor's statement, and/or not a questionnaire signed by a treating physician.
3. This matter arises out of an alleged work-related heart injury due to an alleged 240-480 volt electrical shock while Respondent was repairing a rotisserie oven on May 22, 2013. Prior to this accident, Respondent had significant pre-existing heart disease. Claimant suffered a myocardial infarction on May 28, 2013 (six days post-accident). Upon admission to the hospital on May 28, 2013 (six days post-accident), Respondent's doctors noted a fully occluded coronary artery which was not caused by the alleged work accident. The medical records also reflect a history of poor heart health including hypertension, tobacco abuse (1-2 packs per day), alcohol use, and a significant family history of heart disease (Respondent's father passed away from coronary disease and myocardial infarction). This information is found in both

Respondent's medical records, the numerous briefs filed in this matter, and the Commission Decision and Orders.

4. Following the workplace accident, Respondent was treated by Drs. Travis and Lide for a ventricular septal defect caused by a plaque rupture. The ventricular septal defect was located in the posterior portion of the heart. Respondent was not treated or diagnosed at that time with any heart valve issues.
5. The Award of the Full Commission states the following:
 - a. "...Claimant is entitled to medical treatment for his heart condition."
 - b. "...Claimant *may* be entitled to additional medical treatment for other causally related conditions..." (emphasis added).
6. Recent medical records revealed Respondent is having issues with a mitral valve in his heart. No medical record has linked this condition to the work-related accident. There is a question as to whether this condition is a result of the work-related accident or a result of Respondents' significant pre-existing heart disease. Therefore, there is a question whether this issue is for his work-related "heart condition"³ or for other conditions (for example, his significant pre-existing heart disease and fully occluded coronary artery).
7. Respondent was referred to Drs. Ikonomidis and Steinberg at MUSC for an evaluation for a valve repair surgery. After the evaluation, Dr. Ikonomidis determined Respondent could undergo a valve replacement surgery. Due to availability in scheduling, Dr. Ikonomidis had an open surgical slot the week following January 5,

³ Appellants assert "heart condition" does not mean every single thing that could go wrong with Respondent's heart. Rather, "heart condition" is limited to treatments that are causally related and linked to the plaque rupture and ventricular septal defect. If a separate heart condition arose

2016. There is not a single medical record which indicates the scheduling of this surgery was for any emergency purpose. Rather, the scheduling appears to be solely based on availability. In fact, Dr. Ikonomidis requested Respondent undergo a dental examination prior to being fully cleared for any surgery. This information is found in the attached records and the records *actually submitted by Respondent with his motion*. This is evidence of the lack of emergency need for the surgery.
8. On January 5, 2016, Respondent expressed anxiety over the surgery and was unsure if he wanted to do any surgery at all. The Nurse Case Manager informed him that “we would proceed cautiously and not rush into anything.” This information is found in the attached records and the records *actually submitted by Respondent with his motion*. This is evidence of the lack of emergency need for the surgery.
 9. On that same day, the Nurse Case Manager noted that he would have Dr. Travis confer with Drs. Ikonomidis and Steinberg to discuss the surgery. This information is found in the attached records and the records *actually submitted by Respondent with his motion*. This is evidence of the lack of emergency need for the surgery.
 10. On January 20, 2016, Respondent returned for a regular follow up with Dr. Lide (his cardiologist). At this visit, Respondent and Dr. Lide discussed the possible surgery. It was noted that “we are still waiting for Dr. Van Bakel, Director of Transplant Services at MUSC, to send his 11-20-15 note.” This information is found in the attached records and the records *actually submitted by Respondent with his motion*. This is evidence of the lack of emergency need for the surgery.

unrelated to those issues but relate, for example, to his significant pre-existing heart disease then it would not be compensable. Appellants are entitled to explore that (within reason).

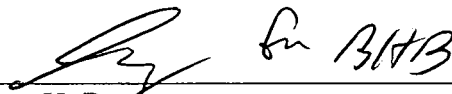
11. During that same visit, Dr. Lide discussed the surgery with Respondent. Dr. Lide's own recommendations were "if the surgery and recovery are delayed more than two months to follow up in his office." **Respondents own cardiologist indicated there was no issue with delaying the surgery for two or more months.** This information is found in the attached records and the records *actually submitted by Respondent with his motion*. This is evidence of the lack of emergency need for the surgery.
12. On January 21, 2016, the Nurse Case Manager spoke with Dr. Ikonomidis. He was informed the surgery had not yet been approved. Dr. Ikonomidis, the surgeon who will perform the surgery, stated that "until the surgery is approved Mr. Winfrey should follow up with his cardiologist." **Respondent's own surgeon indicated there was no emergency need for the surgery by stating Respondent should just follow up with his cardiologist until the surgery was approved.** This information is found in the attached records and the records *actually submitted by Respondent with his motion*. This is evidence of the lack of emergency need for the surgery.
13. The March 18, 2016 Order states "Respondent's 'condition is extremely delicate'...and any delay in [sic] 'an absolutely devastating situation for [Respondent], up to and including death.'" This "finding" does not come from any medical record or report in the file. This finding solely from Respondent's counsel's own "affidavit" and Motion purporting this to be the truth. Argument of counsel, however, is not evidence. *See, e.g., Bowers v. Bowers*, 304 S.C. 65, 68, 403 S.E.2d 127, 129 (Ct. App. 1991).
14. In response to Respondent's counsel's "affidavit" and Motion, the undersigned sent a proper medical questionnaire to Dr. Ikonomidis (see attached Exhibit A). In this

questionnaire, the undersigned set out the verbatim language from the “affidavit”, the Motion, and the March 18, 2016 Order and asked Dr. Ikonomidis to opine on the situation.

15. Dr. Ikonomidis has not answered the questionnaire because Respondent’s counsel ordered him not to answer the questionnaire. This is reflected in the attached letter from Respondent’s counsel to Dr. Ikonomidis. What evidence is there of lack of emergency need for a surgery than Respondent’s own counsel interfering with a doctor and preventing him from answering questions related to medical necessity and urgent need for care? Moreover, if what is contained in the “affidavit” and Motion is true, why would Respondent’s counsel order the doctor not to answer these questions? This is the clearest evidence of the lack of emergency need for the surgery.
16. Based on all the foregoing, including Respondent’s counsel’s refusal to permit the doctors to answer questions about the contested care, this Court should either vacate the March 18, 2016 Order⁴ or issue a new Order dismissing the Motion and referring this issue to the South Carolina Workers’ Compensation Commission as this is solely an issue of whether care sought by Respondent is included within the ambit of an Award of the Commission.

⁴ Either on procedural grounds pursuant to Rule 240(i) or on merits grounds due to the clear lack of emergency need for care.

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Proudly representing injured workers
for over 30 years.

Preston F. McDaniel

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March 25, 2016

VIA EMAIL ONLY: watersl@musc.edu

Laura M. Waters, RN, PCCN

Nurse Coordinator, Research & Patient Care

South Carolina Heart Valve Center

Medical University of South Carolina

Charleston, SC 29425

IMMEDIATE
ATTENTION
REQUESTED

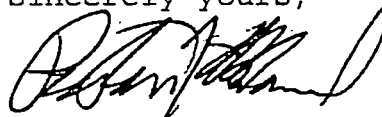
RE: Clarence B. Winfrey, Jr. v. Archway Services, Inc.
WCC File No. 1306305

Dear Ms. Waters:

Very quickly attached is a questionnaire that Mr. Bayne sent to Dr. Ikonomidis. We have asked the Court of Appeals to enforce the Order, ordering this medical care and please ask Dr. Ikonomidis not to answer this questionnaire until such time that we receive further direction from the Court.

Quite frankly, the time for submitting this document has long since passed. By copy of this email I am notifying Mr. Bayne of this communication.

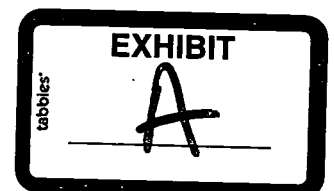
Sincerely yours,



Preston F. McDaniel

PFM/rmt
Enclosure

cc: Brett H. Bayne, Esquire (Via email brett.bayne@mgclaw.com)





Reply To
BRETT H. BAYNE
Direct Dial: (803) 227-2281
brett.bayne@mgclaw.com

Dr. John S. Ikonomidis
MUSC
Strom Thurmond Building
114 Doughty Street
Charleston, South Carolina 29425

March 23, 2016

**RE: Clarence Winfrey v. Archway Services and American Fire & Casualty
Insurance Company c/o Liberty Mutual Group
Date of Accident: May 22, 2013
Claim No.: 22209963
WCC File No.: 1306305
Our File No.: 2095.13137**

Dear Dr. Ikonomidis:

This firm represents the employer and insurance carrier in the workers' compensation matter referenced above. It is our understanding that Clarence Winfrey has sought or engaged your services.

You have recently seen Mr. Winfrey for a surgical evaluation. It is my understanding you saw Mr. Winfrey in early January 2016. The notes I received from the NCM indicate that you and Dr. Steinberg looked to schedule a mitral valve surgery the "next week." The questions below are designed to obtain your opinion, to a reasonable degree of medical certainty, concerning the relation of this surgery to Mr. Winfrey's accident vs. his significant pre-existing heart disease and to determine the timeline for surgery.

1. Please set out the reasons for looking to schedule the surgery "within a week" of the January visit (e.g. was it emergency medical necessity or mere availability of scheduling, etc)

2. Mr. Winfrey's attorney has represented to the Court that "time is of the essence [for the surgery] because Mr. Winfrey's condition is extremely delicate...[and any delay in the surgery] could result in...his death." Do you believe that a brief delay to investigate causation would "result in Mr. Winfrey's death"?

_____ No

_____ Yes

If some the answer to "2" is "Yes" please explain why below:

3. Is there any significant adverse effect to Mr. Winfrey to wait for the recommended surgery until April, May, or June?

_____ No

_____ Yes

If some the answer to "3" is "Yes" please explain why below:

4. Is Mr. Winfrey's current condition being adequately controlled through medication and other care he is receiving?

_____ Yes

_____ No

If some the answer to "4" is "No" please explain why below:

5. Can you opine to a reasonable degree of medical certainty the need for Mr. Winfrey's need for the suggested valve surgery?

_____ Caused by the pre-existing heart disease
_____ Caused by the 5/22/13 Accident
_____ I don't know/Other

If some other causation, please describe below:

6. Are all of these answers to a reasonable degree of medical certainty?

_____ Yes
_____ No

Dr. John S. Ikonmidis

March _____, 2016

By copy of this letter Preston F. McDaniel, Esquire, claimant's attorney, we are advising them of this correspondence. Should there be any questions or should you require any additional information from my office, please do not hesitate to contact me at the telephone number appearing above.

Very truly yours,

A handwritten signature in black ink, consisting of stylized initials 'B' and 'B' followed by a horizontal line extending to the right.

Brett H. Bayne

cc: Beth Wrinkle, Liberty Mutual Group
Preston F. McDaniel, Esquire
Howard Altman



MONTHLY REPORT

Claim #: 22209963 IW Name: Clarence Winfrey
Date of Assignment: 11-May-2015 Current Claims Case Owner: Elizabeth Wrinkle
DOI: 22-May-2013 Report Svc dates: 09-Dec-2015 to 07-Jan-2016

Referral Type: Medical - Field Vendor RN MCM: Howard Altman RN, BSN
Jurisdiction: South Carolina Employer: Archway Service
Attorney's Name: Preston McDaniel Contact Permission:
**Referral objective: Mr. Winfrey's file was received on 11-May-2015 from Beth Wrinkle, CCO with Montgomery Insurance Company, for full case management to coordinate and schedule a neurology appointment to address balance and neuropathic complaints, attend appointments with Cardiologist to determine necessity of identifying a primary care provider at this time, and etiology of anemia and MMI.

Current work status: Not working
Target dates
RTW mod duty: Mr. Winfrey will not likely return to same work.
RTW full duty: Mr. Winfrey will not likely return to same work. Date of Report: January 07, 2016
MMI: To be determined Supplier: unique field CNGTLJ

WC Diagnosis (es):

Quantity	Diagnosis Code	Diagnosis Description	Compensible
N	425.4	OTHER PRIMARY CARDIOMYOPATHIES	Y
Y	V45.81	POSTSURGICAL AORTOCOR BYPS STATUS	Y
N	782.0	DISTURBANCE OF SKIN SENSATION	N
	394.9	OTHER DISEASES OF MITRAL VALVE	

On 17-Dec-2015, I attended an appointment with Mr. Winfrey and Dr. Marshall White, Neurologist. I met with Mr. Winfrey in the waiting area. He reported no change in his physical status. He was observed to have an ataxic gait and shortness of breath with any exertion. We discussed his upcoming appointment with Dr. Steinberg and the TEE to be completed. I explained the procedure and its purpose. I answered his questions and he verbalized understanding. I informed him Dr. White would need to use my laptop computer to view the imaging CDs and I would need to instruct Dr. White in navigating the files on my computer. Mr. Winfrey stated he wanted me to be in the room with him during the examination as he was uncertain of Dr. White. I requested he advise Mr. McDaniel of this request as well. He stated he would tell him.



We met with Dr. White in the exam room. Dr. White reviewed a 7-23-14 CT of the head completed at Providence Hospital, and 10-20-15 MRIs of the brain and cervical spine. He stated the imaging reveals significant atrophy of the brain tissues. He explained this finding coupled with memory issues and ataxic gait indicate a degenerative neurologic process that would be unrelated to his electrical shock. He advised Mr. Winfrey to consult his primary care physician for a referral to MUSC for a thorough evaluation and diagnosis of the degenerative disease. Dr. White stated the carpal tunnel syndrome is likely related to the electrical injury and edema associated with the injury as the current entered the left middle finger and traveled proximally toward his heart. He recommended watchful waiting at this time as Mr. Winfrey does not complain of carpal tunnel symptoms in the left wrist at this time. Both imaging CDs were given to Mr. Winfrey to retain for his records. No follow up appointment was recommended or scheduled.

Current treatment plan:

LOV 05-Jan-2016, Drs. Steinberg and Ikonomidis, Cardiothoracic Surgeons (MUSC)

On 5-Jan-2016, Mr. Winfrey attended an evaluation by Dr. Daniel Steinberg, Valve Specialist, and Dr. John Ikonomidis, Chief of Cardiothoracic Surgery at MUSC. I received a phone call from Laura at Dr. Steinberg office at MUSC. She stated Dr. Steinberg evaluated Mr. Winfrey's TTE and TEE and ordered pulmonary function tests and other tests for preoperative evaluation which were completed. She explained Mr. Winfrey was also evaluated by Dr. John Ikonomidis, MD/PhD, Chief of Cardiothoracic Surgery at MUSC. Laura reported Dr. Ikonomidis recommended a mitral valve repair with possible replacement and placed Mr. Winfrey in a low-intermediate risk category for the procedure. She advised Dr. Ikonomidis would like to proceed with surgery the next week. Dr. Ikonomidis ordered Mr. Winfrey to undergo a dental exam to rule out periodontal disease before he could undergo a heart procedure. Laura advised Dr. Ikonomidis suggested the procedure would improve Mr. Winfrey's heart function and significantly delay the need for transplant consideration. I requested Dr. Steinberg and Dr. Ikonomidis confer with Dr. Jeffrey Travis for Mr. Winfrey's peace of mind. Laura stated she would pass the request on to them and request their notes be completed as soon as possible. I advised the surgery would need to go through the approval process before authorization would be given for the procedure.

NOV 20-Jan-2016, Dr. Lanneau Lide, Cardiologist

Global Assessment:

1. Is the diagnosis confirmed to be consistent with the mechanism of injury? Yes, for cardiomyopathy. No, for paresthesias in his extremities. If no, explain: Dr. Marshall White, Neurologist, has ruled out neurologic etiology for paresthesias per results of EMG/NCV, MRI of the brain, MRI of the cervical spine, and physical examination. MUSC Valve Team recommended valve repair replacement surgery. Causation is in question.



2. Does current treatment conform to evidence based guidelines? Yes. Guideline: Treatment for 425.4 (cardiomyopathy) Includes diuretics and antihypertensive medications; and 782.4 (disturbance of skin sensation) Includes EMG/NCV and MRI. The addition of a beta-blocker to the cardiomyopathy regimen is within guidelines. Diagnosis 394.9 (other diseases of mitral valve) has not been accepted.

Tx. appears to be consistent with guidelines

Tx. does not appear to be consistent with guidelines. Explanation: N/A

3. Is the injured worker responding to the current treatment plan, and how/to what extent? No
If not, what next steps are recommended or needed? Evaluation of his cardiomyopathy and mitral valve regurgitation is also underway.

4. What is the current work status/RTW plan? Not working. Mr. Winfrey is unlikely to return to the same work.

What are the current physical capabilities? Limited sedentary work, at best.

Is the Injured worker on target to meet the modified duty or full duty RTW plan? No

If no, what are the barriers and plan to overcome the barriers? Mr. Winfrey is unlikely to return to the same work. The goal for Mr. Winfrey is MMI.

5. Medication concerns: None noted

Name	Dosage	Type	Frequency	Purpose	Prescribing Physician	Start Date	End Date
Altase	5 mg	OTC	One capsule daily	Anti-hypertensive	Lide, Lanneau D.		
HCTZ	12.5	Rx	One tablet daily	Anti-hypertensive	Lide, Lanneau D.		
Lasix-	80 mg	Rx	One tablet daily	Diuretic/ Anti-hypertensive	Lide, Lanneau D.		
Spironolactone	25 mg	Rx	One tablet daily	Diuretic/ Anti-hypertensive	Lide, Lanneau D.		
Nitrostat	0.4 mg	Rx	One tablet under tongue for chest pain. May repeat	Antianginal	Lide, Lanneau D.		
Ranexa	500 mg ER	Rx	One tablet twice daily	Antianginal	Lide, Lanneau D.		
Pravastatin	40 mg	Rx	One tablet at bedtime	Dyslipidemic	Lide, Lanneau D.		
Vitamin C	500 mg	OTC	One tablet twice daily	Dietary supplement	Lide, Lanneau D.		

6. Medical Case Management Strategy:

- I will contact Mr. Winfrey on a weekly basis for report of medical status and to coordinate and schedule appointments through 5-Feb-2016.



- I will keep the CCO, defense, and plaintiff attorneys promptly advised of case developments as they occur through 5-Feb-2016.
- I will follow up with Dr. White's office for his report by 11-Jan-2016.
- I will coordinate transportation for each of Mr. Winfrey's covered appointments.
- I will follow up for the reports from Dr. Van Bakel and Dr. Ikonomidis at MUSC.
- I will attend the follow up appointment with Dr. Lide, Cardiologist, on 20-Jan-2016 to review treatment plan.

Activity Date: 09-Dec-2015 - 07-Jan-2016

Activity Date	Activity/Notes
12/10/2015	Email from Kim, paralegal, to forward a letter from Mr. McDaniel, plaintiff attorney, regarding MUSC evaluations.
12/11/2015	Email from Beth, CCO, regarding update, transportation, and the MUSC evaluations. Email to Beth, CCO, and Mr. Bayne, defense attorney, with update regarding MUSC evaluation and records. Advised I would obtain the LMC and Dr. Travis' records for Dr. Steinberg's review. Email from Beth, CCO, to advise of Regional Medical Director review with CCO and Defense Attorney.
12/11/2015	Email from Mr. Bayne, defense attorney, to inform he believed Dr. Travis provided Mr. Winfrey with documentation advising against driving. Email from Mr. Bayne agreeing the evaluations by the valve specialist should go forward and care would be directed by the carrier.
12/14/2015	Roundtrip travel to obtain medical records for Mr. Winfrey from Lexington Medical Center and Lexington Cardiovascular Surgery.
12/14/2015	Roundtrip travel to obtain medical records for Mr. Winfrey from Lexington Medical Center and Lexington Cardiovascular Surgery.
12/14/2015	I met with medical records staff at Lexington Medical Center to request medical records for Mr. Winfrey from 22-May-2013 to present to forward to Dr. Steinberg for his review. Completed written request. Staff advised the records should be ready for pick-up by Friday. She informed me staff would contact me when ready.
12/14/2015	I met with reception staff at Lexington Cardiovascular Surgery, Dr. Travis' office, to request medical records for Mr. Winfrey from 22-May-2013 to present to forward to Dr. Steinberg for his review. Provided written request. Staff advised I could wait for the records to print, if desired. Office records and test results provided for date range requested.
12/15/2015	Phone call from Medical Records at Lexington Medical Center to inform the requested records would be over 1400 pages. Staff advised an abstract which produces only the important documents such as progress notes, consultations, operative/procedure notes, radiology notes, and discharge summaries. I advised that would be adequate for the Cardiologist's review. She stated it would be



	ready for pick up after 1:00pm.
12/16/2015	Roundtrip travel to pick-up 87 pages of medical records from Lexington Medical Center.
12/16/2015	Roundtrip mileage to pick up 87 pages of medical records from Lexington Medical Center.
12/16/2015	I met with Medical Records staff at Lexington Medical Center to pick up the requested medical records for Mr. Winfrey to be sent to Dr. Steinberg, Cardiologist, for review. Obtained 87 pages of hospital records
12/16/2015	Phone call to One Call Transportation to confirm services for Mr. Winfrey to Dr. White's office and back for his follow up appointment. Completed 2 referrals for 12-28-15 and 1-5-16 appointments in Charleston for TEE and consultation with Dr. Steinberg.
12/16/2015	Phone call to confirm appointment on 12-17-15 for Mr. Winfrey and Dr. White at 12:00pm in the Sumter office. After a long hold, Kellen confirmed the appointment.
12/16/2015	Phone call to Mr. Winfrey to confirm his plan to attend the appointment with Dr. White, Neurologist on 12-17-15 at 12:00pm. He advised he would attend and I confirmed transportation would be picking him up at 9:45am.
12/17/2015	Email from One Call Transportation with service confirmations for 12-28-15 and 1-5-16 appointments in Charleston.
12/17/2015	Roundtrip travel to attend an appointment with Mr. Winfrey and Dr. White, Neurologist.
12/17/2015	Roundtrip mileage to attend an appointment with Mr. Winfrey and Dr. White, Neurologist.
12/17/2015	<p>I met with Mr. Winfrey in the waiting area. He reported no change in his physical status. He was observed to have an ataxic gait and shortness of breath with any exertion. We discussed his upcoming appointment with Dr. Steinberg and the TEE to be completed. I explained the procedure and its purpose. I answered his questions and he verbalized understanding. I informed him Dr. White would need to use my laptop computer to view the imaging CDs and I would need to instruct Dr. White in navigating the files on my computer. Mr. Winfrey stated he wanted me to be in the room with him during the examination as he was uncertain of Dr. White. I requested he advise Mr. McDaniel of this request as well. He stated he would tell him.</p> <p>We met with Dr. White in the exam room. Dr. White reviewed a 7-23-14 CT of the head completed at Providence Hospital, and 10-20-15 MRIs of the brain and cervical spine. He stated the imaging reveals significant atrophy of the brain tissues. He explained this finding coupled with memory issues and ataxic gait indicate a degenerative neurologic process that would be unrelated to his electrical shock. He advised Mr. Winfrey to consult his primary care physician for a referral to MUSC for a thorough evaluation and diagnosis of the degenerative disease. Dr. White stated the carpal tunnel syndrome is likely related to the electrical injury and edema associated with the injury as the current entered the left middle finger and traveled proximally toward his heart. He recommended watchful waiting at this time as Mr. Winfrey does not complain of carpal tunnel symptoms in the left wrist at this time. Both imaging CDs were given to Mr.</p>



	Winfrey to retain for his records. No follow up appointment was recommended or scheduled.
12/17/2015	Email update to Kim, paralegal, following the appointment attended with Mr. Winfrey and Dr. White.
12/17/2015	Provider Visit Report completed
12/17/2015	Wait
12/18/2015	Email from Mr. Bayne, defense attorney, to request a copy of Dr. White's formal report when available.
12/18/2015	Email from Beth, CCO, advising questions for Dr. Van Bakel may be coming from defense counsel and regional medical director.
12/21/2015	Email conversation with Beth, CCO, regarding questions for transplant team and waiting for me to attend an appointment with providers in Charleston.
1/4/2016	Phone call to Mr. Winfrey to confirm transportation contacted him regarding his appointment with Dr. Steinberg in Charleston. He reported pick up is at 11:30am. We discussed his appointment. I asked if he would be willing to carry his records to Dr. Steinberg if I brought them to him. He stated he would be glad to take them. We arranged a meeting place and time.
1/4/2016	Roundtrip travel to deliver medical records to Mr. Winfrey for Dr. Steinberg.
1/4/2016	Roundtrip mileage to deliver medical records to Mr. Winfrey for Dr. Steinberg.
1/4/2016	I met with Mr. Winfrey to deliver medical records from Dr. Travis and Lexington Medical Center for Dr. Steinberg to review. I advised him to deliver them directly to Dr. Steinberg's nurse that escorts him to the exam room and not the receptionist or other staff member. Mr. Winfrey verbalized understanding. We discussed the TTE and the visit with Dr. Steinberg. He appeared less anxious following our conversation.
1/4/2016	Fax to Dr. Steinberg's office to forward records from Dr. Travis, Cardiac Surgeon. LMC records file too large to send.
1/5/2016	Phone call from Laura at MUSC to advise Drs. Steinberg and Ikonomidis recommended surgery to repair/replace Mr. Winfrey's mitral valve next week. She stated all the necessary preoperative work up was completed today and a dental exam for clearance regarding periodontal disease. I advised the carrier will need records from all providers to make a determination regarding the surgery approval. She stated she would request the providers complete them today or tomorrow and she will forward them when ready.
1/5/2016	Phone call from Mr. Winfrey to inform of proposed surgery. He stated he was very anxious. I explained we would proceed cautiously and not rush into anything. He expressed appreciation. We discussed what was recommended and that we would again request Drs. Steinberg and Ikonomidis confer with Dr. Travis. He stated he would like that very much.
1/5/2016	Email update to Kim, paralegal, following Mr. Winfrey's appointment at MUSC. Copied to defense attorney and CCO.
1/6/2016	Email from Beth, CCO, regarding dental exam and need for MD notes for review.
1/6/2016	Email from Laura at MUSC to forward Dr. Steinberg's 1-5-16 OVN.
1/6/2016	Email to Kim, paralegal, to forward a copy of the 1-5-16 OVN from Dr. Steinberg.
1/7/2016	Email from Kim, paralegal, to acknowledge receipt of OVN and request notes from Drs. Van Bakel and Ikonomidis.
1/7/2016	Phone call to Beth, CCO, to discuss file. She advised dental exam would not be a



	covered exam under the claim. She explained all notes from all providers need to be received and reviewed by the Regional Medical Director before consideration of the surgery.
1/7/2016	Received and reviewed 101 pages of Lexington Medical Center records and Dr. Travis and Dr. Steinberg notes./ Billed for e-mail correspondence received and reviewed.
1/7/2016	Monthly Report completed

How. Howard Altman, RN

Submitted By: Howard Altman RN, BSN
Title: Case Manager - Medical
Phone #: (704) -503-4775, (803) 530-9693
Email: Howard.Altman@genexservices.com

Rosemary Dimmic

Supervised By: Rosemary Dimmic RN, CRRN
Supervisor - CM

HA/pt

Attachments: Include copies all correspondence, emails, and medical records received during this reporting period.

Cc: (Include all attachments)
McAngus, Goudelock, & Courie, LLC.
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Angelia

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Columbia, SC 29201

Jan 8 - Feb. 6, 2016



MONTHLY REPORT

Claim #: 22209963 IW Name: Clarence Winfrey
Date of Assignment: 11-May-2015 Current Claims Case Owner: Elizabeth Wrinkle
DOI: 22-May-2013 Report Svc dates: 08-Jan-2016 to 06-Feb-2016

Referral Type: Medical - Field Vendor RN MCM: Howard Altman RN, BSN
Jurisdiction: South Carolina Employer: Archway Service
Attorney's Name: Preston McDaniel Contact Permission: Yes

**Referral objective: Mr. Winfrey's file was received on 11-May-2015 from Beth Wrinkle, CCO with Montgomery Insurance Company, for full case management to coordinate and schedule a neurology appointment to address balance and neuropathic complaints, attend appointments with Cardiologist to determine necessity of identifying a primary care provider at this time, and etiology of anemia and MMI.

Current work status: Not working

Target dates

RTW mod duty: Mr. Winfrey will not likely return to same work.

RTW full duty: Mr. Winfrey will not likely return to same work. Date of Report: February 06, 2016

MMI: To be determined Supplier unique field: CNGTLJ

WC Diagnosis (es):

Primary	Diagnosis Code	Diagnosis Description	Co-insurable
N	425.4	OTHER PRIMARY CARDIOMYOPATHIES	Y
Y	V45.81	POSTSURGICAL AORTOCOR BYPS STATUS	Y
N	782.0	DISTURBANCE OF SKIN SENSATION	N

Current treatment plan:

LOV 20-Jan-2016, Dr. Lanneau Lide, Cardiologist

On 20-Jan-2016, I attended a follow up appointment with Mr. Winfrey and Dr. Lanneau Lide, Cardiologist. I met with Mr. Winfrey in a secluded area of the waiting room. He reported continued fatigue with minimal exertion. We discussed his appointments with Dr. Steinberg, Valve Specialist, and Dr. Ikonomidis, Chief of Cardiothoracic Surgery at MUSC. I advised we are still waiting for Dr. Van Bakel, Director of Transplant Services at MUSC, to send his 11-20-15 note. We discussed that Dr. Van Bakel may not need to see him on 1-26-16 and I am waiting for determination from his office.



Following a private examination, I met with Mr. Winfrey and Dr. Lide in the exam room. I provided Dr. Lide with copies of notes from Dr. Steinberg and Dr. Ikonomidis for his records and review. He advised Mr. Winfrey to follow up at MUSC until released to follow up with SC Heart again. I advised the recommended surgery has not been approved yet. Dr. Lide advised, if the surgery and recovery are delayed more than 2 months to follow up in his office. No follow up appointment is scheduled at this time pending valve surgery disposition.

Dr. Van Bakel's 11-20-15 office visit note was received and distributed to the attorneys and CCO. Approval for the valve repair versus replacement is pending.

NOV Pending CCO direction regarding surgery,

Global Assessment:

1. Is the diagnosis confirmed to be consistent with the mechanism of injury? Yes, for cardiomyopathy. No, for paresthesias in his extremities. If no, explain: Dr. Marshall White, Neurologist, has ruled out neurologic etiology for paresthesias per results of EMG/NCV, MRI of the brain, MRI of the cervical spine, and physical examination. MUSC Valve Team recommended valve repair replacement surgery. Causation is in question.
2. Does current treatment conform to evidence based guidelines? Yes. Guideline: Treatment for 425.4 (cardiomyopathy) includes diuretics and antihypertensive medications; and 782.4 (disturbance of skin sensation) includes EMG/NCV and MRI. The addition of a beta-blocker to the cardiomyopathy regimen is within guidelines. Diagnosis 394.9 (other diseases of mitral valve) has not been accepted.
 Tx. appears to be consistent with guidelines
 Tx. does not appear to be consistent with guidelines. Explanation: N/A
3. Is the injured worker responding to the current treatment plan, and how/to what extent? No
 If not, what next steps are recommended or needed? Evaluation of his cardiomyopathy and mitral valve regurgitation is also underway.
4. What is the current work status/RTW plan? Not working. Mr. Winfrey is unlikely to return to the same work.
 What are the current physical capabilities? Limited sedentary work, at best.
 Is the injured worker on target to meet the modified duty or full duty RTW plan? No
 If no, what are the barriers and plan to overcome the barriers? Mr. Winfrey is unlikely to return to the same work. The goal for Mr. Winfrey is MMI.
5. Medication concerns: None noted

Name	Dosage	Type	Frequency	Indication	Prescribing Physician	Start Date	End Date
Altase	5 mg	OTC	One capsule daily	Anti-hypertensive	Lide, Lanneau D.		
HCTZ	12.5	Rx	One tablet daily	Anti-hypertensive	Lide, Lanneau D.		



Lasix	80 mg	Rx	One tablet daily	Diuretic/ Anti-hypertensive	Lide, Lanneau D.		
Spironolactone	25 mg	Rx	One tablet daily	Diuretic/ Anti-hypertensive	Lide, Lanneau D.		
Nitrostat	0.4 mg	Rx	One tablet under tongue for chest pain. May repeat	Antianginal	Lide, Lanneau D.		
Ranexa	500 mg ER	Rx	One tablet twice daily	Antianginal	Lide, Lanneau D.		
Pravastatin	40 mg	Rx	One tablet at bedtime	Dyslipidemic	Lide, Lanneau D.		
Vitamin C	500 mg	OTC	One tablet twice daily	Dietary supplement	Lide, Lanneau D.		
Metoprolol	25mg	Rx	One tablet daily	Anti-hypertensive	Van Bakel, Adrian, B	12/1/2015	

6. Medical Case Management Strategy:

- I will contact Mr. Winfrey on a weekly basis for report of medical status and to coordinate and schedule appointments through 7-Mar-2016.
- I will keep the CCO, defense, and plaintiff attorneys promptly advised of case developments as they occur through 7-Mar-2016.
- I will coordinate transportation for each of Mr. Winfrey's covered appointments.
- I will coordinate with the MUSC valve team, when approved by CCO.

Activity Date: 08-Jan-2016 - 06-Feb-2016

Activity Date	Activity Note
1/8/2016	Phone call to Laura at MUSC regarding status of Dr. Van Bakel and Dr. Ikonomidis notes. Left voicemail for return call and provide contact information.
1/11/2016	Phone call to Laura at MUSC regarding status of Dr. Van Bakel and Dr. Ikonomidis notes. Left voicemail for return call and provide contact information.
1/11/2016	Email to Kellen at Dr. White's office to request the 12-17-15 note for Mr. Winfrey.
1/11/2016	Voicemail from Kellen to advise he would forward the note as soon as Dr. White completed it.
1/18/2016	Email from Laura at MUSC to forward 1-5-16 OVN by Dr. Ikonomidis, Chief of Cardiothoracic Surgery at MUSC.
1/19/2016	Phone call to One Call Transportation to confirm service for 1-20-16 to transport Mr. Winfrey to and from his 9:00am appointment with Dr. Lide, Cardiologist. Staff confirmed contact information and addresses for destinations.
1/19/2016	Email from One Call Transportation with notification of confirmation for service 1-20-16.
1/20/2016	Email to Laura at MUSC requesting status of Dr. Van Bakel's OVN from 11-20-15. Also, requested determination of necessity of 1-26-16 follow up with Dr. Van Bakel in light of the referral recommendations.
1/20/2016	Email to Kim, paralegal, to forward a copy of the 1-5-16 OVN by Dr. Ikonomidis. Copied to defense attorney and CCO.



	Email form Kim acknowledging receipt.
	Email update to Kim, paralegal, following the appointment attended with Mr. Winfrey and Dr. Lide. Copied to defense attorney and CCO.
1/20/2016	Email from Beth, CCO, for clarification of date for previous procedure in OVN by Dr. Ikonomidis.
	Email to Beth advising probable typo regarding procedure date.
1/20/2016	Roundtrip travel to attend an appointment with Mr. Winfrey and Dr. Lide, Cardiologist.
1/20/2016	Roundtrip mileage to attend an appointment with Mr. Winfrey and Dr. Lide, Cardiologist.
1/20/2016	<p>I met with Mr. Winfrey in a secluded area of the waiting room. He reported continued fatigue with minimal exertion. We discussed his appointments with Dr. Steinberg, Valve Specialist, and Dr. Ikonomidis, Chief of Cardiothoracic Surgery at MUSC. I advised we are still waiting for Dr. Van Bakel, Director of Transplant Services at MUSC, to send his 11-20-15 note. We discussed that Dr. Van Bakel may not need to see him on 1-26-16 and I am waiting for determination from his office.</p> <p>Following a private examination, I met with Mr. Winfrey and Dr. Lide in the exam room. I provided Dr. Lide with copies of Dr. Steinberg and Dr. Ikonomidis notes for his records and review. He advised Mr. Winfrey to follow up at MUSC until released to follow up with SC Heart again. I advised the recommended surgery has not been approved yet. Dr. Lide advised, if the surgery and recovery are delayed more than 2 months to follow up in his office. No follow up appointment is scheduled at this time pending valve surgery disposition.</p>
1/20/2016	Wait time for Dr. Lide, Cardiologist
1/20/2016	Provider Visit Report completed
1/21/2016	Voicemail from Mr. Winfrey informing he received a phone call from Providence regarding non-payment of the colonoscopy procedure on 6-9-15. He requested carrier be notified.
1/21/2016	Phone call from Betsy at Dr. Ikonomidis' office regarding need for follow up appointment with Dr. Van Bakel on 1-26-16. She explained Dr. Ikonomidis is the surgeon and until the surgery is approved Mr. Winfrey should follow up with a cardiologist. I advised he had an appointment with his local cardiologist, Dr. Lide, on 1-20-16. She stated she would confirm with Dr. Van Bakel that Mr. Winfrey does not need to attend 1-26-16 appointment and let me know soon.
1/21/2016	Email to Beth, CCO, regarding phone call from Mr. Winfrey about 6-9-15 colonoscopy bills and collection calls. Also updated regarding necessity for 1-26-16 appointment with Dr. Van Bakel at MUSC.
1/25/2016	Phone call to Betsy at Dr. Ikonomidis' office to determine status of Dr. Van Bakel's note and necessity of Mr. Winfrey's appointment on 1-26-16. She advised she would contact Dr. Van Bakel's staff again regarding the 11-20-15 OVN and verify if Mr. Winfrey should attend the 1-26-16 appointment. She stated she would call me back.



	Phone call from Betsy. She indicated Mr. Winfrey does not need to attend the 1-26-16 appointment scheduled with Dr. Van Bakel. She also stated she reminded the staff member the surgical approval is delayed because Dr. Van Bakel's note had not been received.
1/25/2016	Phone call from Sean Barry at Dr. Van Bakel's office to verify contact information and to advise he would be sending the 11-20-16 OVN via fax shortly. I was placed on hold twice during the call.
1/25/2016	Email from Sean Barry at Dr. Van Bakel's office to forward a copy of the 11-20-16 OVN requested.
1/25/2016	Email from Betsy at Dr. Ikonomidis' office to forward a copy of Dr. Van Bakel's note from 11-20-15.
1/25/2016	Email to Kim, paralegal to forward a copy of the 11-20-15 OVN from Dr. Van Bakel, MUSC.
1/25/2016	Email from Rose, legal assistant, to forward a letter from Mr. McDaniel, plaintiff attorney, to Dr. White, Neurologist. The letter addressed the scope of the neurologic assessment and the report.
1/25/2016	Phone call to Mr. Winfrey for report of medical status and inform him he does not need to attend the 1-26-16 appointment with Dr. Van Bakel at MUSC. He reported no changes in his medical status. He expressed appreciation for not having to travel to Charleston again for the appointment.
1/26/2016	Email from Kim, paralegal, requesting copy of Dr. White's 12-17-15 OVN. Email to Kim to inform OVN not received yet.
1/27/2016	Email from Beth, CCO, requesting review of mileage reimbursement from Mr. Winfrey's attorney's office and clarification of services for these visits. Email to Beth advising the visits are to Vocational Rehabilitation for cardiac rehab services. Advised it is a state sponsored service and she would probably not receive a bill for the services. Email from Beth acknowledging the update.
1/27/2016	Email from Kim, paralegal, to acknowledge OVN update.
1/27/2016	Email from Rose, legal assistant, to forward a letter from Mr. McDaniel, plaintiff attorney, requesting anticipated surgery date and copies of scans for Mr. Winfrey.
1/29/2016	Email from Beth, CCO, inquiring about best time for conference call. Email to Beth advising Monday morning would be available. Email from Beth informing Monday morning is good. Email to Beth acknowledging plan for call.
2/1/2016	Email from Beth, CCO, inquiring if 10:00am is good for conference call. Email to Beth confirming time. Email from Beth informing she would be calling soon.



	Email from Beth regarding Dr. White's 12-17-15 note. Email to Beth to Inform note not received yet. Email from Beth acknowledging update regarding the note.
2/1/2016	Email from Mr. Bayne, defense attorney, regarding call timing. Email from Mr. Bayne with video of Dr. Ikonomidis at MUSC regarding valve replacement and possible avoidance of transplant. Email to Mr. Bayne to advise cardiac rehabilitation would be necessary for optimum outcome following the surgery. Email from Mr. Bayne to expound regarding questions longevity and success without lifestyle modifications such as smoking cessation.
2/1/2016	Phone call with Mr. Bayne, defense attorney, and Beth, CCO, to discuss findings from MUSC and surgical recommendations. Informed by Mr. Bayne approval is pending completion of depositions of providers at MUSC. Advised Mr. Winfrey reports he only smokes about 4 cigarettes daily and MUSC is aware per Dr. Ikonomidis' note. Advised by CCO there are questions regarding transplant versus valve repair versus valve replacement. We discussed the recommendation of Dr. Ikonomidis. Advised I would wait for direction regarding pursuit and scheduling of surgery.
2/1/2016	Email to Kellen at Dr. White's office to request status of 12-17-15 OVN.
2/1/2016	Email from Dr. Lide's office to forward 6-17-15 lab report.
2/2/2016	Email from Kellen at Dr. White's office advising Dr. White out of the office until 2-4-16 and he would remind him again then.
2/6/2016	Received and reviewed 16 pages including attorney letters, OVN, and lab report./Billed for e-mail correspondence received.
2/6/2016	Monthly Report completed

How. Altman, RN

Submitted By: Howard Altman RN, BSN
Title: Case Manager - Medical
Phone #: (704) 503-4775, (803) 530-9693
Email: Howard.Altman@genexservices.com

Rosemary Dimmic

Supervised By: Rosemary Dimmic RN, CRRN
Supervisor - CM

HA/pt

Attachments: Include copies all correspondence, emails, and medical records received during this reporting period.



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(Include all attachments)
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

MAR 30 2016

SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS COMPENSATION COMMISSION

Appellant Case No. 2014-001718

Clarence Winfrey Respondent,

v.

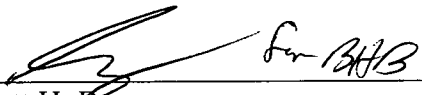
Archway Services Inc, Employer, and
American Fire & Casualty Insurance Company c/o
Liberty Mutual Group, Carrier..... Appelants,

PROOF OF SERVICE

I certify that I caused to be served on March 25, 2016, Appellant's Motion for Rehearing and Appellant's Memorandum in Support of Appellant's Motion for Rehearing in this action on counsel of record by mailing it to him, at his last known address, by depositing it in U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows: Preston F. McDaniel, Esquire, The McDaniel Law Firm, 1315 Elmwood Avenue, Columbia, South Carolina 29201.

McANGUS GOUDELOCK & COURIE, LLC

March 30, 2016



Brett H. Bayne
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mgc

Reply To

BRETT H. BAYNE
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March 30, 2016

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals, Clerk of Court
P.O. Box 11629
Columbia, South Carolina 29211

RECEIVED

MAR 30 2016
SC Court of Appeals

RE: Clarence Winfrey v. Archway Services
Appellant Case No.: 2014-001788
Carrier Claim No.: 22209963
MGC File No.: 2095.13137

Dear Ms. Kitchings:

Enclosed please find the original and seven copies of Appellant's Motion for Rehearing and Memorandum in Support of Motion for Rehearing. Please file the originals and return one (1) filed-stamped copy of the Motion for Rehearing and Memorandum in Support of Motion for Rehearing to me via our courier.

With kind regards, I am,

Very truly yours,



Brett H. Bayne

BHB/cmm

cc: Preston F. McDaniel, Esquire (w/ enc.)