

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM

South Carolina Workers' Compensation Commission

---

Appellate Case No. 2016-002448

Case No. 1502120

---

Reginald Evans  
Employee, Claimant

Appellant,

V

Exel Inc., Employer  
New Hampshire Insurance Company,  
Carrier

Respondents,

---

**RECEIVED**

JAN 18 2017

SC Court of Appeals

MOTION TO AMEND

Come now the Appellant Motion to Amend the Appeal by submitting the South Carolina Worker Commission Appellate Panel Decision Order Filed January 9, 2017.

Respectfully submitted,

January 18, 2016



Reginald Evans  
1200 Broad Street #123  
Sumter, SC 29150  
484-725-0621

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

W.C.C. FILE NO: 1502120

Reginald Evans

VS.

**RECEIVED**

EMPLOYEE,  
CLAIMANT/RESPONDENT

DHL, Inc. (Exel)

JAN 18 2017

EMPLOYER,

AND

SC Court of Appeals

New Hampshire Insurance Company/Chartis  
Claims, Inc. c/o Sedgwick CMS

CARRIER,  
DEFENDANTS/APPELLANTS,

---

Appellate Panel Review held in Columbia, South  
Carolina, on October 17, 2016, per notices timely  
and properly served upon all parties of interest.

Appellate Panel Decision and Order Filed:

January 9, 2017

APPEARANCES: Claimant, Reginald Evans, appeared *pro se*

Defendants/Respondents represented by Amanda A. Mellard

## STATEMENT OF THE CASE

The parties were heard by Commissioner Aisha Taylor on April 27, 2016 in Rock Hill, South Carolina. On May 16, 2016 she issued the following Order and Findings of Fact:

### FINDINGS OF FACT

1. I find Claimant sustained an admitted right leg crush injury on February 21, 2016.
2. As a result of the injury, Claimant suffered an open wound which became infected. Claimant now has a 6 to 7 inch scar on the right leg which is approximately 2 inches in width.
3. Claimant underwent an EMG study on July 8, 2015, which confirmed permanent nerve damage in the right leg. (APA pg. 270).
4. Dr. James released Claimant at MMI on January 8, 2016, and issued a 15% impairment rating. Pursuant to Claimant's FCE - Dr. James opined Claimant has permanent light duty restrictions, which also include restrictions of no lifting over 20 lbs., no sitting for more than 2 hours, and no standing for more than 2 hours.
5. Claimant testified credibly at the hearing. Although Claimant has a college degree, he has worked heavy duty work since 2011, which required him to lift 75 to 100 lbs. daily. Claimant states he currently takes Gabapentin as prescribed by his neurologist; however, he still has pain off and on all day long.
6. Claimant has looked for work online and even began an application with Chester Tire Company, but has been unable to find work within his restrictions.
7. I find Claimant is at maximum medical improvement as January 8, 2016, per Dr. James. See Gadson v. Mikasa Corp., 368 S.C. 214, 628 S.E.2d 262 (Ct. App. 2006).
8. This claim is governed by Section 42-9-30.

9. Based on the evidence as a whole, I find Claimant sustained a 35% permanent partial disability to his right leg as a result of his work injury. This finding is based on the medical evidence including Claimant's impairment rating and permanent work restrictions, which I find severely limits his ability to return to work given his work history. I did consider Claimant's educational achievements and prior self-employment in making this finding. I find Claimant's physical condition and current prescriptions outweigh his educational and business history.

10. Claimant was seen by a neurologist in July 2015. Claimant was referred to a neurologist by Dr. James. Claimant initially saw the neurologist on his own without authorization for the carrier; however, the carrier later paid for his appointment. The neurologist prescribed Gabapentin and Claimant has been taking Gabapentin daily.

11. I find Claimant is entitled to causally related future medical treatment in the form of Gabapentin or any other equivalent nerve pain medication as prescribed by his neurologist at Metrolina Neurology, or any authorized physician. This medical treatment is to be provided at the direction of Defendants pursuant to S.C. Code Ann. Section 42-15-60.

12. Claimant is entitled to a lump sum award.

13. Defendants are entitled to a stop payment of benefits as of May 13, 2016.

14. Defendants are entitled to a credit of overpayment of TTD benefits paid after January 8, 2016 - date of MMI - through May 16, 2016.

15. Claimant has an AWW of \$714.21 and a CR \$476.18.

16. Claimant is entitled to James v. Anne proration language.

### RULINGS OF LAW

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

1. Under Section 42-1-130 the Claimant is a covered employee at all times stated above.
2. Under Section 42-1-140 the Defendant employer was a covered employer under the Act.
3. Under Section 42-1-160, the Claimant did sustain a compensable injury in the course and scope of his employment to the right leg.
4. Under Section 42-15-60, carrier will authorize all ongoing prescription meds prescribed for Claimant's permanent nerve damage to specifically include Gabapentin.
5. Under Section 42-9-30, Carrier will pay Claimant 35% permanent partial disability to the leg, minus credit of overpayment of TTD.

### GROUND OF APPEAL

Claimant filed an Application for Review in the case setting forth his reasons, copies of which were furnished to all interested parties, prior to oral argument presented before the Appellate Panel on October 17, 2016. All proffered testimony has been taken. Such, together with all documentary evidence, has been delivered by oral argument to the individual members of the Full Commission and has since been under study and consideration. By appeal, Claimant submits the following:

1. Section 67-801 Informal hearing, Supporting Facts: The hearing took place on March 27, 2016; there were two informal hearings, one that took place before the hearing and another after the hearing.

2. The Order did not address or compensate the Appellant for Permanent Supporting Facts: At the hearing the Commissioner viewed the Appellant Disfigurement from 10 feet away and could clearly see the Disfigurement of the Appellant's body part.

3. Defendants shall be given a credit of overpay of TTD benefits paid from January 8, 2016, through May 13, 2016, equaling 18 weeks totaling \$8,571.25. Supporting Facts: Section 42-9-250, Notice of commission when payment has begun; suspension or termination of benefits: "You must accept light work if it's offered."

4. Section 42-9-400. Reimbursement from Second Injury Fund when disability substantially greater or caused by aggravation of pre-existing impairment. Supporting Facts: The Employer was aware of the Appellant's diabetes.

5. The Appellant's former Attorney have [sic] and the Commissioner should have awarded back pay.

6. The Defendants shall pay a lump award in the amount of \$23,928.05.

7. Under Section 42-9-30 Carrier will pay Claimant 35% permanent partial disability. Appellant's former Attorney should have requested and the Commissioner should have awarded 100% permanent and total disability.

#### **STANDARD OF REVIEW**

In an Appellate Review, the Panel shall, pursuant to S.C. Code § 42-17-50, review the award, weigh the evidence as presented at the initial hearing, and if good grounds be shown therefore, make its own Findings of Fact and reach its own Conclusions of Law consistent with, or inconsistent with, those of the Hearing Commissioner. After careful review in the instant case, the Panel, by unanimous vote, has determined all of the Commissioner's Findings of Fact and Conclusions of Law are correct as stated. Accordingly, they shall become, and hereby are,

the law of the case and, therefore, the Order is sustained in its entirety. The Hearing Commissioner's Decision is incorporated by reference as if set forth verbatim herein:

### FINDINGS OF FACT

1. We find Claimant sustained an admitted right leg crush injury on February 21, 2016.
2. As a result of the injury, Claimant suffered an open wound which became infected. Claimant now has a 6 to 7 inch scar on the right leg which is approximately 2 inches in width.
3. Claimant underwent an EMG study on July 8, 2015, which confirmed permanent nerve damage in the right leg. (APA pg. 270).
4. Dr. James released Claimant at MMI on January 8, 2016, and issued a 15% impairment rating. Pursuant to Claimant's FCE - Dr. James opined Claimant has permanent light duty restrictions, which also include restrictions of no lifting over 20 lbs., no sitting for more than 2 hours, and no standing for more than 2 hours.
5. Claimant testified credibly at the hearing. Although Claimant has a college degree, he has worked heavy duty work since 2011, which required him to lift 75 to 100 lbs. daily. Claimant states he currently takes Gabapentin as prescribed by his neurologist; however, he still has pain off and on all day long.
6. Claimant has looked for work online and even began an application with Chester Tire Company, but has been unable to find work within his restrictions.
7. We find Claimant is at maximum medical improvement as January 8, 2016, per Dr. James. See Gadson v. Mikasa Corp., 368 S.C. 214, 628 S.E.2d 262 (Ct. App. 2006).
8. This claim is governed by Section 42-9-30.

9. Based on the evidence as a whole, we find Claimant sustained a 35% permanent partial disability to his right leg as a result of his work injury. This finding is based on the medical evidence including Claimant's impairment rating and permanent work restrictions, which we find severely limits his ability to return to work given his work history. we did consider Claimant's educational achievements and prior self-employment in making this finding. we find Claimant's physical condition and current prescriptions outweigh his educational and business history.

10. Claimant was seen by a neurologist in July 2015. Claimant was referred to a neurologist by Dr. James. Claimant initially saw the neurologist on his own without authorization for the carrier; however, the carrier later paid for his appointment. The neurologist prescribed Gabapentin and Claimant has been taking Gabapentin daily.

11. We find Claimant is entitled to causally related future medical treatment in the form of Gabapentin or any other equivalent nerve pain medication as prescribed by his neurologist at Metrolina Neurology, or any authorized physician. This medical treatment is to be provided at the direction of Defendants pursuant to S.C. Code Ann. Section 42-15-60.

12. Claimant is entitled to a lump sum award.

13. Defendants are entitled to a stop payment of benefits as of May 13, 2016.

14. Defendants are entitled to a credit of overpayment of TTD benefits paid after January 8, 2016 - date of MMI - through May 16, 2016.

15. Claimant has an AWW of \$714.21 and a CR \$476.18.

16. Claimant is entitled to James v. Anne proration language.

## RULINGS OF LAW

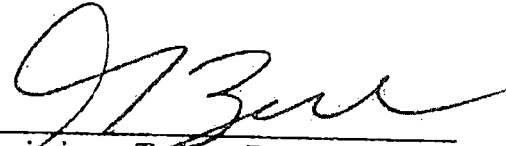
Accordingly, as provided in the South Carolina Code of Laws, 1976, Section 42-17-40 it is the determination of the Commissioner that:

1. Under Section 42-1-130 the Claimant is a covered employee at all times stated above.
2. Under Section 42-1-140 the Defendant employer was a covered employer under the Act.
3. Under Section 42-1-160, the Claimant did sustain a compensable injury in the course and scope of his employment to the right leg.
4. Under Section 42-15-60, carrier will authorize all ongoing prescription meds prescribed for Claimant's permanent nerve damage to specifically include Gabapentin.
5. Under Section 42-9-30, Carrier will pay Claimant 35% permanent partial disability to the leg, minus credit of overpayment of TTD.
6. Claimant did not seek an award of disfigurement at the initial hearing and therefore is barred from doing so on appeal.

## ORDER

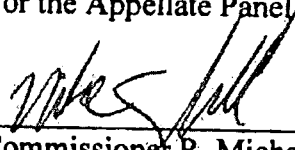
**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Order of the Single Commissioner filed in the above-captioned matter on May 16, 2016 is hereby **AFFIRMED** by the Panel, and the same shall constitute the Decision and Order of the Appellate Panel.

**SO ORDERED.**

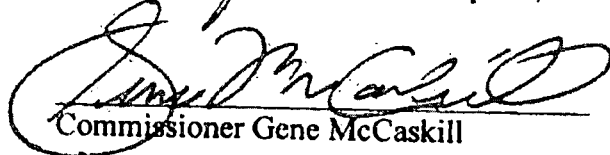


Commissioner T. Scott Beck, Chair  
For the Appellate Panel

**WE CONCUR:**



Commissioner R. Michael Campbell, II



Commissioner Gene McCaskill

**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 January 9, 2017**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM

South Carolina Workers' Compensation Commission

---

Appellate Case No. 2016-002448

Case No. 1502120

---

**RECEIVED**

JAN 18 2017

**SC Court of Appeals**

Reginald Evans  
Employee, Claimant

Appellant,

V

Exel Inc., Employer  
New Hampshire Insurance Company,  
Carrier

Respondents,

---

CERTIFICATE OF SERVICE

I, Reginald Evans, do hereby certify that on this 18<sup>TH</sup> day of January 2017, a true and correct copy of foregoing Appellants' Brief and the Appellants' motion to amend has been served upon the Defendant by depositing the same in the U.S. Mail postage pre-paid, address as follows: Amanda Mellard, MGCLAW, and P.O. Box 2980, Greenville, SC 29602

Respectfully submitted,

January 18, 2016



Reginald Evans  
1200 Broad Street #123  
Sumter, SC 29150  
484-725-0621