

APPELLATE PANEL
DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1414843

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SC Court of Appeals

Elizabeth Preister,)
)
Employee/Claimant/Respondent,)
)
v.)
)
PruittHealth,)
)
Employer,)
)
and)
)
American Zurich Insurance, Co.,)
)
Carrier,)
)
Defendant(s)/Appellants.)
_____)

AFFIRMED

Appellate Panel Review held in Columbia, South Carolina, on January 11, 2016, per notices timely and properly served upon all parties of interest.

Appellate Panel Decision and Order filed on: February 29, 2016

APPEARANCES:

Claimant/Respondent represented by
Daniel E. Peagler, Esquire

Defendant(s)/Appellant(s) represented by
R. Daniel Addison, Esquire

STATEMENT OF THE CASE

The parties were heard by Commissioner T. Scott Beck on August 20, 2015, in North Augusta, South Carolina. As a result of the Hearing, the single Commissioner issued an Order

dated September 30, 2015, from which the Defendants, as Appellants, sought review pursuant to S.C. Code Ann. § 42-17-50 (as amended). Within the statutory period, counsel for the Defendants filed an Application for Review in the case setting forth assignments of error, copies of which were furnished to all interested parties prior to oral argument presented before the Appellant Panel on January 11, 2016, as set forth below:

1. The Single Commissioner erred in Finding of Fact No. 2 in finding that Claimant sustained bodily injury on September 7, 2014 to her left wrist, low back and psyche as this finding is not supported by the substantial evidence in this case and is contrary to established law.
2. The Single Commissioner erred in Finding of Fact No. 8 in finding that the proper legal standard in this matter is the physical/mental standard as this finding is not supported by the substantial evidence in this case and is contrary to established law.
3. The Single Commissioner erred in Finding of Fact No. 9 in finding that Claimant had satisfied her burden of proof to establish a psychological injury as this finding is not supported by the substantial evidence in this case and is contrary to established law.
4. The Single Commissioner erred in Finding of Fact No. 10 in finding that Claimant is entitled to causally related care for psyche as this finding is not supported by the substantial evidence in this case and is contrary to established law.
5. The Single Commissioner erred in Finding of Fact No. 11 in finding that Claimant is in need of psychological care which will tend to lessen her period of disability as this finding is not supported by the substantial evidence in this case and is contrary to established law.
6. The Single Commissioner erred in Conclusion of Law No. 1 to the extent it concludes that Claimant has established an injury to her psyche as this conclusion is not supported by the substantial evidence in this case and is contrary to established law.
7. The Single Commissioner erred in Conclusion of Law No. 3 to the extent it concludes that Claimant is entitled to additional medical care for her psyche as this conclusion is not supported by the substantial evidence in this case and is contrary to established law.
8. The Single Commissioner erred in ordering that Defendants shall provide causally related medical care for psychological treatment as this order is not supported by the substantial evidence in this case and is contrary to established law.

All testimony and documentary evidence has been taken and delivered to the individual

members of the Appellate Panel for their study and consideration. In addition, the parties have briefed and orally argued their positions before the Panel.

In an Appellate Panel review under S.C. Code Ann. § 42-17-50, the Commission's Appellate Panel shall review the award, weigh the evidence presented at the initial hearing, and, if good ground be shown therefore, make its own findings and conclusions consistent with or inconsistent with those of the Hearing Commissioner.

After careful review of the record in this case, the Commission, by unanimous vote, has determined that all of the Hearing Commissioner's Findings of Fact and Rulings of Law are correct as stated. The Hearing Commissioner's Order is affirmed in its entirety, and the Commissioner's Findings of Fact and Rulings of Law, as adopted below, are hereby the law of this case.

FINDINGS OF FACT

1. The parties to the proceedings are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended to date, with United Health Services/Pruit Health as the Employer; American Zurich Insurance Company, as the insurance carrier; and the Claimant as the employee of the employer on September 7, 2014.
2. The Claimant, Elizabeth Preister, did sustain bodily injury on September 7, 2014, to her left wrist, low back and psyche while employed by United Health Services/Pruit Health and such injury arose out of and in the course of her employment.
3. The Defendants admit the Claimant sustained injuries to her left wrist and low back on their Form 58, Pre-Hearing Brief as well as on their Form 51, Employer's Answer to Request for Hearing.
4. The Claimant gave notice to the Defendants pursuant to the Act.

5. The average weekly wage is \$536.50, with a resulting compensation rate of \$357.68.
6. Dr. Boyd has recommended pain management with a heavy emphasis on cognitive and psychiatric components of pain.
7. Dr. Boyd assigned a 5% whole person rating to Claimant's low back.
8. The legal standard in this matter is to use a physical/mental standard, not the mental/mental standard that the Defendants argue should apply.
9. Dr. Boyd's report, accompanied by the report of Dr. Lind, is sufficient to satisfy Claimant's burden of proof as it relates to the psychological injury.
10. The Claimant is entitled to causally related care for psyche.
11. The Claimant has not reached maximum medical improvement as of the date of the Hearing, as she is in need of psychological care which will tend to lessen her period of disability.

CONCLUSIONS OF LAW

Accordingly, as provided in South Carolina Code of Laws, (1976 as amended), Section 42-17-40, it is the determination of this Commissioner:

1. Under §42-1-160, the Claimant did sustain injury by accident, arising out of and in the course of her employment.
2. Under §42-15-20, the Claimant gave notice of the accident to the Employer.
3. Under §42-15-60, the Claimant is entitled to additional medical care, which will tend to lessen the period of disability.

After careful review of the record in this case, the Commission, by unanimous vote, has determined the following findings of fact and law should be added to the order of Commissioner T. Scott Beck dated September 30, 2015:

ADDITIONAL FINDINGS OF FACT

12. We find that Dr. Boyd's questionnaire stating that there was no injury is wholly inconsistent with his assignment of a 5% impairment which according to the AMA Guide is compatible with a specific injury. As a result, no weight is given to Dr. Boyd's questionnaire in light of the impairment rating.

ORDER AND AWARD

THEREFORE, it is ordered that the Defendants shall make the following payments:

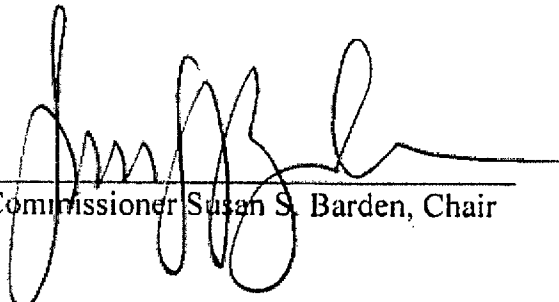
1. Charges for the Claimant causally related medical care for psychological treatment with a specialist of the Defendants choosing until further Order of this Commission.

DECISION AND ORDER OF THE COMMISSION ON APPEAL

IT IS THEREFORE ORDERED that the Decision and Order of the Hearing Commissioner is hereby affirmed by the Appellate Panel of the Commission with Findings of Fact and Law added.

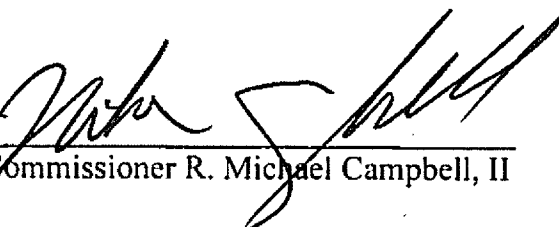
AND IT IS SO ORDERED.

S.C. WORKERS' COMPENSATION COMMISSION

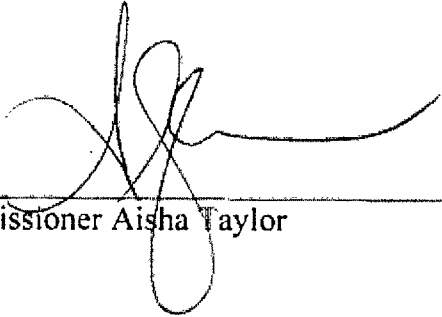


Commissioner Susan S. Barden, Chair

I CONCUR:



Commissioner R. Michael Campbell, II



Commissioner Aisha Taylor

_____, 2016

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Eugenia Hollmon on February 29, 2016