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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2020-001474

David Casey, Employee, Respondent,

v.

APTIM Federal Services, LLC, Employer, and XL Specialty Insurance Company, Carrier, Appellants.

RECORD ON APPEAL

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1822255

DAVID CASEY, Employee, Claimant, vs. APTIM FEDERAL SERVICES, Employer, AND XL SPECIALTY INSURANCE COMPANY, Carrier, Defendants.	**DECISION AND ORDER**

DATE OF HEARING: Hearing held in Richland County, South Carolina, on July 1, 2019.

APPEARANCES: David Casey, appeared and represented by Richard C. Alexander, Esquire, of Shelly Leeke Law Firm, LLC of North Charleston, South Carolina.

Defendants represented by Daniel B. Eller, Esquire of Eller, Tonnsen, & Bach, of Greenville, South Carolina.

PURPOSE OF THE HEARING: To determine the compensability of injuries, to determine if Claimant is entitled to temporary total disability benefits from the date of accident forward, and to determine if Claimant is entitled to future medical care.

COMMISSIONER: Commissioner R. Michael Campbell, II

FILED: December 12, 2019

STIPULATIONS

The parties have stipulated at the hearing to the following:

1. The purpose of the hearing is to determine the issues raised on the Forms 50 and 51, specifically to determine compensability of injuries, entitlement to past, present and future total disability benefits, and entitlement to future medical care, along with any other issues before the Commission.
2. The Claimant's average weekly wage is $2,372.54, yielding a corresponding maximum compensation rate of $838.21.
3. Notice of the hearing was timely and properly served upon all parties of interest.
4. The South Carolina Workers' Compensation Commission has jurisdiction of this claim.
5. Venue and jurisdiction are proper in Richland County, South Carolina.

APA SUBMISSIONS

Pursuant to the South Carolina Administrative Procedures Act and Regulations of the South Carolina Workers' Compensation Commission, the following records and documents were submitted into evidence:

Claimant's Submissions:

APA#	PROVIDER	TYPE OF REPORT	DATED	NO. OF PAGES	PAGES
1	Chesapeake Regional	Medical Record	12/10/2018	6	1 – 6
2	VA Hospital	Medical Record	1/18/2019	1	7
3	Lexington Family Medical	Medical Record	1/22/2019– 2/8/2019	6	8 – 13
4	Midlands Ortho*	Medical Record	3/14/2019– 5/9/2019	8	14 – 21

Exhibit #	SOURCE	TYPE OF REPORT	DATED	NO. OF PAGES	PAGES
A	Claimant*	E-Mails	1/23/2019	1	22
B	Claimant*	E-Mails	2/13/2019– 2/28/2019	3	23-25
C	Claimant*	E-Mails	2/21/2019– 2/22/2019	2	26-27

D	Claimant*	E-Mails	2/22/2019	2	28-29
E	Claimant*	E-Mails	2/25/2019	2	30-31
F	Claimant*	E-Mails	2/26/2019– 2/28/2019	5	32-36

*Records provided in reverse chronological order by source

Defendants' Submissions:

APA No.	NAME OF PROVIDER	DATES	PAGES
5	Bayview Urgent Care	12/11/2018	37-44
6	Midlands Orthopaedic	12/10/2018 – 3/14/2019	45-54
7	Palmetto Imaging	3/12/2019	55-56
8	Progressive Physical Therapy	1/28/2019 – 2/22/2019	57-78

STATEMENT OF THE CASE

The purpose of this hearing is to determine the issues as set forth in the Forms 50 and 51, specifically to determine compensability of injuries, to determine entitlement to past, present and future total disability benefits, and to determine entitlement to future medical care. This is a denied claim with an alleged injury by accident to the Claimant's back that occurred on December 10, 2018, while under the employment of APTIM Federal Services. Claimant received causally related medical treatment at the Bayview Urgent Care, Midlands Ortho, Palmetto Imaging, and Progressive PT.

Claimant contends he injured his back on December 10, 2018, when a car beside him started backing up and cut their wheel too quickly and hit his door and pinned him between the door and the door frame of his vehicle. Claimant also contends he is entitled to past, present, and ongoing medical care and past, present, and future temporary benefits. He seeks a finding of compensability of his back and seeks a finding of entitlement to future medical treatment as well as past temporary benefits.

Defendants deny compensability of the alleged injuries and therefore entitlement to any temporary benefits or medical care.

EVIDENCE OF THE CASE

Claimant testified on his own behalf. At the time of the hearing, the Claimant, David Casey, was 41 years old. Claimant works for Defendant Employer (Aptim Federal Services) as an unexploded ordnance technician (hereinafter "UXO), which involves working on active ranges or flood sites doing metal detection for unexploded ordnance and then, if necessary, disposing of any ordnance (Hr. Tr. P. 8, l. 20 : P. 9, l. 17). Claimant testified that he had been working consistently for Aptim Federal Services since March 2017, and he had worked all over the country at different sites. (*Id.* at P. 9, l. 18 : P. 11, l. 8). He discussed the high physical demands of his work, which include extensive digging and lifting items as heavy as 80 pounds. (*Id.* at P. 11, ll. 11-17). He further testified that to perform his normal UXO work when he first started working for Aptim Federal Services, he was required to pass an OSHA physical and be able to lift a minimum of 40-45 pounds. That amount was increased to 50 pounds some time after he went out of work from this accident. (*Id.* at P. 13, ll. 15 : P. 14, l. 3).

On December 10, 2018, Claimant injured his back when putting something in the back seat of his truck when the car beside him started backing up and the driver cut his wheel too quickly, hitting Mr. Casey's door and pinning him between the door and the door frame. Claimant testified that he went to the emergency room that day, then an urgent care in Virginia, at the direction of his employer. (*Id.* at P. 14, ll. 7-15). He testified that he finished his work on December 13, 2018 and returned home. He testified that the urgent care released him to full duty since they were not going to be seeing him again because his current assignment was ending on that day, not because he was not injured. Despite repeated and repetitive cross examination about being released to full duty, Claimant

testified that the "full duty" release clearly said not to do anything that would aggravate his injury. (*Id.* at P. 50, ll. 17-24).

Next, he testified that he was given another light duty construction support assignment by Aptim that started on January 7, 2019 and ran for approximately a week until January 15, 2019. It was during this return to work that he really started to notice the pain in his back, and that was when he started seeking follow up care. He testified that he was advised by the Defendant Carrier to seek treatment with his primary care physician and get notes so Defendant Carrier could address future care, which is exactly what he did. For the next six weeks or so, he testified that he was strung along by Defendant Carrier until he finally got an attorney. He testified that his case was finally transferred to South Carolina when he obtained an attorney, and he was authorized to see Dr. LaMotta in March 2019. At this point, he had already completed a round of physical therapy that had been ordered by his primary care physician, and he was advised to continue those exercises he learned in physical therapy. (*Id.* at P. 19, l. 6 : P. 22, l. 18). Claimant testified that he returned to Dr. LaMotta on May 9, 2019 wherein he requested to be released to full duty because he could not continue to be held out of work without pay. (*Id.* at P. 23, ll. 6-20). Despite being released to full duty with no restrictions, Claimant testified he continues to have problems with pain daily when working as well as with performing daily activities. He requested additional treatment to hopefully resolve his issues. (*Id.* at P. 25, l. 16 : P. 26, l. 17).

Claimant testified that from the time he left his assignment where he was injured in December until he was released to full duty, he worked approximately one week in construction support in January, four or five days in March, and three or four days in April. He testified that all of the jobs he was able to work while under restrictions were construction support. (*Id.* at P. 11, l.4 : P. 12, l. 8; P. 24, l. 19 : P. 25, l. 15). Claimant testified that he missed out on several job opportunities with Aptim

Federal Services as a UXO because he was under restrictions from his work injury that precluded him from being assigned to those jobs. He testified about a job that was available in December in Quantico, Virginia as well as other opportunities in Dam Neck, Virginia and Adak, Alaska. (*Id.* at P. 15, l. 18 : P. 17, l. 15).

Claimant testified on cross examination that he agreed he would have worked any job available if it would support his family. He further agreed that as of April 1, 2019, he was able to do UXO tech 3 work because Dr. LaMotta had decreased his restrictions. (*Id.* at P. 39, l. 16 : P. 41, l. 1). On redirect, Claimant testified that the release he received from Bayview Urgent Care was not a full duty release and clearly said not to do anything that would aggravate his injury. (*Id.* at P. 50, ll. 17-24). Claimant further testified that his understanding when he was released by Bayview Urgent care was that he still was under restrictions. (*Id.* at P. 51, l. 8 : P. 52, l. 3).

Claimant testified his job was contract work on an as-needed basis. (Hr. Tr. p. 28, ll. 20-22). He stated that the length of time he worked at a particular location depends largely on the contract and the nature of his job. (Hr. Tr. p. 29, ll. 8-18). When he was injured on December 10, 2018, Claimant was under contract to work at Fentress Auxiliary Airfield in Chesapeake, Virginia. (Hr. Tr. pp. 10-11). Claimant testified he worked through December 13, 2018 at the Fentress Airfield. (Hr. Tr. pp. 11, 34). He further testified that all of the workers at the Fentress Airfield were off work from December 14, 2018 through January 6, 2019 for the holidays. *Id.* Beginning on January 7, 2019, Claimant returned to work at the Fentress Airfield as did all of the other employees assigned to work there. *Id.* As such, Claimant is not entitled to TTD for the period from December 14, 2018 through January 6, 2019 because he was not disabled (i.e., unable to work due to a work-related accident). Moreover, Claimant is not entitled to TTD for any other alleged period as he admitted that he was not restricted from performing his job. Of note, there is

no medical evidence in the record removing Claimant from his job. Moreover, Claimant admitted that as of his deposition on April 1, 2019, he was able to perform his position as a UXO tech 3. (Hr. Tr. pp. 39-40). Thus, Claimant's work restrictions were accommodated by the Employer

Claimant testified on redirect that the Defendants directed him to go to his primary care physician for evaluation since he was still having pain after returning to work. Additionally, he testified that Defendants admitted to him in January that he was injured and unable to return to full duty, so he would be compensated through Workers' Compensation. (*Id.* at P. 52, l. 3 : P. 53, l. 22). Claimant also discussed emails from Defendants where they noted they were confirming the last date he worked so they could start paying him temporary benefits while he was out. (*Id.* at P. 63, ll. 7-18). Claimant went on to testify further about his restrictions that precluded him from working several assignments that came up while he was under restrictions until he was released and returned to work in May 2019. (*Id.* at P. 53, l. 23 : P. 56, l. 8).

FINDINGS OF FACT

The following Findings of Fact are based on the stipulations of the parties, written and evidentiary submissions, and testimony rendered at the hearing:

1. All parties to this proceeding are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act.
2. The Claimant's average weekly wage is $2,372.54 yielding a corresponding maximum compensation rate of $838.21.
3. Claimant sustained a compensable injury to the back arising out of and in the course and scope of his employment when he was pinned between two vehicles. (Claimant's APA 1, pp. 1-6).

4. Claimant was transported via EMS and underwent initial treatment with Chesapeake Regional Hospital. He then followed up with Bayview Urgent Care, VA Hospital, Lexington Family Medical, and Midlands Orthopaedics. (Claimant's APAs 1-4; Defendants' APAs 5-7).

5. On March 14, 2019, Dr. Ivan E. LaMatta of Midlands Orthopaedics and Neurosurgery evaluated Claimant and opined: "From the surgical standpoint, the patient has reached maximum medical improvement. There is no additional therapy, injections, or surgery that can be recommended for the patient. I see no contradictions for the patient to do limited light duty to medium duty work lifting up to 40-45 pounds." (Claimant's APA 4, p. 19).

6. In his May 9, 2019 follow-up appointment, Dr. LaMatta opined: "My recommendation is for the patient to perform core exercises and stretching on a daily basis as well as incorporating a yoga program along with weight loss. More than likely, with time, the patient's condition should continue to improve. I really see no contradictions for the patient to return to regular duty. The patient has reached maximum medical improvement. At this time, I see loss of function for his lumbar spine and therefore no permanent impairment. There is no need for future medical care. The patient will follow up on as-needed basis only if his contortion were to significantly deteriorate." (Claimant's APA 4, p. 16).

7. On July 1, 2019, at the hearing before the undersigned Commissioner, Claimant testified regarding his admitted work-related injury, the medical treatment he has received, his work status, the time he was out of work due to his restrictions, the

issues he continues to have, and his desire for second opinion (see "Evidence of the Case" above).

8. Claimant is entitled to reimbursement for all past out-of-pocket causally-related treatment (i.e., copays for primary care visits) and Defendants are required to pay for all other past causally-related treatment (i.e., EMS, ER, etc.).

9. Claimant is entitled to a second opinion by a spine specialist of Defendants' choosing and all causally-related treatment, if recommended, by said spine specialist.

10. The parties are to designate a physician within 30 days of the date of this Order or contact the Commissioner to have him designate a physician.

11. Claimant has not provided a physician note writing him out of work, and his work restrictions were accommodated by Defendants. As such, Claimant failed to meet his burden of proving he is entitled to back temporary total disability benefits.

12. Claimant is not at MMI.

13. A determination of permanency is premature at this time.

14. All other issues are held in abeyance.

CONCLUSIONS OF LAW

Accordingly, as provided in the South Carolina Workers' Compensation Act, the undersigned Commissioner makes the following conclusions of law:

1. Under S.C. Code Ann. § 42-1-130, the Claimant was a covered Employee at the time in question and under § 42-1-140, the Employer was a covered Employer.

2. Under S.C. Code Ann. § 42-1-160, the Claimant sustained a compensable injury to his back arising out of and in the course of his employment on December 10, 2018.

3. Under S.C. Code Ann. § 42-1-40, the Claimant's average weekly wage of $2,372.54 yields a corresponding maximum compensation rate of $838.21.

4. Under *Lee v. Bondex, Inc.*, 406 S.C. 97, 102, 749 S.E.2d 155, 157 (Ct. App. 2013), Claimant bears the burden of proving entitlement to temporary disability compensation. To do so, he must prove that work restrictions prevent him from performing the job he had before the injury, and that his current employer has not offered him light-duty employment. *Id.* at 102-03, 749 S.E.2d at 157. In this case, Claimant has failed to meet his burden of proving he is entitled to TTD for any alleged period.

5. Under S.C. Code Ann. § 42-15-60, the Claimant has not reached maximum medical improvement and requires additional treatment for his back.

6. Under S.C. Code Ann. § 42-15-60, the Defendants shall procure a treating physician for the Claimant's back.

7. Under S.C. Code Ann. § 42-17-30, the Commission may appoint a doctor.

8. Under S.C. Code Ann. § 42-15-60, the Defendants shall reimburse the Claimant for all out-of-pocket causally-related medical expenses, including but not limited to office visits, surgery, medications, co-pays, and mileage, incurred as a result of the compensable back injury.

9. Under S.C. Code Ann. §§ 42-9-10, 42-9-20, and 42-9-30, a determination of the permanency of the Claimant's injuries is premature at this time.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the Claimant has not reached maximum medical improvement for his back injuries;

IT IS FURTHER ORDERED that a determination of permanency is premature at this time;

IT IS FURTHER ORDERED that Claimant's request for a second opinion is hereby granted;

IT IS FURTHER ORDERED that Defendants are to authorize a treating physician and the Claimant is entitled to all causally related medical treatment as recommended by said treating physician;

IT IS FURTHER ORDERED that Defendants shall reimburse the Claimant for all out-of-pocket causally related medical expenses, including but not limited to office visits, surgery, medications, co-pays, and mileage, incurred as a result of the compensable right inguinal hernia, left leg, and left foot injuries;

IT IS FURTHER ORDERED that Claimant's request for an award of TTD is denied;

IT IS FURTHER ORDERED that the parties have 30 days from the date of this Order to designate a physician. Should the parties fail to reach a consensus on a physician within 30 days, they shall notify the undersigned Commissioner's office that they are at an impasse and he will designate a physician;

IT IS FURTHER ORDERED that all other issues are held in abeyance at this time.

AND IT IS SO ORDERED this 12th day of December, 2019.

Mike Campbell

Commissioner Mike Campbell

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.
December 12, 2019

By: Barbara Cheeseboro, Administrative Assistant to Commissioner Campbell

DECISION AND ORDER

OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION'S APPELLATE PANEL

W.C.C. FILE NO.: 1822255

DAVID CASEY,	CLAIMANT/APPELLANT,
-vs-	
Aptim Federal Services,	EMPLOYER,
-and-	
XL Specialty Insurance Company,	CARRIER, DEFENDANTS/RESPONDENTS.

Appellate Panel Review held in Columbia, South Carolina on March 16, 2020 per notices timely and properly served on all parties in interest.

Appellate Panel Decision and Order filed

June 29, 2020

APPEARANCES:

Richard C. Alexander, Esq., Shelly Leeke Law Firm, North Charleston, South Carolina, appearing on behalf of the Claimant/Appellant.

Daniel B. Eller, Esquire of Eller, Tonnsen, & Bach, of Greenville, South Carolina., appearing on behalf of the Defendants/Respondents.

STATEMENT OF THE CASE

The parties were heard by Commissioner R. Michael Campbell, II on July 1, 2019. The purpose of this hearing was to determine the issues as set forth in the Forms 50 and 51, specifically to determine compensability of injuries, to determine entitlement to past, present and future total disability benefits, and to determine entitlement to future medical care. This is a denied claim with an alleged injury by accident to the Claimant's back that occurred on December 10, 2018, while under the employment of APTIM Federal Services. Claimant received causally related medical treatment at the Bayview Urgent Care, Midlands Ortho, Palmetto Imaging, and Progressive PT.

Claimant contended he injured his back on December 10, 2018, when a car beside him started backing up and cut their wheel too quickly and hit his door and pinned him between the door and the door frame of his vehicle. Claimant also contended he is entitled to past, present, and ongoing medical care and past, present, and future temporary benefits. He sought a finding of compensability of his back and a finding of entitlement to future medical treatment as well as past temporary benefits. Defendants denied compensability of the alleged injuries and therefore entitlement to any temporary benefits or medical care.

On December 12, 2019, Commissioner Campbell issued the following:

FINDINGS OF FACT

The following Findings of Fact are based on the stipulations of the parties, written and evidentiary submissions, and testimony rendered at the hearing:

1. All parties to this proceeding are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act.
2. The Claimant's average weekly wage is $2,372.54 yielding a corresponding maximum compensation rate of $838.21.

3. Claimant sustained a compensable injury to the back arising out of and in the course and scope of his employment when he was pinned between two vehicles. (Claimant's APA 1, pp. 1-6).

4. Claimant was transported via EMS and underwent initial treatment with Chesapeake Regional Hospital. He then followed up with Bayview Urgent Care, VA Hospital, Lexington Family Medical, and Midlands Orthopaedics. (Claimant's APAs 1-4; Defendants' APAs 5-7).

5. On March 14, 2019, Dr. Ivan E. LaMatta of Midlands Orthopaedics and Neurosurgery evaluated Claimant and opined: "From the surgical standpoint, the patient has reached maximum medical improvement. There is no additional therapy, injections, or surgery that can be recommended for the patient. I see no contradictions for the patient to do limited light duty to medium duty work lifting up to 40-45 pounds." (Claimant's APA 4, p. 19).

6. In his May 9, 2019 follow-up appointment, Dr. LaMatta opined: "My recommendation is for the patient to perform core exercises and stretching on a daily basis as well as incorporating a yoga program along with weight loss. More than likely, with time, the patient's condition should continue to improve. I really see no contradictions for the patient to return to regular duty. The patient has reached maximum medical improvement. At this time, I see loss of function for his lumbar spine and therefore no permanent impairment. There is no need for future medical care. The patient will follow up on as-needed basis only if his contortion were to significantly deteriorate." (Claimant's APA 4, p. 16).

7. On July 1, 2019, at the hearing before the undersigned Commissioner, Claimant testified regarding his admitted work-related injury, the medical treatment he has received, his work status, the time he was out of work due to his restrictions, the issues he continues to have, and his desire for second opinion (see "Evidence of the Case" above).

8. Claimant is entitled to reimbursement for all past out-of-pocket causally-related treatment (i.e., copays for primary care visits) and Defendants are required to pay for all other past causally-related treatment (i.e., EMS, ER, etc.).

9. Claimant is entitled to a second opinion by a spine specialist of Defendants' choosing and all causally-related treatment, if recommended, by said spine specialist.

10. The parties are to designate a physician within 30 days of the date of this Order or contact the Commissioner to have him designate a physician.

11. Claimant has not provided a physician note writing him out of work, and his work restrictions were accommodated by Defendants. As such, Claimant failed to meet his burden of proving he is entitled to back temporary total disability benefits.

12. Claimant is not at MMI.

13. A determination of permanency is premature at this time.

14. All other issues are held in abeyance.

CONCLUSIONS OF LAW

Accordingly, as provided in the South Carolina Workers' Compensation Act, the undersigned Commissioner makes the following conclusions of law:

1. Under S.C. Code Ann. § 42-1-130, the Claimant was a covered Employee at the time in question and under § 42-1-140, the Employer was a covered Employer.

2. Under S.C. Code Ann. § 42-1-160, the Claimant sustained a compensable injury to his back arising out of and in the course of his employment on December 10, 2018.

3. Under S.C. Code Ann. § 42-1-40, the Claimant's average weekly wage of $2,372.54 yields a corresponding maximum compensation rate of $838.21.

4. Under *Lee v. Bondex, Inc.*, 406 S.C. 97, 102, 749 S.E.2d 155, 157 (Ct. App. 2013), Claimant bears the burden of proving entitlement to temporary disability compensation. To do so, he must prove that work restrictions prevent him from performing the job he had before the injury, and that his current employer has not offered him light-duty employment. *Id.* at 102-03, 749 S.E.2d at 157. In this case, Claimant has failed to meet his burden of proving he is entitled to TTD for any alleged period.

5. Under S.C. Code Ann. § 42-15-60, the Claimant has not reached maximum medical improvement and requires additional treatment for his back.

6. Under S.C. Code Ann. § 42-15-60, the Defendants shall procure a treating physician for the Claimant's back.

7. Under S.C. Code Ann. § 42-17-30, the Commission may appoint a doctor.

8. Under S.C. Code Ann. § 42-15-60, the Defendants shall reimburse the Claimant for all out-of-pocket causally-related medical expenses, including but not limited to office visits, surgery, medications, co-pays, and mileage, incurred as a result of the compensable back injury.

9. Under S.C. Code Ann. §§ 42-9-10, 42-9-20, and 42-9-30, a determination of the permanency of the Claimant's injuries is premature at this time.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the Claimant has not reached maximum medical improvement for his back injuries;

IT IS FURTHER ORDERED that a determination of permanency is premature at this time;

IT IS FURTHER ORDERED that Claimant's request for a second opinion is hereby granted;

IT IS FURTHER ORDERED that Defendants are to authorize a treating physician and the Claimant is entitled to all causally related medical treatment as recommended by said treating physician;

IT IS FURTHER ORDERED that Defendants shall reimburse the Claimant for all out-of-pocket causally related medical expenses, including but not limited to office visits, surgery, medications, co-pays, and mileage, incurred as a result of the compensable right inguinal hernia, left leg, and left foot injuries;

IT IS FURTHER ORDERED that Claimant's request for an award of TTD is denied;

IT IS FURTHER ORDERED that the parties have 30 days from the date of this Order to designate a physician. Should the parties fail to reach a consensus on a physician within 30 days, they shall notify the undersigned Commissioner's office that they are at an impasse and he will designate a physician;

IT IS FURTHER ORDERED that all other issues are held in abeyance at this time.

IT IS SO ORDERED!

Within the statutory period, Claimant filed an Application for Review in the case, setting forth their reasons, copies of which were furnished to all interested parties. All parties appeared at oral arguments on March 16, 2020, and presented their case on appeal.

All proffered testimony has been taken. Such, together with all documentary evidence, has been delivered by oral argument to the individual members of the Appellate Panel and has since been under study and consideration.

By appeal, it is respectfully submitted by the Claimant that the Hearing Commissioner erred in finding as fact and concluding as a matter of law in the following particulars listed below:

1. *Did the Hearing Commissioner err as a matter of fact and matter of law by ignoring and/or excluding specific hearing testimony that supports Claimant's claim?*
2. *Did the Hearing Commissioner err as a matter of law and fact in Finding of Fact 11 by finding the greater weight of the evidence supported Claimant not being entitled to past temporary total disability benefits?*
3. *Did the Hearing Commissioner err as a matter of law by ruling Claimant did not meet his burden under S.C. Code Ann. § 42-9-10 to warrant payment of TTD while Defendants kept him out of work for a work-related injury?*

In an Appellate Review, the Appellate Panel shall, pursuant to S.C. Code section 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 or inconsistent with those of the Hearing Commissioner.

The Full Commission is empowered to make its own findings of fact and to reach its own conclusions of law. McGuffin v. Schlumberger-Sangamo, 307 S.C. 184, 414 S.E.2d 162 (1992). In this case, the preponderance of evidence in the record supports a reversal of the Hearing Commissioner's findings/conclusions regarding entitlement to temporary total disability benefits from January 18, 2019 until May 13, 2019 when he was first able to return to work.

In determining entitlement to TTD, Claimant bears the burden of proving entitlement to TTD. For TTD, "a claimant must prove only that work restrictions prevent him from performing the job he had before the injury, and that his current employer has not offered him light-duty employment. . . . [T]he claimant satisfies his burden by proving work restrictions that prevent him from performing his regular job and the unavailability of light-duty employment through the same employer." *Lee v. Bondex, Inc.* 406 S.C. 97, 749 S.E.2d 155 (2013).

Claimant testified (discussed in detail below) that after returning from Virginia he spent the next few weeks doing as little as possible hoping to get better. Unfortunately, he went back to work in the second week of January in a support position, and his problems persisted. After returning from this assignment, Claimant sought treatment at the Veterans Administration on January 18, 2019 (APA 2). At that visit, he was advised not to return to work until medically cleared and noted to have a work restriction of lifting no more than ten (10) pounds (Id. at P. 7). On March 14, 2019, Dr. LaMotta evaluated Appellant and reduced his restrictions to lifting no more than forty to forty-five (40-45) pounds (Id. at P. 19). Dr. LaMotta saw Claimant again on May 9, 2019, and he released Claimant to full duty with no restrictions.

Claimant testified on his own behalf at the hearing. Claimant works for Defendant Employer as an unexploded ordnance technician (hereinafter "UXO"), which involves working on active ranges or flood sites doing metal detection for unexploded ordnance and then, if necessary, disposing of any ordnance (Single Commissioner Hr. Tr. P. 8, l. 20 : P. 9, l. 17). He discussed the high physical demands of his work, which include extensive digging and lifting items as heavy as 80 pounds (Id. at P. 11, ll. 11-17). He further testified that to perform his normal UXO work when he first started working for Defendant Employer, he was required to pass an OSHA physical and be able to lift a minimum of 40-45 pounds. That amount was increased to 50 pounds at some point after he went out of work from this accident. (Id. at P. 13, l. 12 : P. 14, l. 3).

On December 10, 2018, Claimant was putting something in the back seat of his truck when the car beside him started backing up, and the driver cut his wheel too quickly, hitting Mr. Casey's door and pinning him between the door and the door frame. Claimant testified that he went to the emergency room that day and an urgent care in Virginia the next day, at the direction of his employer. (Id. at P. 14, ll. 7-15). He finished his work on December 13, 2018 and returned home. Medical

records note that the work he was doing in December was in a supervisory role with no rigorous physical activity required (APA 3, P. 13). He testified that the urgent care released him to full duty since they were not going to be seeing him again because his current assignment in Virginia was ending in a couple days, not because he was not injured. Despite repeated and repetitive cross examination about being released to full duty, Claimant testified that the "full duty" release clearly said not to do anything that would aggravate his injury. (Id. at P. 50, ll. 17-24).

While under these restrictions, Claimant testified that he was given another light duty construction support assignment by Defendant Employer that started on January 7, 2019 and ran for approximately a week until January 15, 2019 (Id. at P. 17, ll. 6-22). It was during this return to work that he really started to notice the pain in his back, and this was when he started seeking follow up care. He testified that he was advised by XL Specialty Insurance Company (hereinafter "Defendant Carrier") to seek treatment with his primary care physician and get notes so Defendant Carrier could address future care, which is exactly what he did. For the next six weeks or so, he testified that he was strung along by Defendant Carrier until he finally got an attorney. He testified that his case was finally transferred to South Carolina when he obtained an attorney, and he was authorized to see Dr. LaMotta in March 2019. At this point, he had already completed a round of physical therapy that had been ordered by his primary care physician, and he was advised to continue those exercises he learned in physical therapy (Id. at P. 19, l. 6 : P. 22, l. 18). Claimant testified that he returned to Dr. LaMotta on May 9, 2019 wherein he requested to be released to full duty because he could not continue to be held out of work without pay (Id. at P. 23, ll. 6-20).

Claimant testified that from the time he left his assignment where he was injured in December until he was released to full duty, he worked approximately one week in construction support in January, four or five days in March, and three or four days in April. He testified that all the jobs he

was able to work while under restrictions were construction support. (Id. at P. 11, l. 3 : P. 1 2, l. 8; P. 24, l. 19 : P. 25, l. 15). Claimant testified that he missed out on several job opportunities with Defendant Employer as a UXO because he was under restrictions from his work injury that precluded him from being assigned to those jobs. He testified about a job that was available in December in Quantico, Virginia as well as other opportunities in Dam Neck, Virginia and Adak, Alaska. (Id. at P. 15, l. 18 : P. 17, l. 15). Claimant reiterated later in testimony about his restrictions precluding him from working several assignments that came up while he was under restrictions until he was released and returned to work in May 2019 (Id. at P. 53, l. 23 : P. 56, l. 8).

The Single Commissioner erred by finding Claimant's work restrictions were accommodated by Defendants and that Claimant did not meet his burden proving entitlement to TTD. While the Single Commissioner's Finding of Fact 11 is accurate regarding Appellant not being written out of work completely, it is inaccurate that Defendants accommodated his restrictions continuously throughout the period he was under restrictions. Claimant met his burden of proof establishing a compensable injury with work-related restrictions that Defendants did not continuously accommodate from January 18, 2019 through May 12, 2019.

FINDINGS OF FACT

Based upon the documentary evidence submitted by the respective parties, pursuant to the Administrative Procedures Act, and the Commission's file relative to this claim, WE, THE APPELLATE PANEL, FIND THE FOLLOWING AS FACT:

1. All parties to this proceeding are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act.
2. The Claimant's average weekly wage is $2,372.54 yielding a corresponding maximum compensation rate of $838.21.

3. Claimant sustained a compensable injury to the back arising out of and in the course and scope of his employment when he was pinned between two vehicles. (Claimant's APA 1, pp. 1-6).

4. Claimant was transported via EMS and underwent initial treatment with Chesapeake Regional Hospital. He then followed up with Bayview Urgent Care, VA Hospital, Lexington Family Medical, and Midlands Orthopaedics. (Claimant's APAs 1-4; Defendants' APAs 5-7).

5. On March 14, 2019, Dr. Ivan E. LaMatta of Midlands Orthopaedics and Neurosurgery evaluated Claimant and opined: "From the surgical standpoint, the patient has reached maximum medical improvement. There is no additional therapy, injections, or surgery that can be recommended for the patient. I see no contradictions for the patient to do limited light duty to medium duty work lifting up to 40-45 pounds." (Claimant's APA 4, p. 19).

6. In his May 9, 2019 follow-up appointment, Dr. LaMatta opined: "My recommendation is for the patient to perform core exercises and stretching on a daily basis as well as incorporating a yoga program along with weight loss. More than likely, with time, the patient's condition should continue to improve. I really see no contradictions for the patient to return to regular duty. The patient has reached maximum medical improvement. At this time, I see no loss of function for his lumbar spine and therefore no permanent impairment. There is no need for future medical care. The patient will follow up on as-needed basis only if his contortion were to significantly deteriorate." (Claimant's APA 4, p. 16).

7. On July 1, 2019, at the hearing before the undersigned Commissioner, Claimant testified regarding his admitted work-related injury, the medical treatment he has received, his work status, the time he was out of work due to his restrictions, the issues he continues to have, and his desire for second opinion (see "Evidence of the Case" above).

8. Claimant is entitled to reimbursement for all past out-of-pocket causally-related treatment (i.e., copays for primary care visits) and Defendants are required to pay for all other past causally-related treatment (i.e., EMS, ER, etc.).

9. Claimant is entitled to a second opinion by a spine specialist of Defendants' choosing and all causally-related treatment, if recommended, by said spine specialist.

10. The parties are to designate a physician within 30 days of the date of this Order or contact the Commissioner to have him designate a physician.

11. Claimant has provided a physician note with work restrictions that Defendants/Respondents were unable to continuously accommodate from January 18, 2019 through May 12, 2019 (less the ten days he was accommodated with light duty work). As such, Claimant met his burden of proving he is entitled to back temporary total disability benefits during this period.

12. Claimant is not at MMI.

13. A determination of permanency is premature at this time.

14. All other issues are held in abeyance.

CONCLUSIONS OF LAW

In view of those Findings of Fact, and as provided in the South Carolina Code of Laws, WE, THE APPELLATE PANEL, CONCLUDE THE FOLLOWING AS MATTERS OF LAW:

1. Under S.C. Code Ann. § 42-1-130, the Claimant was a covered Employee at the time in question and under § 42-1-140, the Employer was a covered Employer.
2. Under S.C. Code Ann. § 42-1-160, the Claimant sustained a compensable injury to his back arising out of and in the course of his employment on December 10, 2018.
3. Under S.C. Code Ann. § 42-1-40, the Claimant's average weekly wage of $2,372.54 yields a corresponding maximum compensation rate of $838.21.
4. Under *Lee v. Bondex, Inc.*, 406 S.C. 97, 102, 749 S.E.2d 155, 157 (Ct. App. 2013), Claimant bears the burden of proving entitlement to temporary disability compensation. To do so, he must prove that work restrictions prevent him from performing the job he had before the injury, and that his current employer has not offered him light-duty employment. *Id.* at 102-03, 749 S.E.2d at 157. In this case, Claimant met his burden of proving he is entitled to TTD from January 18, 2019 through May 12, 2019 (less the ten days he was accommodated with light duty work).
5. Under S.C. Code Ann. § 42-15-60, the Claimant has not reached maximum medical improvement and requires additional treatment for his back.
6. Under S.C. Code Ann. § 42-15-60, the Defendants shall procure a treating physician for the Claimant's back.
7. Under S.C. Code Ann. § 42-17-30, the Commission may appoint a doctor.
8. Under S.C. Code Ann. § 42-15-60, the Defendants shall reimburse the Claimant for all out-of-pocket causally-related medical expenses, including but not limited to office visits, surgery, medications, co-pays, and mileage, incurred as a result of the compensable back injury.

9. Under S.C. Code Ann. §§ 42-9-10, 42-9-20, and 42-9-30, a determination of the permanency of the Claimant's injuries is premature at this time.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the Claimant has not reached maximum medical improvement for his back injuries;

IT IS FURTHER ORDERED that a determination of permanency is premature at this time;

IT IS FURTHER ORDERED that Claimant's request for a second opinion is hereby granted;

IT IS FURTHER ORDERED that Defendants are to authorize a treating physician and the Claimant is entitled to all causally related medical treatment as recommended by said treating physician;

IT IS FURTHER ORDERED that Defendants shall reimburse the Claimant for all out-of-pocket causally related medical expenses, including but not limited to office visits, surgery, medications, co-pays, and mileage, incurred as a result of the compensable back injury;

IT IS FURTHER ORDERED that Claimant's request for an award of TTD is granted for the dates listed herein;

IT IS FURTHER ORDERED that the parties have 30 days from the date of this Order to designate a physician. Should the parties fail to reach a consensus on a physician within 30 days, they shall notify the undersigned Commissioner's office that they are at an impasse and he will designate a physician;

IT IS FURTHER ORDERED that all other issues are held in abeyance at this time.

IT IS SO ORDERED!

S.C. WORKERS' COMPENSATION COMMISSION

Melody L. James, Commissioner

Aisha Taylor, Commissioner

Avery Wilkerson, Commissioner

DISSENTING

affirmed
Commissioner
McCaskill
FN
full.

Order Served via E-Mail:

Richard Charles Alexander Shelly Leeke Law Firm chip@leekelaw.com	Daniel B. Eller Eller Tonnsen Bach deller@etblawfirm.com

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 June 29, 2020

DECISION AND ORDER

OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

WCC FILE NO. 1822255

DAVID CASEY CLAIMANT/APPELLANT,

vs

APTIM FEDERAL SERVICES EMPLOYER,

And

XL SPECIALTY INSURANCE COMPANY, CARRIER, DEFENDANTS/RESPONDENTS

The Defendants filed a Motion to Reconsider the Full Commission Decision and Order. The Motion requests that the Panel majority reconsider their decision in granting temporary total benefits to the Claimant. The Panel has reviewed this matter, including the testimony, APA submissions, and arguments of the parties. After review of the record, the Motion to Reconsider is denied.

Commissioner Melody L. James

Commissioner Aisha Taylor

Aisha Taylor, Commissioner

Dissenting:

As indicated in the original Full Commission decision, I would affirm the order of the Single Commissioner in its entirety, including the denial of temporary total benefits.

Avery B. Wilkerson, Jr.

Order Served via E-Mail:

Daniel Eller William Childers Eller Tonnsen Bach deller@etblawfirm.com wchilders@etblawfirm.com	Richard Charles Alexander Shelly Leeke Law Firm chip@leekelaw.com

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 October 12, 2020

SHELLY LEEKE
LAW FIRM, LLC

Charleston Office
Shelly Leeke Law Firm, LLC
3614 Ashley Phosphate Road
North Charleston, SC 29418

Phone: 843.297.8485
Fax: 843.297.8497

www.LeekeLaw.com

Call For Additional Office Locations

March 12, 2019

Ms. Amy Bracy
Judicial Department
S.C. Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715

RE: David Casey v. APTIM Federal Services, LLC
Carrier: XL Specialty Insurance Company
Date of Loss: 12/10/2018
WCC File #: Unknown

Dear Ms. Bracy,

Enclosed please find the original and one copy of a Form 50 (Employee's Request for Hearing), together with a Certificate of Mailing and filing fee. Please file the original and return a clocked-in copy to me in the enclosed self-addressed stamped envelope.

By copy of this letter to the Employer & Carrier, I am serving upon the Defendants a copy of the Form 50 (Employee's Request for Hearing), as reflected on the attached Certificate of Mailing.

Thank you for your time in this matter.

Sincerely,

Richard C. Alexander
Attorney at Law

RCA/mw

Enclosures

cc: APTIM Federal Services, LLC (w/encls)
XL Specialty Insurance Company (w/encls)

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500 • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723 www.wcc.sc.gov

WCC File #:
Carrier File #: 30181558672-0001
Carrier Code #:
Employer FEIN #:

Claimant's Name: David Casey SSN: SS# Employer's Name: APTIM Federal Services LLC

Address: 521 Meadow Grass Lane Address: 7171 Essen Lane

City: Lexington State: SC Zip: 29072 City: Baton Rouge State: LA Zip: 70809

Home Phone: (803) 520-6158 Work Phone: Insurance Carrier: XL Specialty Insurance Company

Preparer's Name: Richard C. Alexander Law Firm: Shelly Leeke Law Firm Preparer's Phone #: (843) 297-8485

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☐ Repetitive Trauma ☐ Occupational Disease ☐ Physical Brain Injury ☐ Concurrent Jurisdiction

1. The claimant sustained an injury to Lower Back radiating to shoulder level and down into buttocks (Part(s) of Body Injured) on 12/10/2018 (Month/Day/Year) in Chesapeake City County, State of Virgina.
2. Body part(s) affected are: Lower Back radiating to shoulder level and down into buttocks

   Briefly describe how the accident occurred. Claimant was standing in the doorway of his car and a vehicle parked beside him hitting his door and closing the door on him.
3. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
4. The relationship of employer and employee existed at the time of injury.
5. At the time of the injury the claimant was performing services arising out of and in the course of employment.
6. Notice of the accidental injury was given to the Employer on 12/10/2018 (Month/Day/Year) in the following manner: Verbally to Arionne Reyez.

☒ 7. Due to injury, the claimant is in need of (check one):

☐ (a) medical examination and treatment for:

☒ (b) additional medical examination and treatment for: Lower Back radiating to shoulder level and down into buttocks

☒ 8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: DOI through MMI

☐ 9. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):

☐ (1) General Disability: ☐ Total ☐ Partial ☐ (2) Specific Disability: ☐ Total ☐ Partial ☐ (3) Wage Loss

9a. Claimant at MMI: ☐ Yes ☒ No

☐ 10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:

10a. At the time of the injury, the Claimant was paid weekly wages of $TBD, and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:

11. Further grounds or unusual aspects of claim:

11a. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: Unknown EMS, Chesapeake Regional Medical Center, 736 N. Battlefield Blvd., Chesapeake, VA 23320; Lexington Family Practice – Lake Murray, 2006 Augusta Hwy, Lexington, SC 29072; WM Jennings Bryan Dorn VA Medical Center, 6439 Garners Ferry Road, Columbia, SC 29209.

11b. To the best of your knowledge, did you have any prior permanent disability?
If yes, describe:

12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.

☐ 13. **I am filing a claim. I am not requesting a hearing at this time.** 14. Estimated time needed for hearing: 1 hour

☒ 14. **I am requesting a hearing. A $50 fee is required.**

☐ **Mediation**

- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐ b. Mediation is required pursuant to Reg. 67-1802.
- ☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to "See Attached Certificate of Service" on the 12 day of March 2019, by ☒ first class postage ☐ certified mail ☐ personal service ☐ electronic service

I verify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature	Attorney at Law	Chip@LeekeLaw.com	3-12-19
	Title	Email	Date

Questions about the use of this form should be directed to the Claims Department at 803.737.5723. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615 as well as Reg. 67-1801.

STATE OF SOUTH CAROLINA	)	SOUTH CAROLINA
	)	WORKERS' COMPENSATION
COUNTY OF CHARLESTON	)	COMMISSION
	)	WCC #: UNKNOWN
David Casey,	)	
	)	
CLAIMANT	)	
	)	CERTIFICATE OF
Versus	)	SERVICE BY MAIL
	)	
APTIM Federal Services LLC and	)	
XL Specialty Insurance Company,	)	
	)	
EMPLOYER/CARRIER.	)	

I, the undersigned, a Paralegal at Shelly Leeke Law Firm, attorney for the Claimant, David Casey, do hereby certify that I have, this 12 day of March 2019, served the above-named Employer & Carrier, by personally depositing in a United States Postal Service mail box a copy of the Form 50 (Employee's Request for Hearing), postage prepaid addressed to the following:

South Carolina Workers' Compensation Commission
PO Box 1715
Columbia, S.C. 29202-1715

XL Specialty Insurance Company
505 Eagleview Blvd., #100
Exton, PA 19341

APTIM Holding Corp
4171 Essen Lane
Baton Rouge, LA 70809

Mandi M. Whitaker, Paralegal
Shelly Leeke Law Firm, LLC
3614 Ashley Phosphate Road
North Charleston, SC 29418

Charleston, SC
March 12, 2019

ELLER TONNSEN BACH
Attorneys at Law

Daniel B. Eller
Licensed in South Carolina and North Carolina
deller@etblawfirm.com

1306 South Church Street
Greenville, SC 29605
Telephone (864) 236-5013
Facsimile (864) 312-4191

April 11, 2019

South Carolina Workers' Compensation Commission
Attn: Judicial Department
PO Box 1715
Columbia, SC 29202-1715

Re: David Casey v. APTIM Federal Services, LLC
WCC File Number: 1822255
Claim Number: 30181558672-0001
D.O.I.: 12/10/2018

Dear Sir or Madam:

Enclosed please find for filing my clients' Form 51, Employer's Answer to Request for Hearing, along with a certificate of service reflecting the service of the same on Claimant's attorney, Richard C. Alexander.

Thank you for your attention to this matter.

With kind regards,

Daniel B. Eller

DBE/wc
Enclosures

cc: Richard C. Alexander

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500 • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5675 www.wcc.sc.gov

WCC File #: **1822255**
Carrier File #: **30181558672-0001**
Carrier Code #:
Employer FEIN #:

Claimant's Name: David B. Casey, Jr. SSN: SS#
Address: 521 Meadow Grass Lane
City: Lexington State: SC Zip: 29072
Home Phone: (803) 520-6158 Work Phone:
Date of Injury: 12/10/2018

Employer's Name: APTIM Federal Services, LLC
Address: 4171 Essen Lane
City: Baton Rouge State: LA Zip: 70809
Insurance Carrier: XL Specialty Insurance Company, c/o Sedgwick Claims Management Services, Inc.

Preparer's Name: Daniel B. Eller Law Firm: Eller Tonnsen Bach Preparer's Phone #: (864) 236-5013

Date of Injury or Illness: 12/10/2018 **Estimated time for hearing:45 minutes**

Complete each information blank. Clearly specify when contentions are admitted in part and denied in part. The Employer/Carrier in answer to the claim, respectfully shows:

1. It is **Denied** the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:
Defendants assert that jurisdiction is not proper in South Carolina pursuant to S.C. Code Ann. § 42-15-10.

2. It is **Denied** both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are:
See No. 1.

3. It is **Denied** the relationship of employer and employee existed at the time in question. The reasons for denial are:
See No. 1.

4. It is **Denied** at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
See No. 1.

5. It is **Denied** notice of injury was given the employer. The reasons for denial are:
See No. 1.

6. It is **Denied** the employee **Needs / Is Entitled to Additional** medical care as a result of injury or illness. The reasons for denial are:
See No. 1.

7. It is **Denied** the employee is entitled to temporary total disability for the period(s) of :
See No. 1.

8. It is **Denied** the employee is permanently disabled. The reasons for denial are:
See No. 1.

9. It is **Denied** the employee has serious disfigurement.

10. It is contended that an average weekly wage of **$ TBD** applies, according to attached Form 20 as provided by law.

11. Further contentions, grounds of defense, or unusual aspects are:
Defendants reserve the right to raise additional defenses that may arise in the claim

☐ **Mediation**
- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐ b. Mediation is required pursuant to Reg. 67-1802.
- ☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov**.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Richard C. Alexander
Address 3614 Ashley Phosphate Road , North Charleston, SC 29418 **on the 11th day of April 2019, by:**
☒ **first class postage** ☐ **certified mail** ☐ **personal service** ☐ **electronic service**

I verify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature	**Attorney for Defendants**	**deller@etblawfirm.com**	**4/11/2019**
	Title	Email	Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Refer to R. 67-1801 for mediation. Questions about the use of this form may be directed to the Commission's Judicial Department at 803-737-5675 or **judicial@wcc.sc.gov** or **mediation@wcc.sc.gov**. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.

WCC Form # 51
Revised 07/15

51

Employer's Answer to Request for Hearing

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1822255

David B. Casey, Jr., Employee, Claimant, vs. APTIM Federal Services, LLC, Employer, XL Specialty Insurance Company, Carrier, and Sedgwick Claims Management Services, Inc., Third-Party Administrator, Defendants.	)	CERTIFICATE OF SERVICE

The undersigned certifies that (s)he served, on the date set forth below, a copy of the below-listed document(s) in the above-entitled action to the following persons, pursuant to Regulations 67-210 and 67-211 and such other law as may be applicable by depositing a copy of the same in the United States Mail, postage pre-paid, addressed as follows:

Richard C. Alexander
Shelly Leeke Law Firm, LLC
3614 Ashley Phosphate Road
North Charleston, SC 29418

SC Workers' Compensation Commission
Attn: Judicial Department
PO Box 1715
Columbia, SC 29202-1715

DOCUMENT: Employer's Answer to Request for Hearing (WCC Form # 51).

DATE OF MAILING: April 11, 2019

Rachel Rice

Rachel Rice, Legal Assistant
ELLER TONNSEN BACH, LLC

SHELLY LEEKE
LAW FIRM, LLC

Main Office
3614 Ashley Phosphate Rd.
North Charleston, SC 29418

Phone: 843.297.8485
Toll Free: 877.533.1046
Fax: 843.297.8497
www.LeekeLaw.com

Call For Additional Office Locations

December 23, 2019

S.C. Workers' Compensation Commission
Attn: Ms. Amy Bracy - Judicial Director
Post Office Box 1715
Columbia, SC 29202-1715

RE: David Casey v. APTIM Federal Services, LLC
Carrier: XL Specialty Insurance Company
Date of Loss: 12/10/2018
WCC File #: 1822255

Dear Ms. Bracy,

Please find enclosed the original and four copies of the Form 30 (Request for Commission Review) together with the Certificate of Service on behalf of David Casey, Appellant, in the above referenced matter for filing in your office, along with the filing fee. Please return a clocked copy in the pre-addressed stamped envelope.

By copy of this letter, we are serving the Form 30 on the Defendant's attorney, Daniel B. Eller, Esquire.

With kind regards, I am

Very truly yours,

Chip Alexander

Richard C. Alexander
Attorney at Law

Enclosures

cc: Daniel B. Eller, Esq. (w/ enc.)

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
803-737-5675 www.wcc.sc.gov

WCC File #: 1822255
Carrier File #:
Carrier Code #:
Employer FEIN #:

Claimant's Name: David Casey SSN: SS#
Address: 521 Meadow Grass Lane
City: Lexington State: SC Zip: 29072
Home Phone: (803) 520-6158 Work Phone:

Employer's Name: APTIM Federal Services LLC
Address: 7171 Essen Lane
City: Baton Rouge State: LA Zip: 7080
Insurance Carrier: XL Specialty Ins. Co.

Preparer's Name: Richard C. Alexander, Esq. Law Firm: Shelly Leeke Law Firm, LLC Preparer's Phone #: (843) 297-8485

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ Claimant ☐ Employer (check one) Date of Injury or Illness: 12/10/2018

The undersigned makes application for review of the findings of the Commissioner in the above-captioned case. The request for review is based on the following grounds: (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number. Use additional pages if necessary).

1. Did the Hearing Commissioner err as a matter of fact and matter of law by ignoring and/or excluding specific hearing testimony that supports Claimant's claim?

2. Did the Hearing Commissioner err as a matter of law and fact in Finding of Fact 11 by finding the greater weight of the evidence supported Claimant not being entitled to past temporary total disability benefits?

3. Did the Hearing Commissioner err as a matter of law by ruling Claimant did not meet his burden under S.C. Code Ann. § 42-9-10 to warrant payment of TTD while Defendants kept him out of work for a work-related injury?

(Check one) Oral argument ☒ is ☐ is not requested. Appellant's request for oral argument is waived if not indicated on this form.

☐ **Mediation**

☐ Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov**.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to "See Attached Certificate of Service" on the 23 day of December 2019, by

☐ **first class postage** ☐ **certified mail** ☐ **personal service** ☒ **electronic service**

Preparer's Signature | Attorney at Law (Title) | chip@leekelaw.com (Email) | 12/23/2019 (Date)

Check this box if you are not represented by an attorney ☐

Questions about the use of this form should be directed to the Judicial Department at 803.737.5675 or appeals@wcc.sc.gov.

If the claimant appeals and is not represented by counsel, the Judicial Department will properly serve this form pursuant to Reg. 67-607 C. Pursuant to Reg. 67-205 and Reg. 701, the appeal must be postmarked no later than 14 days from the date of service of the Decision and Order of the Hearing Commissioner along with the filing fee. Attach a Form 32, if you are unable to pay the filing fee. Refer to Reg. 67-211 and Reg. 67-701 through 711.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO: 1822255

David Casey, CLAIMANT Versus APTIM Federal Services, LLC, and XL Specialty Insurance Company EMPLOYER/CARRIER.	)	CERTIFICATE OF SERVICE

I, the undersigned, a Paralegal at Shelly Leeke Law Firm, attorney for the Claimant, David Casey, do hereby certify that I have, this 23 day of December 2019, served the above-named Defendants, with a copy of the Form 30 (Request for Commission Review), as described below:

S.C. Workers' Compensation Commission
Attn: Ms. Amy Bracy - Judicial Director
Post Office Box 1715
Columbia, SC 29202-1715

VIA E-Mail – deller@etblawfirm.com
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Call For Additional Office Locations

February 24, 2020

VIA UPLOAD
Ms. Amy Bracy
Judicial Department
S.C. Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715

RE: David Casey v. APTIM Federal Services LLC
Carrier: XL Specialty Insurance Company
Date of Loss: 12/10/2018
WCC File #: 1822255

Dear Ms. Bracy,

Please find enclosed our ***Claimant/Appellant's Brief*** together with the Certificate of Service on behalf of David Casey, Claimant/Appellant. By copy of this letter to Daniel B. Eller, Esq. & William Childers, Esq., we are notifying them of this submission and serving a copy of the same.

Sincerely,

Richard C. Alexander
Attorney at Law

RCA/mmw

cc: Daniel B. Eller, Esq. (w/encls)
William Childers, Esq. (w/encls)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION'S
APPELLATE PANEL

DAVID CASEY, Claimant/Appellant, v. APTIM FEDERAL SERVICES, Employer, and XL SPECIALTY INSURACE COMPANY, Carrier, Respondents.	)	W.C.C. FILE NO. 1822255 **BRIEF OF THE CLAIMANT/APPELLANT**

STATEMENT OF THE CASE

This matter is before the Full Commission's Appellate Panel pursuant to Claimant's Form 30, requesting review of Single Commissioner Campbell's (hereinafter "Single Commissioner") December 12, 2019 Decision and Order. This matter was before the Single Commissioner on July 2, 2019 in Columbia, South Carolina pursuant to Claimant's Form 50 and Defendants' Form 51, specifically to determine compensability of injuries, to determine entitlement to past, present and future total disability benefits, and to determine entitlement to future medical care.

Claimant sustained an injury arising out of and in the course and scope of his employment due to a motor vehicle accident on December 10, 2018. Claimant is an Unexploded Ordnance Technician for APTIM Federal Services (hereinafter "Defendant Employer"). While on assignment in Chesapeake, Virginia, he sustained injuries when he was pinned between his vehicle and another

vehicle in the parking lot of his hotel.

The Single Commissioner found Claimant sustained a compensable injury to his back, he is entitled to additional medical treatment, and he is entitled to reimbursement for all causally related out-of-pocket expenses. The Single Commissioner did not find Claimant met his burden of proof entitling him to temporary total disability benefits (hereinafter "TTD"). This appeal was filed only to address the TTD finding.

Claimant was under work restrictions as of December 11, 2018, which he alleges precluded performance of his normal job duties. Claimant contends that he missed nineteen (19) weeks of work due to his restrictions. Claimant argues he is owed TTD for this period during which Defendants were unable to accommodate his work-related restrictions.

At the Hearing, Claimant took the position that he met his burden of proof establishing that he is entitled to TTD relying on his testimony and a preponderance of the evidence submitted. Defendants took the position that Appellant is not entitled to TTD.

STANDARD OF REVIEW

The scope of review of the Full Commission is not limited. The Commission can, like the Single Commissioner, consider all the evidence and reach its own findings of fact and conclusions of law. *Lowe v. Am-Can Transport Services, Inc.*, 283 S.C. 534, 324 S.E.2d 87 (Ct. App. 1984).

It is well-established that the Full Commission is the ultimate fact finder in workers' compensation cases and is not necessarily bound by the Single Commissioner's findings of fact. *Green v. Raybestos-Manhattan, Inc.*, 250 S.C. 58, 64, 156 S.E.2d 318, 321 (S.C. 1967). *See also Muir v. C.R. Bard, Inc.,* 336 S.C. 266, 281, 519 S.E. 2d 583, 591 (Ct. App. 1999). The Full Commission is empowered to make its own findings of fact and to reach its own conclusions of law consistent or inconsistent with those of the Single Commissioner. *Id.* The final determination

of witness credibility and the weight to be accorded evidence is reserved to the Full Commission. *Id.*

ARGUMENTS

I. The Single Commissioner erred in finding as fact and concluding as law that Claimant did not meet his burden of proof under § 42-9-10 regarding entitlement to TTD and such finding is against the greater weight and preponderance of the substantial evidence in the record.

In determining entitlement to TTD, Claimant bears the burden of proving entitlement to TTD. For TTD, "a claimant must prove only that work restrictions prevent him from performing the job he had before the injury, and that his current employer has not offered him light-duty employment. . . . [T]he claimant satisfies his burden by proving work restrictions that prevent him from performing his regular job and the unavailability of light-duty employment through the same employer." *Lee v. Bondex, Inc.* 406 S.C. 97, 749 S.E.2d 155 (2013)

Medical Evidence

While compensability is not at issue on appeal, it is necessary to discuss key portions of the medical evidence to support Claimant's testimony and contention that he is entitled to TTD. Claimant was taken by ambulance to Chesapeake Regional on the day of the accident (APA 1). On December 11, 2018, Claimant was evaluated at Bayview Urgent Care in Virginia at the direction of Defendants (APA 5). The records noted Claimant was only there for two more days for work, so they were releasing him to full duty, and he needed to contact his case manager with any further problems (Id. at P. 38). However, further review of the urgent care records shows this was not exactly a full duty release. The release states Claimant could return to work with attention not to aggravate his injury and would have restrictions while still in Virginia of lifting less than

ten (10) pounds occasionally (Id. at P. 43).

Claimant testified (discussed in detail below) that after returning from Virginia he spent the next few weeks doing as little as possible hoping to get better. Unfortunately, he went back to work in the second week of January in a support position, and his problems persisted. After returning from this assignment, Claimant sought treatment at the Veterans Administration on January 18, 2019 (APA 2). At that visit, he was advised not to return to work until medically cleared and noted to have a work restriction of lifting no more than ten (10) pounds (Id. at P. 7). Appellant then followed up with his primary care physician where he was referred for physical therapy (APA 3, P. 9). After completing several sessions of physical therapy, Defendants finally directed Appellant to Midlands Orthopaedic for an evaluation by Dr. LaMotta (APA 4). On March 14, 2019, Dr. LaMotta evaluated Appellant and reduced his restrictions to lifting no more than forty to forty-five (40-45) pounds (Id. at P. 19). Dr. LaMotta saw Claimant again on May 9, 2019, and he released Claimant to full duty with no restrictions.

Claimant Testimony

Claimant testified on his own behalf at the hearing. Claimant works for Defendant Employer as an unexploded ordnance technician (hereinafter "UXO"), which involves working on active ranges or flood sites doing metal detection for unexploded ordnance and then, if necessary, disposing of any ordnance (Hr. Tr. P. 8, l. 20 : P. 9, l. 17). Claimant testified that he had been working consistently for Defendant Employer since March 2017, and he had worked all over the country at different sites (Id. at P. 9, l. 18 : P. 11, l. 8). He discussed the high physical demands of his work, which include extensive digging and lifting items as heavy as 80 pounds (Id. at P. 11, ll. 11-17). He further testified that to perform his normal UXO work when he first started working for Defendant Employer, he was required to pass an OSHA physical and be able to lift a minimum of 40-45 pounds. That amount was

increased to 50 pounds at some point after he went out of work from this accident. (Id. at P. 13, l. 12 : P. 14, l. 3).

On December 10, 2018, Claimant was putting something in the back seat of his truck when the car beside him started backing up, and the driver cut his wheel too quickly, hitting Mr. Casey's door and pinning him between the door and the door frame. Claimant testified that he went to the emergency room that day and an urgent care in Virginia the next day, at the direction of his employer. (Id. at P. 14, ll. 7-15). He finished his work on December 13, 2018 and returned home. Medical records note that the work he was doing in December was in a supervisory role with no rigorous physical activity required (APA 3, P. 13). He testified that the urgent care released him to full duty since they were not going to be seeing him again because his current assignment in Virginia was ending in a couple days, not because he was not injured. Despite repeated and repetitive cross examination about being released to full duty, Claimant testified that the "full duty" release clearly said not to do anything that would aggravate his injury. (Id. at P. 50, ll. 17-24).

While under these restrictions, Claimant testified that he was given another light duty construction support assignment by Defendant Employer that started on January 7, 2019 and ran for approximately a week until January 15, 2019 (Id. at P. 17, ll. 6-22). It was during this return to work that he really started to notice the pain in his back, and this was when he started seeking follow up care. He testified that he was advised by XL Specialty Insurance Company (hereinafter "Defendant Carrier") to seek treatment with his primary care physician and get notes so Defendant Carrier could address future care, which is exactly what he did. For the next six weeks or so, he testified that he was strung along by Defendant Carrier until he finally got an attorney. He testified that his case was finally transferred to South Carolina when he obtained an attorney, and he was authorized to see Dr. LaMotta in March 2019. At this point, he had already completed a round of physical therapy that had been

ordered by his primary care physician, and he was advised to continue those exercises he learned in physical therapy (Id. at P. 19, l. 6 : P. 22, l. 18). Claimant testified that he returned to Dr. LaMotta on May 9, 2019 wherein he requested to be released to full duty because he could not continue to be held out of work without pay (Id. at P. 23, ll. 6-20).

Claimant testified that from the time he left his assignment where he was injured in December until he was released to full duty, he worked approximately one week in construction support in January, four or five days in March, and three or four days in April. He testified that all the jobs he was able to work while under restrictions were construction support. (Id. at P. 11, l. 3 : P. 12, l. 8; P. 24, l. 19 : P. 25, l. 15). Claimant testified that he missed out on several job opportunities with Defendant Employer as a UXO because he was under restrictions from his work injury that precluded him from being assigned to those jobs. He testified about a job that was available in December in Quantico, Virginia as well as other opportunities in Dam Neck, Virginia and Adak, Alaska. (Id. at P. 15, l. 18 : P. 17, l. 15).

Claimant testified further that Defendants admitted to him in January that he was injured and unable to return to full duty, so he would be compensated through Workers' Compensation. (Id. at P. 52, l. 3 : P. 53, l. 22; Exhibits A, B, C, D, E, F). Claimant also discussed emails from Defendants where they noted they were confirming the last date he worked so they could start paying him temporary benefits while he was out. (Id. at P. 63, ll. 7-18; Exhibits A, B, C, D, E, F). Claimant reiterated later in testimony about his restrictions that precluded him from working several assignments that came up while he was under restrictions until he was released and returned to work in May 2019 (Id. at P. 53, l. 23 : P. 56, l. 8).

Specific Assignment of Error in the Single Commissioner's Decision and Order

The Single Commissioner ignored parts of and/or misconstrued Claimant's hearing

testimony, which led to an error in the Finding of Fact 11 and Conclusion of Law 4. Specifically, the Single Commissioner erred by finding Claimant's work restrictions were accommodated by Defendants and that Claimant did not meet his burden proving entitlement to TTD (Single Commissioner Decision, P. 9-10). While the Finding of Fact 11 is accurate regarding Appellant not being written out of work completely, it is inaccurate that Defendants accommodated his restrictions continuously throughout the period he was under restrictions.

As discussed above, Claimant testified at length about being under restrictions from Bayview Urgent Care as of December 11, 2018 ("with attention not to aggravate his injury") (Defendants' APA 5, P. 43; Hr. Tr. P. 50, ll. 17-24). He testified that shortly after his assignment in Chesapeake ended, he could have transferred to a position in Quantico, but that position required full duty, which he was not capable of performing based on the urgent care restrictions (Id. at P. 15, l. 8 : P. 16, l. 19; P. 50, l. 14 : P. 51, l. 15).

Claimant testified regarding only three assignments where Defendants were able to accommodate him between December 13, 2018 (the day his assignment in Chesapeake ended) and May 9, 2019 (the day Dr. LaMotta released him to full duty). These assignments were in construction support, which were within his restrictions, which is the only reason he was able to work them. There is no evidence to contradict Claimant was under restrictions during this period of temporary disability, and is there no evidence to contradict Claimant's testimony that he was accommodated for only eighteen (18) days (2.5714 weeks) of the one hundred and fifty-one (151) days (21.5714 weeks) during which he was under restrictions.

Claimant met his burden of proof establishing a compensable injury with work-related restrictions that Defendants did not accommodate (with the exception of 2.5714 weeks) during the period from December 14, 2018 through May 9, 2019. Because Claimant was under restrictions,

and Defendants could not continuously accommodate those restrictions, Claimant is owed TTD under the Act. There was no evidence provided to contradict Claimant being under restrictions and missing out on work.

CONCLUSION

For the reasons set forth above, Claimant respectfully requests that the Order of the Single Commissioner be reversed with regards to the Findings of Fact and Conclusions of Law concerning the award of TTD, and the Full Commission find the preponderance of the evidence supports finding Claimant met his burden of proof establishing entitlement to benefits under the Act.

Respectfully submitted,

By: _____

Richard C. Alexander, Esq.
Shelly Leeke, Law Firm, L.L.C.
3614 Ashley Phosphate Rd.
North Charleston, SC 29418
Attorney for Claimant

February 24, 2020
North Charleston, South Carolina

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO: 1822255

David Casey, CLAIMANT Versus APTIM Federal Services, LLC, & XL Specialty Insurance Company EMPLOYER/CARRIER.	)	CERTIFICATE OF SERVICE BY MAIL

I, the undersigned, a Paralegal at Shelly Leeke Law Firm, attorney for the Claimant, David Casey, do hereby certify that I have, this 24 day of February 2020, served the above-named Defendants with a copy of Claimant/Appellant's Brief as described below:

Via Upload
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North Charleston, SC
February 24, 2020

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1822255

David Casey, Employee, Claimant, vs. Aptim Federal Services Employer, and XL Specialty Insurance Company, Carrier, Defendants.	**DEFENDANTS' BRIEF TO APPELLATE PANEL**

TO: THE APPELLATE PANEL OF THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND RICHARD C. ALEXANDER

INTRODUCTION

Claimant filed a Form 50, Request for Hearing, alleging an injury by accident to his back on December 10, 2018, when a car beside him started backing up and cut their wheel too quickly and hit his door and pinned him between the door and the door frame of his vehicle. Claimant sought past, present, and ongoing medical care as well as past, present, and future temporary benefits.

Defendants admitted a compensable event occurred on December 10, 2018; however, they denied that Claimant suffered any disability because he was not under work restrictions that prevented him from working full duty and he was found to have reached MMI and not have permanent impairment by the authorized treating physician. Defendants also denied Claimant was entitled to further medical benefits in light of the opinion of the authorized treating physician. Therefore, Defendants denied Claimant was entitled to any further benefits, medical or otherwise.

Following a hearing on July 1, 2019, Commissioner Campbell issued an Order dated December 12, 2019. Commissioner Campbell held that (1) Defendants were required to pay for all past causally-related medical treatment; (2) Claimant was entitled to a second medical opinion with a physician of Defendants' choice; (3) Claimant was not entitled to TTD because he had not provided a note from a doctor writing him out of work and his work restrictions were accommodated by Defendants.

Claimant appealed Commissioner Campbell's order to the Appellate Panel of the South Carolina Workers' Compensation Commission. Defendants respectfully assert that Commissioner Campbell (1) did not err in finding Claimant was not entitled to TTD; however, (2) he did err in finding Claimant was entitled to future medical treatment and he had not reached maximum medical improvement. We, therefore, ask that Commissioner Campbell's Order dated December 12, 2019 be affirmed in part and reversed in part.

FACTS

I. Claimant's Hearing Testimony

Claimant is a high school graduate who also received certification as a registered medical assistant from Remington College. (Hr. Tr. p. 8). Claimant has experience in the United States military. Id. Claimant's employment history includes work as an Unexploded Ordnance (UXO), which involves working on active ranges or flood sites doing metal detection for unexploded ordnance and then, if necessary, disposing of any ordnance. (Hr. Tr. P. 8, l. 20 : P. 9, l. 17). Claimant testified that he had been working for Aptim Federal Services in March 2017, and, as part of his job, he had worked all over the country at various sites. (*Id.* at P. 9, l. 18 : P. 11, l. 8).

Claimant testified that in October 2018 he went to work at Fentress Auxiliary Airfield in Chesapeake, Virginia. Id. at 10-11. Claimant explained that he worked at Fentress until December 2018 when the job ended for the holiday season and then started back in January 2019. Id. at 11. Claimant

explained that his job in Virginia was UXO technician level 3 work, which was considered construction support. Id. In this position, he was given a metal detector and instructed to inspect the ground before digging. Id. at 11-12. He explained that this job required "minimal labor." Id. at 12. He explained that the construction support position differed from normal UXO work, which typically required the employee to lift anywhere from 10 to 80 pounds. Id. at 11. Claimant testified that he had worked in this UXO construction support position on four separate occasions and was working in this position at the time of his hearing. Id. at 12-13.

According to Claimant, he was assigned 10-pound lifting restrictions from Bayview Urgent Care following his work accident and doctors told him these restrictions were in place "until either I felt no pain or I saw another physician." Id. at 15. These alleged work restrictions were not substantiated by the record. Nevertheless, Claimant testified that in his opinion these alleged restrictions caused him to miss out on potential employment opportunities shortly after the work accident. Id. at 15-17. He claimed that in light of the alleged work restrictions, the only job he was able to do was the construction support position. Id. at 17.

Claimant stated he later received 10-pound lifting restrictions from the VA. Id. at 17-18. He then saw his primary care provider. Id. Claimant later saw Dr. Ivan Lamotta. Id. at 22. Dr. Lamotta recommended conservative treatment to include physical therapy. Id. He also claims that Dr. Lamotta told him to try not to further aggravate his injuries. Id. at 22. Claimant testified that in May 2019, Dr. Lamotta released him to return to work full duty. Id. at 23. He thereafter returned to work at Camp Pendleton. Id. at 23-24. At the time of the hearing, Claimant did not have any work restrictions. Id. at 24. He stated he worked at Camp Pendleton from May 13 or 14, 2019 until he voluntarily left that job early. Id. at 24.

Claimant explained that following his work accident until his full-duty release he worked in construction support jobs. (Hr. Tr. p. 25). In January he worked for Aptim in Virginia, in March he

worked for Aptim in Colorado, and in April he worked in Georgia. Id. During that time, he was able to perform his job within his restrictions. Id. At the time of the hearing Claimant complained of daily pain but he was able to push through it to do his job. Id. at 25-26.

On cross-examination, Claimant testified his job was contract work on an as-needed basis. (Hr. Tr. p. 28, ll. 20-22). He stated that the length of time he worked at a particular location depends largely on the contract and the nature of his job. (Hr. Tr. p. 29, ll. 8-18). He explained that since he started working for Aptim in 2017, he had never worked 52 consecutive weeks in a year. Id. at 28-29. His job required him to go around the country to a project, work as long as the contract provided for, and then leave to go elsewhere. *Id.* at 29. Thus, Claimant's job by definition was sporadic. On cross-examination, Claimant also testified that the only work note he received, which was from the VA, did not indicate that he was under work restrictions due to a back injury. *Id.* at 31; Claimant's APA p. 7. Claimant also acknowledged that a note dated December 13, 2018 stated that he was released to return to work full duty by Dr. Cooper; however, he stated that the record indicated he could work full duty if he had no further problems with his back. *Id.* at 34-35. He further acknowledged the note stated he was to follow-up with the adjuster if he had any more problems with his back. *Id.*; Defendants' APA p. 80. Claimant took the position that this was not a full-duty release.

Claimant did not dispute Dr. Cooper's report indicated he had no permanent impairment from his injury. Id. at 37. Claimant furthermore acknowledged that as of April 1, 2019 he was able to do the Tech 3 job. Id. at 40. He also acknowledged he testified at the time of his deposition there was nothing preventing him from performing the Tech 3 position other than the availability of work. Id. Claimant also testified that when he saw Dr. LaMotta on March 14, 2019, he was able to do any job offered by Aptim, either the Tech 3 job or the construction support job. Id. at 40.

Claimant testified that when he was released by Dr. LaMotta he was told he should follow-up only on an as-needed basis if his condition were to significantly deteriorate. (Hr. Tr. pp. 43-44).

He was also released without any physical impairment. Id. at 44. Claimant testified that the restrictions he received from Dr. Lamotta on March 14, 2019 were less restrictive than the most intensive job he had with Aptim. Id. at 45. Claimant also agreed that as of December 13, 2018, assuming he was released to return to work without restrictions, he was able to perform any job at Aptim. Id. at 45-46.

On cross-examination, Claimant disputed the records from Chesapeake Regional that indicated he was released to return to work without restrictions. He claimed that he was assigned 5-pound lifting restrictions at the initial visit which was then increased to 10 pounds by Bayview. Id. at 47-48. However, there is not a work note from Chesapeake Regional in the APAs. Id. at 48. On re-direct Claimant's attorney brought out that the work note from Chesapeake says Claimant is released full duty with attention not to aggravate injury. If Claimant has further problems, he will contact his case manager. Id. According to Claimant he remained under restrictions of attention not to aggravate his injury until March when Dr. LaMotta changed his restrictions to 40-45 pounds lifting. Id. at 54. Claimant testified his work restrictions forced him to miss out on a job at Adak. Id. at 55. According to Claimant, his restrictions forced him out of the pool of candidates. Id. at 55. Claimant testified he was offered the job at Adak in January 2019 after he saw his primary care provider, Dr. Askins in Lexington. Id. at 60. The Adak job was set to begin in April 2019. Id. Claimant also admitted he told the physical therapist on February 19, 2019 that he was able to pick up his daughter and it did not hurt. Id. at 62.

When he was injured on December 10, 2018, Claimant was under contract to work at Fentress Auxiliary Airfield in Chesapeake, Virginia. (Hr. Tr. pp. 10-11). Claimant testified he worked through December 13, 2018 at the Fentress Airfield. (Hr. Tr. pp. 11, 34). He further testified that all of the workers at the Fentress Airfield were off work from December 14, 2018 through January 6,

2019 for the holidays. *Id.* Beginning on January 7, 2019, Claimant returned to work at the Fentress Airfield as did all of the other employees assigned to work there. *Id.*

II. Other Medical Evidence

Claimant initially treated at Chesapeake Regional on December 10, 2018. He reported he was pinned between the door of his truck and the body of his truck when another truck backed into his truck door. Claimant denied neck pain, head trauma, shortness of breath, or loss of consciousness. He was diagnosed with strain and acute right-sided low back pain without sciatica. An x-ray of his lumbar spine was normal, and he was discharged home with instructions to follow up with his primary care provider if his symptoms persisted. (Claimant's APA 1, pp. 1-6).

Claimant then treated at Bayview Urgent Care on December 11, 2018. He complained of warm pain in the right lumbar region of his back. Dr. Ann Cooper noted Claimant was an "out of town contractor" and only had two days left to work his job before he returned to South Carolina. Dr. Cooper diagnosed Claimant with "contusion of right lumbar paraspinal muscles." She noted she would release Claimant to return to work full duty as of December 13, 2018, but he could advise the case manager if he had any further problems with his injury. (Def. APA p. 39).

Claimant later received unauthorized treatment at the VA on or about January 10, 2019. It appears that Tracy Harrison, PA, assigned Claimant 10-pound work restrictions; however, it is unclear from this note whether the restrictions were related to Claimant's back or the work accident of December 10, 2018. (Claimant's APA p. 7). Furthermore, no other medical records from the VA were included.[1] Claimant also treated at his primary care provider, Dr. Benjamin Askins, without authorization. (Claimant's APA pp. 8-13).

[1] As explained at the hearing, Defendants asked Claimant to sign a medical records release to obtain the VA records; however, Claimant's attorney refused to provide us with same. (Hr. Tr. pp. 32-33).

On March 14, 2019, Dr. Ivan E. LaMotta of Midlands Orthopaedics and Neurosurgery evaluated Claimant and opined: "From the surgical standpoint, the patient has reached maximum medical improvement. There is no additional therapy, injections, or surgery that can be recommended for the patient. I see no contradictions for the patient to do limited light duty to medium duty work lifting up to 40-45 pounds." (Claimant's APA, p. 19).

In his May 9, 2019 follow-up appointment, Dr. LaMotta opined: "My recommendation is for the patient to perform core exercises and stretching on a daily basis as well as incorporating a yoga program along with weight loss. More than likely, with time, the patient's condition should continue to improve. I really see no contradictions for the patient to return to regular duty. The patient has reached maximum medical improvement. At this time, I see loss of function for his lumbar spine and **therefore no permanent impairment**. **There is no need for future medical care**. The patient will follow up on as-needed basis only if his contortion were to significantly deteriorate." (Claimant's APA, p. 16) (emphasis added).

STANDARD OF REVIEW

"In workers' compensation cases, the Full Commission is the ultimate fact finder. *Shealy v. Aiken Cty.*, 341 S.C. 448, 455, 535 S.E.2d 438, 442 (2000). "[T]he commission shall review the award and, if good grounds be shown therefor, reconsider the evidence, receive further evidence, rehear the parties or their representatives and, if proper, amend the award." S.C. Code Ann. § 42-17-50. "Although it is logical for the Full Commission, which did not have the benefit of observing the witnesses, to give weight to the Single Commissioner's opinion, the Full Commission is empowered to make its own findings of fact and to reach its own conclusions of law consistent or inconsistent with those of the Single Commissioner." *Etheredge v. Monsanto Co.*, 349 S.C. 451, 454–55, 562 S.E.2d 679, 681 (Ct. App. 2002).

ARGUMENT

I. Commissioner Campbell did not err in finding Claimant was not entitled to TTD for any alleged period

Defendants initially assert that Commissioner Campbell did not err in finding Claimant was not entitled to TTD for any alleged period.

The claimant bears the burden of proving such facts that will render her injury compensable. *Shealy v. Algernon Blair, Inc.*, 250 S.C. 106, 110, 156 S.E.2d 646, 648 (1967); *Clade v. Champion Labs.*, 330 S.C. 8, 11, 496 S.E.2d 856, 857 (1998). A workers' compensation award must not be based on surmise, conjecture or speculation. *Id.*

The claimant bears the burden of proving entitlement to temporary disability compensation. *Lee v. Bondex, Inc.*, 406 S.C. 97, 102, 749 S.E.2d 155, 157 (Ct. App. 2013).

> For temporary disability benefits, a claimant must prove only that work restrictions prevent him from performing the job he had before the injury, and that his current employer has not offered him light-duty employment. . . . [T]he claimant satisfies his burden by proving work restrictions that prevent him from performing his regular job and the unavailability of light-duty employment through the same employer.

Id. at 102–03, 749 S.E.2d at 157-58.

A. Claimant's job with Aptim is sporadic and he works on an as-needed basis

Claimant testified that his job at Aptim was contract work on an as-needed basis. (Hr. Tr. p. 28, ll. 20-22). He stated that the length of time he worked at a particular location depends largely on the contract and the nature of his job. (Hr. Tr. p. 29, ll. 8-18). When he was injured on December 10, 2018, Claimant was under contract to work at Fentress Auxiliary Airfield in Chesapeake, Virginia. (Hr. Tr. pp. 10-11). Claimant testified he worked through December 13, 2018 at the

Fentress Airfield. (Hr. Tr. pp. 11, 34). He further testified that all of the workers at the Fentress Airfield were off work from December 14, 2018 through January 6, 2019 for the holidays. *Id.* Beginning on January 7, 2019, Claimant returned to work at the Fentress Airfield as did all of the other employees assigned to work there. *Id.* As such, Claimant is not entitled to TTD for the period from December 14, 2018 through January 6, 2019 because he was not disabled (i.e., unable to work due to a work-related accident); rather, he was out of work due to the project stopping for the holidays.

B. Claimant did not produce any medical evidence showing he was assigned work restrictions that prevented him from performing his job as the result of a work-related injury

Claimant testified that after the holiday break, he returned to work on January 6, 2019 as did the other employees. Much of Claimant's argument for TTD benefits post-accident focuses on the fact that Claimant allegedly missed job opportunities after the accident that he allegedly would have been qualified for absent his work restrictions. For example, he makes note of jobs in Quantico, Virginia; as well as opportunities in Dam Neck, Virginia; and Adak, Alaska. Id. at 15, 17. However, Claimant failed to produce any medical evidence in the record removing him from his job as the result of the work accident of December 10, 2018. Claimant produced a work note from unauthorized treatment at the VA hospital dated January 10, 2019 that apparently indicates that Tracy Harrison, PA, assigned him 10-pound work restrictions. (Claimant's APA p. 7). However, Claimant did not produce the accompanying medical narrative or any other records to show whether the treatment provided at the VA or the restrictions assigned were related to a work-related back injury from December 10, 2018. In fact, Claimant failed to produce any medical records from the VA hospital to the kind of treatment received or what the work restrictions related to. Defendants even requested Claimant to sign a medical authorization release to enable Defendants to obtain his VA records, but Claimant refused. Defendants respectfully assert that the purported restrictions he was assigned could

relate to any number of non-work-related issues and to find as fact that the unaccompanied work note from an unauthorized medical provider assigned Claimant work restrictions related to the injury of December 10, 2018 would require surmise, conjecture, or speculation. *See Clade*, 330 S.C. at 11, 496 S.E.2d at 857 (stating a workers' compensation award must not be based on surmise, conjecture or speculation).

C. Claimant's argument that his release to return to work "with attention not to aggravate the injury" equates to work restrictions is without merit

Claimant also argues that on December 11, 2018, Dr. Ann Cooper of Bayview Urgent Care in Virginia did not give him a full-duty release but instead assigned work restrictions of "return to work with attention not to aggravate his injury." (Claimant's App. Br. pp. 3-4). However, this argument ignores that fact that the Virginia Workers Compensation forms completed by Dr. Cooper on December 11, 2018 state Claimant was released to full duty work as of December 13, 2018. (Defendants' APA p. 80). Furthermore, the medical narrative from the December 11, 2018 visit states that Claimant was released to return to work full duty as of December 13, 2018 and that he should contact his case manager if he has any further problems connected with the injury. (Defendants' APA p. 39). Defendants respectfully assert that these instructions from the physician are no different than a physician stating that a patient can follow-up "as needed"; however, that does not mean that the claimant is assigned work restrictions.

Moreover, the argument that the instruction "attention not to aggravate the injury" equates to assigning work restrictions has been addressed by the South Carolina Court of Appeals in *Cranford v. Hutchinson Construction*, 399 S.C. 65, 76, 731 S.E.2d 303, 309 (Ct. App. 2012). In *Cranford*, the claimant argued that the doctor's statement that the employee could return to work "with the use of good body mechanics and careful lifting techniques" was tantamount to releasing him to return to work with restrictions. The Court of Appeals disagreed noting the doctor's "express approval of

returning the claimant to work and finding no permanent impairment" equated to "returning to work without restriction." *Id.*; *see also* S.C. Code Ann. Regs. 67-502(D) (defining "[r]eturn to work without restriction as "[a] statement of the authorized health care provider about the capacity of the claimant to meet the demands of a job and the conditions of employment. The determination must be made when the claimant's physical condition is static or is stabilized with or without medical treatment. The determination is appropriate when there are no physical limitations on the claimant's ability to perform the same or other suitable job as the claimant performed before the injury."). As in *Cranford*, Claimant was released to return to work without restrictions and without any permanent impairment from the injury. The recommendation that Claimant should try not to aggravate his injury is not tantamount to a work restriction; therefore, Claimant's argument inapposite is without merit.

Because Claimant was released to return to work without restrictions, his argument for TTD for the period December 13, 2018 until March 14, 2019 is without merit as he was not out of work due to a work injury. *See Pollack v. S. Wine & Spirits of Am.*, 405 S.C. 9, 15, 747 S.E.2d 430, 433 (2013) ("[T]he entitlement of TTD benefits is premised on a nexus between the work-related injury and the inability to earn wages. An injured employee will be entitled to TTD compensation when his incapacity to earn wages is *due to* or *because of* the injury.") (emphasis in original)).

D. When Claimant was assigned work restrictions, he was able to perform his regular job at Aptim

Claimant admitted that as of his deposition on April 1, 2019,[2] he was able to perform his position as a UXO tech 3. (Hr. Tr. pp. 38-39). He furthermore admitted that as of December 13, 2018, assuming he was released to return to work without restrictions, he was able to perform any

[2] Claimant's deposition transcript was admitted into evidence at the hearing. (Hr. Tr. pp. 38-39).

job at Aptim. Id. at 45-46. Therefore, the record indicates Claimant was never removed from his regular job making his claim for TTD without merit.

Likewise, Claimant's allegation for TTD beyond March 14, 2019 is without merit. On March 14, 2019, Dr. LaMotta evaluated Claimant and assigned him "medium duty work" restrictions of lifting up to 40-45 pounds." (Claimant's APA 4, p. 19). However, Claimant testified at the hearing that these restrictions were less restrictive than the most intensive job he had with Aptim, and he was able to perform any job that he had with Aptim. (Hr. Tr. p. 45). As such, Defendants assert that Claimant was not entitled to TTD from March 14, 2019 until his full-duty release on May 9, 2019 because Claimant's work restrictions were accommodated by the Employer thereby negating his TTD claim. *See Lee*, 406 S.C. at 102, 749 S.E.2d at 157-58 (stating to prove entitlement to TTD the claimant must prove "work restrictions that prevent him from performing his regular job and the unavailability of light-duty employment through the same employer"). Finally, Claimant is clearly not entitled to TTD after May 9, 2019 because at that time he was released to return to work without restrictions. Therefore, Commissioner Campbell did not err in denying Claimant's TTD claim.

II. Commissioner Campbell erred in finding Claimant had not reached MMI and was entitled to further medical treatment

Defendants assert that Commissioner Campbell erred in finding Claimant was entitled to further medical treatment as a result of the work accident on December 10, 2018.

Under Section 42-15-60(A) of the South Carolina Code,

> The employer shall provide medical, surgical, hospital, and other treatment, including medical and surgical supplies as reasonably may be required, for a period not exceeding ten weeks from the date of an injury, to effect a cure or give relief and for an additional time as in the judgment of the commission will tend to lessen the period of disability as evidenced by expert medical evidence stated to a reasonable degree of medical certainty.

In *Hartzell v. Palmetto Collision, LLC*, 419 S.C. 87, 96, 796 S.E.2d 145, 150 (Ct. App. 2016), *reh'g denied* (Feb. 21, 2017), the Court of Appeals held that to "hold an employer liable for medical expenses beyond [ten weeks], the Appellate Panel must decide that, based upon a heightened standard of medical evidence, additional treatment would tend to lessen the claimant's period of disability."

Here, Commissioner Campbell determined that Claimant was entitled to "reimbursement for all past out-of-pocket causally-related treatment (i.e., copays for primary care visits) and Defendants are required to pay for all other past causally-related treatment (i.e., EMS, ER, etc.) . . . [as well as] a second opinion by a spine specialist of Defendants' choosing and all causally-related treatment, if recommended, by said spine specialist."

However, Defendants assert that Commissioner Campbell erred in ordering Defendants to provide further treatment as there was no evidence that any future medical care would tend to lessen Claimant's period of disability. Specifically, on March 14, 2019, Dr. Lamotta opined that "[f]rom the surgical standpoint, [Claimant] has reached maximum medical improvement. There is no additional therapy, injections, or surgery that can be recommended for the patient." (Claimant's APA p. 19). Likewise, On May 9, 2019, Dr. Lamotta opined that Claimant had reached maximum medical improvement. At this time, I see loss of function for his lumbar spine and therefore no permanent impairment. **There is no need for future medical care.** The patient will follow up on as-needed basis only if his contortion were to significantly deteriorate." (Claimant's APA 4, p. 16) (emphasis added). The record also does not contain any medical evidence that a second medical opinion would tend to lessen Claimant's period of disability. In fact, there is not one medical record stated to a reasonable degree of medical certainty that Claimant requires additional medical care.

Additionally, Defendants note the only reliable medical evidence in the record indicates Claimant has reached MMI for his injury. *Cranford*, 399 S.C. at 77, 731 S.E.2d at 309 ("Maximum

medical improvement is a term used to indicate that a person has reached such a plateau that in the physician's opinion there is no further medical care or treatment which will lessen the degree of impairment."). Notably, Dr. Lamotta opined Claimant reached MMI on May 9, 2019 and that no further medical treatment would tend to lessen his period of disability. Notably, Claimant did not present any medical evidence to suggest that he had not reached MMI.

Therefore, Defendants respectfully assert that Claimant failed to establish by medical evidence that future medical treatment will tend the lessen the period of disability.

CONCLUSION

Accordingly, Defendants respectfully assert that Commissioner Campbell (1) did not err in finding Claimant was not entitled to TTD; however, (2) he did err in finding Claimant had not reached maximum medical improvement and was entitled to future medical treatment. We, therefore, ask the Full Commission to find (1) Claimant is not entitled to TTD benefits; (2) Claimant has reached MMI for his injury and is not entitled to further medical benefits in light of the opinion of the authorized treating physician; and (3) award Claimant no permanent disability benefits.

Respectfully Submitted,



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Fax: (864) 312-4191
Attorney for Defendants

March 10, 2020

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1822255

David Casey, Employee, Claimant, vs. Aptim Federal Services Employer, and XL Specialty Insurance Company, Carrier, Defendants.	**CERTIFICATE OF SERVICE**

The undersigned certifies that on the date set forth below, she served a copy of **Defendants' Brief to Full Commission** via electronic mail and United States mail first-class postage to:

Richard C. Alexander
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Katharine Mitchell, Legal Assistant

March 10, 2020

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July 2, 2020

VIA U.S. MAIL

Ms. Amy Bracy
Judicial Department
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715

Re: David Casey v. APTIM Federal Services, LLC
WCC File Number: 1822255
Claim Number: 30181558672-0001
D.O.I.: 12/10/2018

Dear Ms. Bracy:

Enclosed please find Defendants' Motion to Reconsider in the above-referenced workers' compensation claim, as well as a proposed Decision and Order, certificate of service, and a check in the amount of $50.00 for the filing fee. Please note that I have included Claimant's attorney, Mr. Richard C. Alexander on this correspondence.

Thank you for your attention to this matter.

With kind regards,

ELLER TONNSEN BACH, LLC

Daniel B. Eller

DBE/wfc
cc: Richard C. Alexander (via U.S. Mail and email)

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1822255

David B. Casey, Jr., Employee, Claimant, vs. APTIM Federal Services, LLC, Employer, XL Specialty Insurance Company, Carrier, and Sedgwick Claims Management Services, Inc., Third-Party Administrator, Defendants.	DEFENDANTS' MOTION TO RECONSIDER APPELLATE PANEL DECISION AND ORDER

NOW COME the Defendants, by and through counsel, and pursuant to S.C. Code Regs. 67-215, and request that the Appellate Panel reconsider its Decision and Order dated June 29, 2020. In support of said Motion, Defendants show unto the Commission the following:

1. A hearing was held before the Appellate Panel on March 16, 2020 to consider a Decision and Order of Commissioner Gene McCaskill dated December 12, 2019.

2. On June 29, 2020, in a 2-1 decision, the Appellate Panel issued an Order reversing Commissioner McCaskill and—importantly for purposes of this Motion—awarding Claimant temporary total disability benefits from "January 18, 2019 through May 12, 2019 (less the ten days [Claimant] was accommodated with light duty work)." (FF #11). Commissioner Wilkerson dissented, noting he would have affirmed Commissioner McCaskill's Order "in full."

3. Initially Defendants certify, consistent with S.C. Code Regs. 67-215(H), we have not communicated with opposing counsel and attempted to resolve the issues raised in this Motion to Reconsider prior to filing the same because such consultation would serve no useful purpose.

4. Additionally, Defendants assert that this Motion to Reconsider is not being filed for purposes of rearguing the merits of the case. *See* S.C. Code Regs. 67-215(B) (noting the Appellate Panel "may entertain motions to reconsider an order . . . if the purpose of the motion is not an attempt to reargue the merits of the dispute"). Rather, this Motion to Reconsider is being filed to preserve Defendants' arguments on appeal and to ensure all

administrative procedures have been extinguished before seeking judicial review pursuant to the Administrative Procedures Act.

5. As for the grounds of the Motion, Defendants respectfully assert that the majority opinion of the Appellate Panel overlooked and/or misapprehended key evidence in the record in reversing Commissioner McCaskill's Order.

6. As previously stated, the Appellate Panel awarded Claimant TTD from January 18, 2019 through May 12, 2019 (less the ten days he was accommodated with light duty work)." (FF #11). In doing so, it noted:

> Claimant has provided a physician note with work restrictions that Defendants/Respondents were unable to continuously accommodate from January 18, 2019 through May 12, 2019 (less the ten days he was accommodated with light duty work). As such Claimant has met his burden of proving he is entitled to back [TTD] benefits during this period.

7. This was a reversal of Commissioner McCaskill's Finding of Fact #11 that found:

> Claimant has not provided a physician note writing him out of work, and his work restrictions were accommodated by Defendants. As such, Claimant failed to meet his burden of proving he is entitled to back [TTD] benefits.

8. Defendants respectfully assert the majority opinion of the Appellate Panel's Finding of Fact #11 misconstrued the evidence. Specifically, there is no medical evidence in the record that Claimant was written out of work for a work-related injury occurring on December 10, 2018. Instead, the evidence that the Appellate Panel presumably relied upon was a work note from the Veterans Administration Hospital dated January 18, 2019 where the provider opined Claimant was "unable to lift more than 10 pounds until medically cleared." (Claimant's APA p. 7).

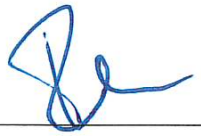
9. Notably, however, the January 18, 2019 VA note does not indicate the work restrictions were assigned for Claimant's back nor does the note indicate that the restrictions were assigned due to a work-related injury occurring on December 10, 2018. In fact, no other records from the VA Hospital were admitted into evidence. Therefore, one would have to speculate as to what condition Claimant was treated for that day and what the provider believed was the causation of that condition. Likewise, Plaintiff reached maximum medical improvement and was released to full duty on May 9, 2019; therefore, the award of TTD through May 12, 2019 further shows that such a finding is speculative. As such, Defendants would respectfully assert that for the Appellate Panel to rely on this one-page document to conclude that Claimant was assigned work restrictions due to a back injury arising out of his work accident of December 10, 2018 amounts to surmise, conjecture, or speculation. *See Clade v. Champion Labs.*, 330 S.C. 8, 11, 496 S.E.2d 856, 857 (1998)

(stating a workers' compensation award must not be based on surmise, conjecture, or speculation).

10. Additionally, Defendants respectfully assert that in light of the speculative findings by the majority opinion of the Appellate Panel, its Decision and Order is not based on substantial evidence and could be grounds for reversal by the South Carolina Court of Appeals.

Accordingly, Defendants respectfully request that the Appellate Panel reconsider its Decision and Order dated June 29, 2020, and issue an Amended Decision and Order affirming Commissioner McCaskill's Order in its entirety.

Greenville, SC
July 2, 2020

By: 

Daniel B. Eller (Bar No.)
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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that (s)he has on this day served the following individual(s) with a copy of the document indicated below via U.S. mail by depositing a copy of the same in the United States mail, postage prepaid, addressed as follows:

COUNSEL SERVED:

Richard C. Alexander
Shelly Leeke Law Firm, LLC
3614 Ashley Phosphate Road
North Charleston, SC 29418
chip@leekelaw.com

DOCUMENT:

Defendants' Motion to Reconsider

Katharine Mitchell, Legal Assistant
ELLER TONNSEN BACH, LLC

Greenville, SC
July 2, 2020

DECISION AND ORDER

OF THE

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION'S APPELLATE PANEL

W.C.C. FILE NO.: 1822255

DAVID CASEY,	CLAIMANT/APPELLANT,
-vs-	
Aptim Federal Services,	EMPLOYER,
-and-	
XL Specialty Insurance Company,	CARRIER, DEFENDANTS/RESPONDENTS.

Appellate Panel Review held in Columbia, South Carolina on March 16, 2020 per notices timely and properly served on all parties in interest.

Appellate Panel Decision and Order filed

_____, 2020

APPEARANCES:

Richard C. Alexander, Esq., Shelly Leeke Law Firm, North Charleston, South Carolina, appearing on behalf of the Claimant/Appellant.

Daniel B. Eller, Esquire of Eller, Tonnsen, & Bach, of Greenville, South Carolina., appearing on behalf of the Defendants/Respondents.

STATEMENT OF THE CASE

The parties were heard by Commissioner R. Michael Campbell, II on July 1, 2019. The purpose of this hearing was to determine the issues as set forth in the Forms 50 and 51, specifically to determine compensability of injuries, to determine entitlement to past, present and future total disability benefits, and to determine entitlement to future medical care. This is a denied claim with an alleged injury by accident to the Claimant's back that occurred on December 10, 2018, while under the employment of APTIM Federal Services. Claimant received causally related medical treatment at the Bayview Urgent Care, Midlands Ortho, Palmetto Imaging, and Progressive PT.

Claimant contended he injured his back on December 10, 2018, when a car beside him started backing up and cut their wheel too quickly and hit his door and pinned him between the door and the door frame of his vehicle. Claimant also contended he is entitled to past, present, and ongoing medical care and past, present, and future temporary benefits. He sought a finding of compensability of his back and a finding of entitlement to future medical treatment as well as past temporary benefits. Defendants denied compensability of the alleged injuries and therefore entitlement to any temporary benefits or medical care.

EVIDENCE OF THE CASE

Claimant testified on his own behalf. At the time of the hearing, the Claimant, David Casey, was 41 years old. Claimant works for Defendant Employer (Aptim Federal Services) as an unexploded ordnance technician (hereinafter "UXO), which involves working on active ranges or flood sites doing metal detection for unexploded ordnance and then, if necessary, disposing of any ordnance (Hr. Tr. P. 8, l. 20 : P. 9, l. 17). Claimant testified that he had been working consistently for Aptim Federal Services since March 2017, and he had worked all over the country at different sites. (*Id.* at P. 9, l. 18 : P. 11, l. 8). He discussed the high physical demands of his work, which include

extensive digging and lifting items as heavy as 80 pounds. (*Id.* at P. 11, ll. 11-17). He further testified that to perform his normal UXO work when he first started working for Aptim Federal Services, he was required to pass an OSHA physical and be able to lift a minimum of 40-45 pounds. That amount was increased to 50 pounds some time after he went out of work from this accident. (*Id.* at P. 13, ll. 15 : P. 14, l. 3).

On December 10, 2018, Claimant injured his back when putting something in the back seat of his truck when the car beside him started backing up and the driver cut his wheel too quickly, hitting Mr. Casey's door and pinning him between the door and the door frame. Claimant testified that he went to the emergency room that day, then an urgent care in Virginia, at the direction of his employer. (*Id.* at P. 14, ll. 7-15). He testified that he finished his work on December 13, 2018 and returned home. He testified that the urgent care released him to full duty since they were not going to be seeing him again because his current assignment was ending on that day, not because he was not injured. Despite repeated and repetitive cross examination about being released to full duty, Claimant testified that the "full duty" release clearly said not to do anything that would aggravate his injury. (*Id.* at P. 50, ll. 17-24).

Next, he testified that he was given another light duty construction support assignment by Aptim that started on January 7, 2019 and ran for approximately a week until January 15, 2019. It was during this return to work that he really started to notice the pain in his back, and that was when he started seeking follow up care. He testified that he was advised by the Defendant Carrier to seek treatment with his primary care physician and get notes so Defendant Carrier could address future care, which is exactly what he did. For the next six weeks or so, he testified that he was strung along by Defendant Carrier until he finally got an attorney. He testified that his case was finally transferred to South Carolina when he obtained an attorney, and he was authorized to see Dr. LaMotta in March

2019. At this point, he had already completed a round of physical therapy that had been ordered by his primary care physician, and he was advised to continue those exercises he learned in physical therapy. (*Id.* at P. 19, l. 6 : P. 22, l. 18). Claimant testified that he returned to Dr. LaMotta on May 9, 2019 wherein he requested to be released to full duty because he could not continue to be held out of work without pay. (*Id.* at P. 23, ll. 6-20). Despite being released to full duty with no restrictions, Claimant testified he continues to have problems with pain daily when working as well as with performing daily activities. He requested additional treatment to hopefully resolve his issues. (*Id.* at P. 25, l. 16 : P. 26, l. 17).

Claimant testified that from the time he left his assignment where he was injured in December until he was released to full duty, he worked approximately one week in construction support in January, four or five days in March, and three or four days in April. He testified that all of the jobs he was able to work while under restrictions were construction support. (*Id.* at P. 11, l.4 : P. 12, l. 8; P. 24, l. 19 : P. 25, l. 15). Claimant testified that he missed out on several job opportunities with Aptim Federal Services as a UXO because he was under restrictions from his work injury that precluded him from being assigned to those jobs. He testified about a job that was available in December in Quantico, Virginia as well as other opportunities in Dam Neck, Virginia and Adak, Alaska. (*Id.* at P. 15, l. 18 : P. 17, l. 15).

Claimant testified on cross examination that he agreed he would have worked any job available if it would support his family. He further agreed that as of April 1, 2019, he was able to do UXO tech 3 work because Dr. LaMotta had decreased his restrictions. (*Id.* at P. 39, l. 16 : P. 41, l. 1). On redirect, Claimant testified that the release he received from Bayview Urgent Care was not a full duty release and clearly said not to do anything that would aggravate his injury. (*Id.* at P. 50, ll. 17-

24). Claimant further testified that his understanding when he was released by Bayview Urgent care was that he still was under restrictions. (*Id.* at P. 51, l. 8 : P. 52, l. 3).

Claimant testified on redirect that the Defendants directed him to go to his primary care physician for evaluation since he was still having pain after returning to work. Additionally, he testified that Defendants admitted to him in January that he was injured and unable to return to full duty, so he would be compensated through Workers' Compensation. (*Id.* at P. 52, l. 3 : P. 53, l. 22). Claimant also discussed emails from Defendants where they noted they were confirming the last date he worked so they could start paying him temporary benefits while he was out. (*Id.* at P. 63, ll. 7-18). Claimant went on to testify further about his restrictions that precluded him from working several assignments that came up while he was under restrictions until he was released and returned to work in May 2019. (*Id.* at P. 53, l. 23 : P. 56, l. 8).

On December 12, 2019, Commissioner Campbell issued the following:

FINDINGS OF FACT

The following Findings of Fact are based on the stipulations of the parties, written and evidentiary submissions, and testimony rendered at the hearing:

1. All parties to this proceeding are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act.
2. The Claimant's average weekly wage is $2,372.54 yielding a corresponding maximum compensation rate of $838.21.
3. Claimant sustained a compensable injury to the back arising out of and in the course and scope of his employment when he was pinned between two vehicles. (Claimant's APA 1, pp. 1-6).

4. Claimant was transported via EMS and underwent initial treatment with Chesapeake Regional Hospital. He then followed up with Bayview Urgent Care, VA Hospital, Lexington Family Medical, and Midlands Orthopaedics. (Claimant's APAs 1-4; Defendants' APAs 5-7).

5. On March 14, 2019, Dr. Ivan E. LaMotta of Midlands Orthopaedics and Neurosurgery evaluated Claimant and opined: "From the surgical standpoint, the patient has reached maximum medical improvement. There is no additional therapy, injections, or surgery that can be recommended for the patient. I see no contradictions for the patient to do limited light duty to medium duty work lifting up to 40-45 pounds." (Claimant's APA 4, p. 19).

6. In his May 9, 2019 follow-up appointment, Dr. LaMotta opined: "My recommendation is for the patient to perform core exercises and stretching on a daily basis as well as incorporating a yoga program along with weight loss. More than likely, with time, the patient's condition should continue to improve. I really see no contradictions for the patient to return to regular duty. The patient has reached maximum medical improvement. At this time, I see loss of function for his lumbar spine and therefore no permanent impairment. There is no need for future medical care. The patient will follow up on as-needed basis only if his contortion were to significantly deteriorate." (Claimant's APA 4, p. 16).

7. On July 1, 2019, at the hearing before the undersigned Commissioner, Claimant testified regarding his admitted work-related injury, the medical treatment he has received, his work status, the time he was out of work due to his restrictions, the

issues he continues to have, and his desire for second opinion (see "Evidence of the Case" above).

8. Claimant is entitled to reimbursement for all past out-of-pocket causally-related treatment (i.e., copays for primary care visits) and Defendants are required to pay for all other past causally-related treatment (i.e., EMS, ER, etc.).

9. Claimant is entitled to a second opinion by a spine specialist of Defendants' choosing and all causally-related treatment, if recommended, by said spine specialist.

10. The parties are to designate a physician within 30 days of the date of this Order or contact the Commissioner to have him designate a physician.

11. Claimant has not provided a physician note writing him out of work, and his work restrictions were accommodated by Defendants. As such, Claimant failed to meet his burden of proving he is entitled to back temporary total disability benefits.

12. Claimant is not at MMI.

13. A determination of permanency is premature at this time.

14. All other issues are held in abeyance.

CONCLUSIONS OF LAW

Accordingly, as provided in the South Carolina Workers' Compensation Act, the undersigned Commissioner makes the following conclusions of law:

1. Under S.C. Code Ann. § 42-1-130, the Claimant was a covered Employee at the time in question and under § 42-1-140, the Employer was a covered Employer.

2. Under S.C. Code Ann. § 42-1-160, the Claimant sustained a compensable injury to his back arising out of and in the course of his employment on December 10, 2018.

3. Under S.C. Code Ann. § 42-1-40, the Claimant's average weekly wage of $2,372.54 yields a corresponding maximum compensation rate of $838.21.

4. Under *Lee v. Bondex, Inc.*, 406 S.C. 97, 102, 749 S.E.2d 155, 157 (Ct. App. 2013), Claimant bears the burden of proving entitlement to temporary disability compensation. To do so, he must prove that work restrictions prevent him from performing the job he had before the injury, and that his current employer has not offered him light-duty employment. *Id.* at 102-03, 749 S.E.2d at 157. In this case, Claimant has failed to meet his burden of proving he is entitled to TTD for any alleged period.

5. Under S.C. Code Ann. § 42-15-60, the Claimant has not reached maximum medical improvement and requires additional treatment for his back.

6. Under S.C. Code Ann. § 42-15-60, the Defendants shall procure a treating physician for the Claimant's back.

7. Under S.C. Code Ann. § 42-17-30, the Commission may appoint a doctor.

8. Under S.C. Code Ann. § 42-15-60, the Defendants shall reimburse the Claimant for all out-of-pocket causally-related medical expenses, including but not limited to office visits, surgery, medications, co-pays, and mileage, incurred as a result of the compensable back injury.

9. Under S.C. Code Ann. §§ 42-9-10, 42-9-20, and 42-9-30, a determination of the permanency of the Claimant's injuries is premature at this time.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the Claimant has not reached maximum medical improvement for his back injuries;

IT IS FURTHER ORDERED that a determination of permanency is premature at this time;

IT IS FURTHER ORDERED that Claimant's request for a second opinion is hereby granted;

IT IS FURTHER ORDERED that Defendants are to authorize a treating physician and the Claimant is entitled to all causally related medical treatment as recommended by said treating physician;

IT IS FURTHER ORDERED that Defendants shall reimburse the Claimant for all out-of-pocket causally related medical expenses, including but not limited to office visits, surgery, medications, co-pays, and mileage, incurred as a result of the compensable right inguinal hernia, left leg, and left foot injuries;

IT IS FURTHER ORDERED that Claimant's request for an award of TTD is denied;

IT IS FURTHER ORDERED that the parties have 30 days from the date of this Order to designate a physician. Should the parties fail to reach a consensus on a physician within 30 days, they shall notify the undersigned Commissioner's office that they are at an impasse and he will designate a physician;

IT IS FURTHER ORDERED that all other issues are held in abeyance at this time.

IT IS SO ORDERED!

Within the statutory period, Claimant filed an Application for Review in the case, setting forth their reasons, copies of which were furnished to all interested parties. All parties appeared at oral arguments on March 16, 2020, and presented their case on appeal.

All proffered testimony has been taken. Such, together with all documentary evidence, has been delivered by oral argument to the individual members of the Appellate Panel and has since been under study and consideration.

By appeal, Claimant argued that the Hearing Commissioner erred in finding as fact and concluding as a matter of law in the following particulars listed below:

1. *Did the Hearing Commissioner err as a matter of fact and matter of law by ignoring and/or excluding specific hearing testimony that supports Claimant's claim?*

2. *Did the Hearing Commissioner err as a matter of law and fact in Finding of Fact 11 by finding the greater weight of the evidence supported Claimant not being entitled to past temporary total disability benefits?*

3. *Did the Hearing Commissioner err as a matter of law by ruling Claimant did not meet his burden under S.C. Code Ann. § 42-9-10 to warrant payment of TTD while Defendants kept him out of work for a work-related injury?*

In Appellate Review, the Appellate Panel shall, pursuant to S.C. Code Ann. § 42-17-50 review the Award, weigh the evidence as presented at the initial hearing and, if good grounds be shown thereof, make its own findings of fact and reach its own conclusions of law consistent with, or inconsistent with, those of the Single Commissioner. After careful consideration and review of all evidence in the instant case, the Appellate Panel, by unanimous vote, hereby issues a full affirmation of the Single Commissioner's Findings of Fact and Conclusions of Law. Accordingly, the Appellate Panel hereby issues its own findings of fact and conclusions of law:

FINDINGS OF FACT

1. All parties to this proceeding are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act.

2. The Claimant's average weekly wage is $2,372.54 yielding a corresponding maximum compensation rate of $838.21.

3. Claimant sustained a compensable injury to the back arising out of and in the course and scope of his employment when he was pinned between two vehicles. (Claimant's APA 1, pp. 1-6).

4. Claimant was transported via EMS and underwent initial treatment with Chesapeake Regional Hospital. He then followed up with Bayview Urgent Care, VA Hospital, Lexington Family Medical, and Midlands Orthopaedics. (Claimant's APAs 1-4; Defendants' APAs 5-7).

5. On March 14, 2019, Dr. Ivan E. LaMotta of Midlands Orthopaedics and Neurosurgery evaluated Claimant and opined: "From the surgical standpoint, the patient has reached maximum medical improvement. There is no additional therapy, injections, or surgery that can be recommended for the patient. I see no contradictions for the patient to do limited light duty to medium duty work lifting up to 40-45 pounds." (Claimant's APA 4, p. 19).

6. In his May 9, 2019 follow-up appointment, Dr. LaMotta opined: "My recommendation is for the patient to perform core exercises and stretching on a daily basis as well as incorporating a yoga program along with weight loss. More than likely, with time, the patient's condition should continue to improve. I really see no contradictions for the patient to return to regular duty. The patient has reached maximum medical improvement. At this time, I see no loss of function for his lumbar spine and therefore no permanent impairment. There is no need for future medical care. The patient will follow up on as-needed basis only if his contortion were to significantly deteriorate." (Claimant's APA 4, p. 16).

7. On July 1, 2019, at the hearing before the undersigned Commissioner, Claimant testified regarding his admitted work-related injury, the medical treatment he has received, his work status, the time he was out of work due to his restrictions, the

issues he continues to have, and his desire for second opinion (see "Evidence of the Case" above).

8. Claimant is entitled to reimbursement for all past out-of-pocket causally-related treatment (i.e., copays for primary care visits) and Defendants are required to pay for all other past causally-related treatment (i.e., EMS, ER, etc.).

9. Claimant is entitled to a second opinion by a spine specialist of Defendants' choosing and all causally-related treatment, if recommended, by said spine specialist.

10. The parties are to designate a physician within 30 days of the date of this Order or contact the Commissioner to have him designate a physician.

11. Claimant has not provided a physician note writing him out of work, and his work restrictions were accommodated by Defendants. As such, Claimant failed to meet his burden of proving he is entitled to back temporary total disability benefits.

12. Claimant is not at MMI.

13. A determination of permanency is premature at this time.

14. All other issues are held in abeyance.

CONCLUSIONS OF LAW

In view of those Findings of Fact, and as provided in the South Carolina Code of Laws, WE, THE APPELLATE PANEL, CONCLUDE THE FOLLOWING AS MATTERS OF LAW:

1. Under S.C. Code Ann. § 42-1-130, the Claimant was a covered Employee at the time in question and under § 42-1-140, the Employer was a covered Employer.
2. Under S.C. Code Ann. § 42-1-160, the Claimant sustained a compensable injury to his back arising out of and in the course of his employment on December 10, 2018.

3. Under S.C. Code Ann. § 42-1-40, the Claimant's average weekly wage of $2,372.54 yields a corresponding maximum compensation rate of $838.21.
4. Under *Lee v. Bondex, Inc.*, 406 S.C. 97, 102, 749 S.E.2d 155, 157 (Ct. App. 2013), Claimant bears the burden of proving entitlement to temporary disability compensation. To do so, he must prove that work restrictions prevent him from performing the job he had before the injury, and that his current employer has not offered him light-duty employment. *Id.* at 102-03, 749 S.E.2d at 157. In this case, Claimant has failed to meet his burden of proving he is entitled to TTD for any alleged period.
5. Under S.C. Code Ann. § 42-15-60, the Claimant has not reached maximum medical improvement and requires additional treatment for his back.
6. Under S.C. Code Ann. § 42-15-60, the Defendants shall procure a treating physician for the Claimant's back.
7. Under S.C. Code Ann. § 42-17-30, the Commission may appoint a doctor.
8. Under S.C. Code Ann. § 42-15-60, the Defendants shall reimburse the Claimant for all out-of-pocket causally-related medical expenses, including but not limited to office visits, surgery, medications, co-pays, and mileage, incurred as a result of the compensable back injury.
9. Under S.C. Code Ann. §§ 42-9-10, 42-9-20, and 42-9-30, a determination of the permanency of the Claimant's injuries is premature at this time.

ORDER

IT IS THEREFORE, HEREBY ORDERED that the Claimant has not reached maximum medical improvement for his back injuries;

IT IS FURTHER ORDERED that a determination of permanency is premature at this time;

IT IS FURTHER ORDERED that Claimant's request for a second opinion is hereby granted;

IT IS FURTHER ORDERED that Defendants are to authorize a treating physician and the Claimant is entitled to all causally related medical treatment as recommended by said treating physician;

IT IS FURTHER ORDERED that Defendants shall reimburse the Claimant for all out-of-pocket causally related medical expenses, including but not limited to office visits, surgery, medications, co-pays, and mileage, incurred as a result of the compensable back injury;

IT IS FURTHER ORDERED Claimant's request for an award of TTD is denied;

IT IS FURTHER ORDERED that the parties have 30 days from the date of this Order to designate a physician. Should the parties fail to reach a consensus on a physician within 30 days, they shall notify the undersigned Commissioner's office that they are at an impasse and he will designate a physician;

IT IS FURTHER ORDERED that all other issues are held in abeyance at this time.

IT IS SO ORDERED!

S.C. WORKERS' COMPENSATION COMMISSION

_____

Avery B. Wilkerson, Commissioner

WE CONCUR:

_____

Melody L. James, Commissioner

_____

Aisha Taylor, Commissioner

SHELLY LEEKE
LAW FIRM, LLC

Charleston Office
Shelly Leeke Law Firm, LLC
3614 Ashley Phosphate Road
North Charleston, SC 29418

Phone: 843.297.8485
Fax: 843.297.8497

www.LeekeLaw.com

Call For Additional Office Locations

July 8, 2020

Ms. Amy Bracy
Judicial Department
S.C. Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715

RE: David Casey v. APTIM Federal Services, LLC
Carrier: XL Specialty Insurance Company
Date of Loss: 12/10/2018
WCC File #: 1822255

Dear Ms. Bracy,

Enclosed please find the original and one copy of Claimant's Response to Defendants' Motion to Reconsider Appellate Panel Decision & Order, together with a Certificate of Service. Please file the original and return a clocked-in copy to me in the enclosed self-addressed stamped envelope.

By copy of this letter to the Daniel B. Eller, Esq, I am serving upon the Defendants a copy of my Motion as reflected on the attached Certificate of Service.

Thank you for your time in this matter.

Sincerely,

Chip Alexander

Richard C. Alexander
Attorney at Law

RCA/mw

COPY

Enclosures

cc: Daniel B. Eller, Esq. (w/encls)

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1822255

DAVID CASEY,
Employee,

Claimant,

vs.

APTIM FEDERAL SERVICES,

Employer, and

XL SPECIALISTY INSURANCE COMPANY,
Carrier,

Defendants.

CLAIMANT'S RESPONSE TO DEFENDANTS' MOTION TO RECONSIDER APPELLATE PANEL DECISION & ORDER

TO: THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION APPELLATE PANEL AND DANIEL B. ELLER, ESQ.

YOU WILL PLEASE TAKE NOTICE Claimant, David Casey, through his undersigned attorney, will move for an Order dismissing Defendants' Motion to Reconsider.

1. Claimant agrees except that this appeal was from a Decision and Order of Commissioner R. Michael Campbell, II.
2. Claimant agrees except that this reversal was from a Decision and Order of Commissioner R. Michael Campbell, II.
3. Claimant does not dispute this assertion.
4. Claimant disagrees vehemently with this assertion and sees no basis for this Motion to Reconsider BUT to reargue the merits of the case.

5. Claimant disagrees with this assertion and submits this is nothing but an attempt to reargue the merits of the case.
6. Claimant does not dispute this assertion.
7. Claimant agrees except that this reversal was from a Decision and Order of Commissioner R. Michael Campbell, II.
8. Claimant disagrees with this assertion and submits this is nothing but an attempt to reargue the merits of the case.
9. Claimant disagrees with this assertion and submits this is nothing but an attempt to reargue the merits of the case.
10. Claimant disagrees with this assertion and submits this is nothing but an attempt to reargue the merits of the case.

Based upon the foregoing, Claimant moves for an Order dismissing Defendants' Motion to Reconsider in accordance S.C. Code Regs. 67-215 because Defendants are attempting to reargue the merits of the case.

SHELLY LEEKE LAW FIRM, LLC
3614 Ashley Phosphate Road
North Charleston, SC 29418
(843) 297-8485

By: 

Richard C. Alexander
Attorney for Claimant

North Charleston, South Carolina

July 8, 2020

CERTIFICATE OF MAILING

I hereby certify that on July 8, 2020, I served the Defendants in the foregoing matter with a copy of the attached Motion to Compel Compliance of Decision and Order by mailing a copy of same via first class mail, postage pre-paid and addressed as follows:

S.C. Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715

Daniel B. Eller, Esq.
Eller, Tonnsen, Bach
1306 South Church Street,
Greenville, SC 29605

By: Mandi M. Whitaker, Paralegal

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal From The Workers' Compensation Commission

SCWCC File No. 1822255

APTIM Federal Services, LLC, Employer, and
XL Specialty Insurance Company, Carrier,
Defendants, Appellants,

v.

David B. Casey, Jr., Employee, Claimant, Respondent.

RECEIVED
Nov 04 2020
SC Court of Appeals

NOTICE OF APPEAL

Appellants APTIM Federal Services, LLC, Employer, and XL Specialty Insurance Company, Carrier, appeal the Orders of the South Carolina Workers' Compensation Commission Appellate Panel dated October 12, 2020 and June 29, 2020.[1] Appellants received written notice of entry of the October 12, 2020 Order on October 12, 2020.

November 4, 2020

Daniel B. Eller (SC Bar # 73275)
William F. Childers, Jr. (SC Bar # 100569)
ELLER TONNSEN BACH, LLC
1306 South Church Street
Greenville, SC 29605
Telephone: (864) 236-5013
Facsimile: (864) 312-4191
deller@etblawfirm.com
wchilders@etblawfirm.com
Attorneys for Appellants

[1] The October 12, 2020 Order denied Appellants' Motion to Reconsider the June 29, 2020 Order. Therefore, both Orders have been appealed.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal From The Workers' Compensation Commission

SCWCC File No. 1822255

APTIM Federal Services, LLC, Employer, and
XL Specialty Insurance Company, Carrier,
Defendants, Appellants,

v.

David B. Casey, Jr., Employee, Claimant, Respondent.

RECEIVED
Nov 04 2020
SC Court of Appeals

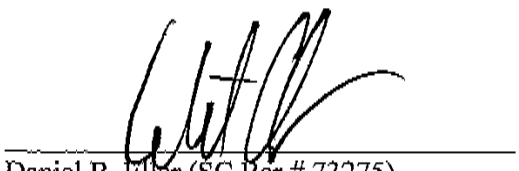
CERTIFICATE OF SERVICE

I certify that I have served the Notice of Appeal on Respondent David B. Casey, Jr. by depositing a copy of same in the United States Mail, postage prepaid, on November 4, 2020 addressed to his attorney of record as follows:

Mr. Richard C. Alexander
Shelly Leeke Law Firm, LLC
3614 Ashley Phosphate Road
North Charleston, SC 29418

I further certify that I have served the Notice of Appeal on the South Carolina Workers' Compensation Commission by depositing a copy of it in the United States Mail, postage prepaid, on November 4, 2020 addressed to the SC Workers' Compensation Commission, P.O. Box 1715, Columbia, SC, 29202-1715.

November 4, 2020



Daniel B. Eller (SC Bar # 73275)
William F. Childers, Jr. (SC Bar # 100569)
ELLER TONNSEN BACH, LLC
1306 South Church Street
Greenville, SC 29605
Telephone: (864) 236-5013
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deller@etblawfirm.com
wchilders@etblawfirm.com

Attorneys for Appellants

ELLER TONNSEN BACH
Attorneys at Law

William F. Childers, Jr.
Licensed in South Carolina and North Carolina
wchilders@etblawfirm.com

1306 South Church Street
Greenville, SC 29605
Telephone (864) 236-5013
Facsimile (864) 312-4191

November 4, 2020

VIA FACSIMILE (803) 734-1839

RECEIVED
Nov 04 2020
SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: David Casey v. APTIM Federal Services, LLC and XL Specialty Insurance Company
SCWCC File No. 1822255

Dear Ms. Kitchings:

Enclosed for filing please find the following documents:

1. An original and one copy of the Notice of Appeal;
2. A copy of the Orders challenged on appeal;
3. An original and one copy of Appellants' Proof of service of items one and two;

I appreciate your consideration. Please do not hesitate to contact me with any additional questions or concerns.

With kind regards,

ELLER TONNSEN BACH, LLC

William F. Childers, Jr.

WFC
Enclosures
cc: Richard C. Alexander (via U.S. mail)



ELLER TONNSEN BACH
Attorneys at Law

Daniel B. Eller
Licensed in South Carolina and North Carolina
deller@etblawfirm.com

1306 South Church Street
Greenville, SC 29605
Telephone (864) 236-5013
Facsimile (864) 312-4191

Date: November 04, 2020

Deliver To: **ATTENTION: The Honorable Jenny Abbott Kitchings, Clerk of Court, South Carolina Court of Appeals**
VIA FACSIMILE ONLY to 803-734-1839:

RECEIVED
Nov 04 2020
SC Court of Appeals

From: William F. Childers, Jr. - Attn: Lindsey K. Demirjian, Paralegal
Phone: (864) 236-5013
Fax: (864) 312-4191

Total Pages Including Cover: 23

Fax

Urgent	Reply ASAP	Please Comment	Please Review	For Your Information

David Casey v. APTIM Federal Services, LLC
Case No.: 1822255
Claim No.: 30181558672-0001
Date of Birth: (10/31/1977)

Re: Notice of Appeal

This facsimile message is privileged and confidential. It is intended solely for the use of the individual named above. If you are not the intended recipient, or the person responsible to deliver it to the intended recipient, you are hereby advised that any dissemination, distribution or copying of this communication is prohibited. If you have received this facsimile message in error, please immediately notify the sender by telephone and return the original message to the sender by U.S. Mail.

If you do not receive all pages or if any transmission is not legible, please telephone (864) 236-5013 immediately.

STATE OF SOUTH CAROLINA
BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC No. 1822255

David Casey,	)
	)
Claimant,	)
	)
v.	)
	)
APTIM Federal Services,	)
	)
Employer,	)
	)
and	)
	)
XL Specialty Insurance Company,	)
	)
Carrier/Defendants.	)
	)

COMMISSIONER'S HEARING

****

Monday, July 1, 2019
1:36 p.m. - 2:55 p.m.

The Commissioner's Hearing was heard before Commissioner R. Michael Campbell, II, at the Workers' Compensation Commission, 1333 Main Street, Suite 500, Hearing Room B, Columbia, South Carolina, on the 1st day of July, 2019 before Amber Scarborough, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES

Richard Charles Alexander, Esquire
Shelly Leeke Law Firm, LLC
3614 Ashley Phosphate Road
North Charleston, SC 29418
Attorney for the Claimant

Daniel B. Eller, Esquire
Eller, Tonneson, Bach
1306 S. Church Street
Greenville, SC 29605
Attorney for the Defendants

Also present:
David Casey

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EXHIBITS

(Defendant's Exhibit Number 1 was retained by the Commissioner and introduced as follows:)

Defendant's Exhibit Number 1. 39
(David Casey's Transcript)

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure.

CALL TO ORDER:

COMMISSIONER CAMPBELL: Today's hearing date is July 1st, 2019. This is Workers' Compensation Case File Number 1822255. The Claimant is David Casey, represented by Richard Charles Alexander. The Employer is APTIM Federal Services and APTIM Holding Corporation. The Carrier is XL Specialty Insurance Company, represented by Daniel B. Eller. The date of accident was December 10th, 2018. There was an average weekly wage of $2,327.54 with a corresponding compensation rate of $838.21. APAs have been submitted. Are there any objections to APAs, jurisdiction, venue or any other items?

MR. ALEXANDER: No, sir.

MR. ELLER: None from the Defendants, Your Honor.

COMMISSIONER CAMPBELL: Without objection the Commission File becomes a part of the record with the exception of self-serving declaration and unstipulated medical reports.

Mr. Alexander, we are here today, sir, on the Form 50 that you filed with the Commission, so if you would please put your position on the record and let us know exactly what you're

seeking here today, sir?

CLAIMANT'S POSITION:

MR. ALEXANDER: Yes, sir. Since the jurisdiction issue is gone at this point at this time we're only establishing -- I guess we've also established there was an accident that suggest there was an injury by accident arising out of the course and scope of employment, that my client is entitled to TTD pursuant to *Pollock*. He was out of work due to the work-related injury and no other reason. And so we'll be seeking TTD for the period from December 14th until May 13th with the exception of the three weeks he was able to work under restrictions for the employer. Additionally, we are seeking a second opinion based on his ongoing complaints.

COMMISSIONER CAMPBELL: Okay. All right. Mr. Eller?

DEFENDANT'S POSITION:

MR. ELLER: It's the position of the Defendants, Your Honor, that this is an admitted claim, South Carolina's jurisdiction, that the Claimant is not entitled to any accrued TTD as he was not under restrictions and the time that

he did receive restrictions from an unauthorized provider, his primary care physician, and that those restrictions are not valid. But also even if you were to find that they are valid, Your Honor, the Claimant's own testimony is that he could have performed the job but he didn't have a contractor in that time and so he's not disabled. There's no evidence of disability. The Defendants also contend that all the medical evidence that is in the stipulated Exhibits establishes that Mr. Casey is at maximum medical improvement and he does not have any impairment per the opinion of Dr. Lamotta and that there is no impairment; there's no disability.

COMMISSIONER CAMPBELL: Okay. All right. Mr. Alexander, anything more at this time?

MR. ALEXANDER: No, sir.

COMMISSIONER CAMPBELL: Okay. Mr. Casey, I have a couple quick things to run through with you. First and foremost, please speak up, speak clearly for us. It's important that we all hear your responses to the questions but most importantly that this nice lady right here seated in front of me get them for the record.

If you're asked a yes or no question please give us a verbal yes or no answer. You can shake your head yes or no like I do all the time just make sure you please accompany that with a verbal yes or no answer, and try and stay away from things like uh-huh and huh-uh just because that's easily misinterpreted on the record. So if you could help me out with that I'd appreciate it, okay?

MR. CASEY: Yes, sir.

COMMISSIONER CAMPBELL: Yes, sir. All right. Please raise your right hand.

MR. CASEY: (Witness complies).

COMMISSIONER CAMPBELL: Do you swear and affirm the testimony you're about to give is the truth, the whole truth but the truth?

MR. CASEY: Yes, sir.

COMMISSIONER CAMPBELL: Okay. You can put your hand down and please state -- I know we all know who you are but please state and spell your name for the record, sir.

MR. CASEY: David B. Casey, Jr. D-A-V-I-D, B, Casey, C-A-S-E-Y, Jr., J-R.

COMMISSIONER CAMPBELL: Thank you, sir. Mr. Alexander, your witness.

MR. CASEY - DIRECT EXAMINATION BY MR. ALEXANDER:

Q: Mr. Casey, how far did you go in school?

A: I graduated high school and then I went to Remington College in Columbia, South Carolina.

Q: And did you receive any degree or certification from Remington?

A: Yes, sir. I received a certification as a Registered Medical Assistant.

Q: And have you ever served in the military?

A: Yes, sir.

Q: How long?

A: Five years.

Q: And are you still -- you still in or you're out now?

A: I am separated from the United States military.

Q: And were you honorably discharged?

A: Yes, sir.

Q: And what was your rank?

A: E5 Sergeant.

Q: What sort of work have you done since you left the military?

A: Primarily I've done UXO work, which stands for Unexploded Ordinance type work. I've done a little bit of security work, and I've also worked as a med tech.

Q: And just to give us a little more -- what does a UXO do?
A: A UXO technician generally works on active ranges or flood sites, which is a formerly used demolition site, where we use metal detection equipment in order to find unexploded ordinance or weapons that have been either buried due to time or from old ranges or to clean up active ranges. For example, Fort Jackson or Camp Pendleton where they need to clear an area in order to get new targets placed or make it to where soldiers, marines, sailors are able to occupy areas safely. So we go in, find the unexploded ordinance and dispose of it by explosive means.
Q: And is that the sort of work you do for APTIM?
A: Yes.
Q: When did you start working for them?
A: I began working for APTIM in March of 2017.
Q: Do you remember what the first assignment you had for them was?
A: Yes. I worked at Pine Bluff Arsenal on a chemical site.
Q: Okay. And where was that? I mean, where's -- is that ...

A: Pine Bluff Arsenal is located right around the City of Whitehall in Arkansas.
Q: Okay. And how long were there?
A: I was there from March until September of 2017.
Q: Okay. And do you remember when your next assignment was after that?
A: Yes, I began working in Texas after Hurricane Harvey doing disaster relief work assisting FEMA.
Q: Okay. Remind me because I don't remember when that was, but do you remember when you started working in Houston -- or the Texas area?
A: I started working in the Texas area sometime in early November and I finished up working sometime in March ---
Q: Of ---
A: --- of 2018.
Q: Okay. And after March of 2018 do you remember what your next assignment was?
A: I was assigned to Adak, Alaska. I worked ---
Q: When did that start?
A: --- there from April of 2018 until September of 2018.
Q: And what was your next job after that?
A: My next job was with APTIM in Chesapeake,

Virginia at Fentress Auxiliary Air Field and that began in October of 2018.

Q: And how long did you work in Virginia?

A: I worked there until December. The job ended up coming to a pause over the holiday season and that's right around the time that I was injured and then it began again at the beginning of January.

Q: And what was the job you were doing when you were in Virginia? Was it different in any way?

A: Yes. Normally doing UXO work it's mag and dig type work. You are required to be able to lift a certain amount of weight because different pieces of ordinance, 81 millimeter mortar or 155 can weigh anywhere from 10 to 50, 80 pounds so you have to be able to lift weight, also dig holes. It's a physically demanding job.

Q: And ---

A: The work I was doing in Virginia was considered construction support. Doing construction support work I act as a UXO technician level 3. I am basically given a metal detector. I check the ground before any piece of equipment, whether it be a shovel or an excavator, digs any earth or does any earth moving operations

to ensure that it is -- I believe it is called an ordinance avoidance type job where they're hoping not to find anything.

Q: That's the construction support job?

A: Yes.

Q: So is that the same intensity as far as digging holes and things like that?

A: It's minimal labor.

Q: Okay.

A: The fact that it's ordinance avoidance, I'm looking for a quiet instrument to where there's nothing in the ground.

Q: Okay.

A: That way it's safe for heavy equipment to move.

Q: Okay. And how often in your -- I guess we've got roughly 13 years you've been doing this work? How often do construction support jobs come up?

A: Not often at all.

Q: Can you tell me how many you've worked in that 13 years?

A: From 2006 when I began doing UXO work up until this point I've worked on four construction support jobs.

Q: Okay. Why is it that those aren't as readily

available?
A: Usually they require minimal people. More times than not it's either one UXO technician level 3 which is what I'm working as right now with APTIM which is qualified as a team leader. From time to time it may require two people; a tech 3 and a tech 2 which would be a team leader and a team member. I acquired my time to be a tech 3 I believe in 2010 and for the most part I had been on most UXO jobs that were considerably longer term.
Q: Now when you do the normal UXO job what are the requirements as far as how much you need to lift?
A: You have to be able to pass an OSHA physical and they check your mobility, strength, lung capacity. But you have to be able to lift a minimum of 45 -- either 40 or 45 pounds according to OSHA standards.
Q: And that's what APTIM uses as their standard?
A: For the most part as far as I've worked for APTIM, yes.
Q: Okay.
A: It wasn't until I started on this last job working for APTIM at Camp Pendleton that I

discovered that that standard had been extended to be able to lift up to 50 pounds and that was for the company itself.

Q: When you came home in December was there any other work that you could have done at that time?

A: Had I been physically fit to do my typical job, yes. But when I was injured in December from the hospital I received a restriction of 5 pound lift limit then I went to another facility that the company had me go to, I believe either one or two days later, I believe it's called Bayview in Chesapeake, Virginia, and they put me on a restriction of a 10 pound limit. They said that the 10 pound limit should carry through the rest of the week and that it should continue basically until I'm better. They said that from the examination that I was given at the hospital upon the day of the ---

MR. ELLER: Objection. Hearsay. None of this is in the records, Your Honor.

COMMISSIONER CAMPBELL: Yeah, don't tell me what somebody told you just because they're not here to testify to it, unless you're telling me what

a supervisor told you. You can tell me what a supervisor told you, but you can't tell me what like a doctor told you or something like that 'cause they're not here to testify to that, okay? Tell me what your understanding about something was, okay?

A: Okay. Yes, sir.

Q: So when you went to Bayview Urgent Care what was your understanding of the restrictions they gave you?

A: The restrictions was that I was not able to lift more than 10 pounds.

Q: Okay. And what was your understanding of how long that was in place?

A: That was in place until I was -- that was in place until either I felt no pain or I saw another physician.

Q: Okay. Did you miss out on potential jobs because of this restriction?

A: Yes.

Q: Where? Or can you tell me a job that you missed out on?

A: There was work after the job came to a halt in December in Quantico, Virginia. There was ---

Q: What was the work -- what was that job in

Quantico?
A: That work was a typical UXO contract. Mag and dig.
Q: And so that's the higher level you've got to be able to lift and dig?
A: Yes, sir.
Q: Okay.
A: That has full physical capacity for any UXO job.
Q: When was that going on?
A: That job -- the job began short -- maybe a couple of weeks after I went to Chesapeake, Virginia. And with this company when one job ends if you choose to take it or need time off you can take time off, but other times you basically just laterally transfer from one site to another to continue work.
Q: Would you have transferred if you were able to?
A: Had I been able, yes.
Q: Can you tell me about any other jobs over the last I guess six, seven months that you weren't able to do because of restrictions?
A: There was work at Dam Neck in Virginia, I believe that's in Virginia Beach. There was also work in Adak, Alaska that began in either

-- I want to say either late March or early April. That's where I worked last year in Alaska and that job is still ongoing right now.

Q: And what was the reason you couldn't do those jobs?

A: Because I had physical restrictions. Upon returning to work in January for the construction support job that went on break in December, because that job being construction support was within my limitations, I could continue doing that type of work. That was basically the only type of work that I could do in my field that would allow me to do my job, receive pay and not break any restrictions that I had.

Q: When you came back from that stint in January did you seek treatment anywhere?

A: Yes.

Q: Where'd you go?

A: I had an appointment with my VA physician in -- well with my primary care physician civilian side and with the VA.

Q: And did you get any restrictions at that appointment with the VA?

A: Yes.

Q: Do you recall what those restrictions were?
A: Restrictions were basically continued from what I received at Bayview. No lifting more than 10 pounds. No lifting, pushing or pulling anything.
Q: And ---
A: Excuse me, that wasn't -- that was told to me by the doctor. So I just say the no lifting but the other things weren't advised. You said don't say anything that ---
MR. ELLER: Objection. Motion to strike.
COMMISSIONER CAMPBELL: Yeah, okay. Yeah, just -- it has to be represented in the medical records, okay?
A: Yes, sir. All right.
MR. ALEXANDER: Permission to approach?
COMMISSIONER CAMPBELL: Sure. Sure.
MR. ALEXANDER: This is APA 7, Commissioner.
COMMISSIONER CAMPBELL: Thank you.
Q: Is that the work restrictions that you were given from the VA (indicating)?
A: Patient unable to lift more than 10 pounds until medically cleared. Yes, sir.
Q: Okay. And that was an appointment you had already -- just a regular appointment you had

with the VA at that time?
A: At the time it was supposed to be a semi-annual appointment and when I go to my appointments anything that's going on with me I have addressed.
Q: Okay. And then you said you went to your primary care next?
A: Yes, sir.
Q: Why'd you go to your primary care doctor?
A: I went to my primary care doctor because if I remember correctly I heard from the adjuster, Ms. Michele Wingate with Sedgewick, around the 14th or 15th or so of January. That was the first time that she had reached out to me with dealing with the workers' comp issue. I told her that from the first day back on the job I went to use a metal detector and I was getting serious pain in my back so I needed to get it checked out because the pain had not subsided from the initial accident in December.
Q: And did she tell you where to go?
A: Yes. Ms. Wingate told me that I could see my primary care physician and in the event that there are any doctor's notes, referrals or anything of that nature to forward them to her

and that would be how we dealt with the workers' comp issue.

Q: Okay. Did you send her those restrictions?

A: Yes.

Q: And what happened after you sent those to her?

A: I spoke with Ms. Wingate. I told -- well first I asked the question when I first spoke to her because I'd never been injured on a job before and I didn't know if it was going to be where I was collecting unemployment or workers' comp and she said that it's going to be workers' comp because I am not able to physically do my job.

Q: Did they ever pay you?

A: No, sir. After I saw my primary care physician she told me all I needed to do was get the note from the doctor which explained any restrictions or what have you and I would receive compensation shortly. I did so. I sent her the doctor's note and then she said, okay, well we now need the doctor's notes for you to receive compensation. So I got the doctor's notes along with the restrictions and I sent that to her. Then I received another e-mail that said, okay, I have the doctor's

notes, I have the restrictions but this is a workers' compensation plan and you are required to see -- no, I'm no longer allowed to see my personal care physician or have any referrals made. I have to see what's called a panel physician in order for anything to happen.

Q: And do you remember approximately when the first time you heard that was?

A: I want to say possibly some time in February, and it might have been February, maybe very early March. I don't remember exactly because it was over the course of maybe about a week or so either trying to contact her through e-mail or phone. At one point I didn't even hear anything from her. I ended up calling Sedgewick and spoke to a supervisor and then it was directly after speaking to the supervisor I received the e-mail from Ms. Wingate stating that I needed to see a panel physician.

Q: Okay.

A: At that point after being -- I don't even know how to put it, it's -- I was just trying to get some kind of compensation as I was told I would receive and I was basically being ducked at every turn. I contacted a lawyer.

Q: And sometime after I got involved with this case did you get additional treatment from them?
A: I was seen by a doctor Lamotta.
Q: Okay. And do you remember -- well what was your understanding of the treatment plan or what you -- you know, what you needed to do after that appointment?
A: Well after that appointment I was told, since some of the physical therapy and everything like that was helping, to continue the different exercises that I was given by either the physical therapist or my primary care physician or the different exercises that was given to me from my VA personal care physician, primary care physician, to continue those at home and do my best not to further aggravate my injuries.
Q: Okay. And did you comply doing the home exercises?
A: Yes, sir, I still do.
Q: And between that visit and then going back to Dr. Lamotta did your symptoms improve?
A: Not really.
Q: Okay.

A: I still have pain. Dr. Lamotta told me that --
-
Q: All right. Don't tell me what the doctor told you.
A: Oh, excuse me.
Q: So when you went back to see him I believe that was in -- May 9th, does that sound right?
A: Sounds about right.
Q: Do you remember what you told him about the improvement you had seen?
A: I told him that the improvement was moderate. I told him that I need to work in order to take care of my family since workers' comp wasn't providing me with anything.
Q: That's what you told him in the May visit?
A: I believe so, and I believe in May is when all physical limitations and restrictions were completely removed. Shortly thereafter I believe I -- yeah, I started working at Camp Pendleton.
Q: Had you released -- he had released you at that ---
A: Yes, sir.
Q: --- so that's when you were able to go to Camp Pendleton?

A: Yes, that's the only reason why I was able to go to Camp Pendleton.
Q: Okay. So do you have any restrictions right now?
A: At this moment, no, sir.
Q: Okay. And you've been working at Camp Pendleton since what date?
A: I want to say around the 13th or 14th, maybe the second week of May is when I began working at Camp Pendleton. I would have been working there up until this week but the case was pushed back so I ended up leaving Camp Pendleton early so I can try to be in court last week I believe on the 25th, but at the very last minute the case got pushed back. I heard from my lawyer saying that it was moved to the first -- to today. Therefore, I had to miss out on another week of work.
Q: And just briefly going back. I believe we may have covered this but -- do you know how many times you've worked for APTIM from December 14th until this Camp Pendleton job?
A: I did maybe another week or so of work at the beginning of January.
Q: That was in Virginia?

A: Yes, sir.
Q: Okay. All right.
A: I worked in Colorado for some time in March for about four or five days, and I worked again for APTIM in April for another three or four, maybe five days.
Q: Okay. And where was that?
A: In March it was in Colorado, and in April it was Fort Gilliam, Georgia.
Q: Okay. And those jobs -- were those construction support jobs?
A: Yes, sir.
Q: Okay. So with your restrictions you were able to do those jobs?
A: Yes.
Q: How's your pain been since you've been back to work?
A: I have pain on a daily basis, I'm able to push through it. I'm able to get through it because I'm able to take the medication that was provided from my doctors. Anti-inflammatory, muscle relaxers and some pain pills.
Q: And I believe we talked about this in your deposition, but if there was something more treatment-wise that would get you better would

you want to do that?
A: Anything that could get me back where I was before this accident, yes.
Q: Does your pain affect you outside of work?
A: Yes.
Q: What kind of things are you having trouble doing outside of work?
MR. ELLER: Objection. Relevance.
COMMISSIONER CAMPBELL: Well I'll -- if it has to do with his day to day activities I'll allow that.
MR. ALEXANDER: Yes, that's what I'm asking about.
COMMISSIONER CAMPBELL: Yeah.
A: Doing basic chores, yard work, standing at the counter leaned over washing dishes aggravates my back. I can't play with my kids the way that I normally would have played with my kids. I can barely pick up my daughter.
Q: Do you have health insurance?
A: Yes, sir.
Q: Through who?
A: I have health insurance through APTIM with Cigna. I have medical, dental and vision and because I'm full-time with the company I also have access to what's called the EAP, the Employee Assistance Program.

Q: How long have you had that or those benefits?
A: In place -- I started with the company March of 2017. I filled out the paperwork and whether it's a month or two for it to go into effect. I've had it ever since then.
Q: Okay. So you had -- after this accident occurred you had health insurance?
A: Yes.
Q: And did you continue to -- did you pay for the health insurance while you were out of work?
A: When I'm not at work, no, sir.
Q: Who paid for it?
A: The company pays the insurance. It's a couple hundred bucks a week and when I get back to working full-time, full duty, for example when I went back to Camp Pendleton I had to pay back the arrears for the insurance that was paid for by the company.
Q: Okay. That's all the questions I have right now.
COMMISSIONER CAMPBELL: Okay. Thank you. Mr. Eller?
MR. ELLER: Thank you, Your Honor.
MR. CASEY - CROSS-EXAMINATION BY MR. ELLER:
Q: Mr. Casey, this business about paying back the

arrears it -- that happens every time you go back into a project, right?
A: Yes.
Q: So if there's a gap, just so we're -- just so we're clear, let's say you go to Fort Pendleton, you stop working this week, you do nothing for two months and you go to another job at another location, when you show up at the location, isn't it true you're going to pay arrears?
A: Yes, I am going to pay back the insurance that was paid for by the company.
Q: Right, so that happens all the time? Right? As part of your job?
A: Yes.
Q: Okay. 'Cause you -- 'cause the nature of your industry is you don't work 52 weeks out of the year do you?
A: Not all the time, no.
Q: Right. So you work projects or contract work, correct?
A: Typically, yes.
Q: Okay. So since 2017, let's talk about that. Let's be real specific. Since 2017, since you've been an APTIM employee, isn't it true

that you've not worked 52 consecutive weeks in a row since 2017 for APTIM?
A: Correct.
Q: Okay. And during that time period you go to various projects all over the country including Alaska, right?
A: Yes.
Q: And whenever you go to these different projects isn't it true that you're only on that project for as long as the contract says they need UXO support, correct?
A: Yes.
Q: And as soon as that UXO job is over you leave the project, correct?
A: Yes.
Q: And then you wait for Al to give you a call and you go to another project, right?
A: Yes.
Q: Okay. Now when you spoke with the adjuster -- there's a lot of e-mails in here in the Claimant's APA. When you spoke to the adjuster about what was, at the time your Virginia claim, she told you you needed to go to a panel provider, right?
A: Yes, she told me I needed to go to a panel --

a panel physician after she initially told me it was okay to see my primary care physician and to send all doctor's notes, referrals and things of that nature.

Q: But isn't it true that you went to go see the primary care physician at the VA, right?

A: I saw a primary care physician at the VA, and I also saw my primary care physician, Dr. Benjamin Askins, in Columbia, Lexington Medical Center.

Q: Okay. And did Dr. Askins give you restrictions?

A: Yes.

Q: Where are those in your APA? Where did Dr. Askins give you restrictions in the APA? You don't have an out of work note from Dr. Askins do you?

A: Yes, I do.

Q: You do?

A: Yes.

MR. ELLER: Your Honor, maybe I'm missing it but I'll submit to you I'm not sure where there's an out of work note from Dr. Askins in the Claimant's APA.

Q: Let's move on to the VA though. The only

record -- you'll agree with me, Mr. Casey, the only record from the VA that we have in this file that's in the record is this one out of work note, correct? APA page 7 of the Claimant's APA. The one you were shown by your lawyer?

A: If that's all you have then, yes.

MR. ELLER: Your Honor, may I approach?

COMMISSIONER CAMPBELL: Sure.

Q: Do you recognize that report (indicating)?

A: Yes.

Q: Okay. Is this the only report you gave to your attorney? Don't tell me what you talked to your attorney about. Is this the only report you gave your attorney from the VA?

A: From the VA, yes.

Q: Okay. You would agree with me, wouldn't you, there's nothing on this report that says that you have those restrictions due to a back injury, do you? Does that report say anything about you having a back injury and that's why you have those restrictions?

A: It appears correct, yes.

Q: And isn't it true that you also refused to sign an authorization to turn over the VA records to

my office?
A: Not to my understanding, no.
Q: When we took your deposition on April 1st, 2019 do you recall refusing a VA authorization form?
A: Honestly, I don't recall.
Q: Okay.
MR. ELLER: Your Honor, I'll let the record reflect there was a discovery dispute in this case. The reason why there are no VA records in this case is the Claimant refused to sign an authorization producing the records from the VA hospital. So the Defendants would contend that this one out of work note has little merit because -- and it's entitled to very little weight because we don't have the supporting documentation and they refused to sign an authorization to enable us to get it and whatever's in there, Your Honor, I think we would have the ability to argue that it's in our favor because the Claimant actually didn't submit any supporting documentation or APA from the VA.
COMMISSIONER CAMPBELL: Okay.
MR. ALEXANDER: I'm going to object to you even clarifying that. First of all, we should have

covered this in pre-trial if there was an issue that needed to be brought up. My client was never even presented that. I had an issue with it because they were asking for ten years of prior records with no foundation for that. They were also asking for personal information regarding psych and other things. I'd asked him to narrow the scope of their request so we could comply and they never did.

COMMISSIONER CAMPBELL: Well, and of course I'll give the document from -- the record from -- the record from the VA the weight that I feel like it deserves.

MR. ELLER: Thank you, Your Honor.

MR. ALEXANDER: Sorry, briefly ---

COMMISSIONER CAMPBELL: Yes.

MR. ALEXANDER: --- just so it's clear, we've tried to get VA records as well and haven't been able to get them yet. That's the only reason they weren't in the record.

COMMISSIONER CAMPBELL: All right. So noted.

MR. ELLER: Your Honor, may I approach the witness?

COMMISSIONER CAMPBELL: Sure.

MR. ELLER: Page 40 of the Defendant's APA, Your Honor.

COMMISSIONER CAMPBELL: Thank you.

MR. ELLER: 39 and 40.

COMMISSIONER CAMPBELL: 39, okay.

Q: Mr. Casey, I want to show you a couple of records. These records have been stipulated into evidence. I want to draw your attention down here (indicating). This is from the Bayview Clinic. The bottom of page 39. I'll ask you to read this section here spilling over and seeing the signature by Dr. Cooper on page 40, and then I want to ask you a couple of questions.

A: Follow up and PRN. Patient has only two days left to work on this job and has an out of -- and as an out of town contractor and will return home to South Carolina on 12/13/18, therefore, I will release patient to full duty on 12/13/18 and will contact his manager if he has any further problems connected with this injury in the future.

Q: Okay. Isn't it true that Dr. Cooper told you that you would not have any restrictions and be full duty as of December 13th?

A: If the pain subsided and there was no further issues with my back, yes.

Q: So you take this view with her records here where it says that you're released full duty December 13th?
A: Under the -- what's the words I'm lookin' for? As it says there, unless I have further problems connected with the injury in the future, yes, you're correct. It says released to full duty on the 13th if there are no further future injuries or problems with the back.
Q: Did you contact your case managers when you had those further problems connected with this injury?
A: What do you mean case manager?
Q: Well, that's what I'm trying to get at. This note here -- isn't it true this says you're at full duty and if you've got problems you're supposed to connect -- contact the case manager?
A: Who would be the case manager?
Q: Mr. Casey, this is where I get to ask you the questions. Do you disagree that that's what this report says?
A: Could you ask the question one more time please?

Q: Do you disagree with me that this report states that you're released full duty on December 13, 2018 by Dr. Cooper and to contact your case manager if you have further problems? Do you disagree with that?

A: No, I don't disagree with that.

MR. ELLER: Your Honor, I want to show you supplemental APA page 80 of the Defendants.

COMMISSIONER CAMPBELL: Thank you.

Q: Mr. Casey, I'm going to ask you to take a look at that and I'm going to ask you a couple questions about that.

A: Okay.

Q: You recognize that document?

A: The document itself, no. I remember seeing something with the Commonwealth of Virginia but I don't recognize this document itself.

Q: Okay. Were you -- do you know if you were ever given that document by Dr. Cooper?

A: I'm not exactly sure.

Q: Okay. Is it possible that Dr. Cooper gave you that document when you left her office that day and you just don't remember?

A: I remember being given the profile from -- if it's Dr. Cooper, then Dr. Cooper, which I

turned over to Arian Raiz (sic), which was the foreman on the job site who turned it over to the safety manager, Dave Mummer (sic).

Q: Okay. Isn't it true that Dr. Cooper told you when she first saw you that you were not going to have any disability for work?

A: I have no recollection of that whatsoever.

Q: Okay. Do you dispute that she told you that there wouldn't be any permanent defect or disfigurement as a result of your injury?

A: I don't recall that either.

Q: Okay. If that's what in her report here that she signed do you dispute that?

A: Say that again please?

Q: If those two things, facts, are what is in this report, that there was not going to be any disability for work and that there were not any permanent defect or disfigurement, do you dispute Dr. Cooper's opinion as documented in this report?

A: No, I'm not going to dispute what you have in your hand, no.

Q: Okay. Now isn't it true that at the time of this incident you were working in a UXO support position, correct?

A: Yes.
Q: Okay. And since that time of the incident you've worked at other jobs for APTIM, correct?
A: Yes.
Q: And in fact when I took your deposition on April 1st, 2019 do you recall testifying that there was nothing at that time that was preventing you from being able to work except for the lack of work itself?
A: Say that again?
Q: Sure. Do you recall when I took your deposition you telling me that there was nothing preventing you from working at that time on April 1st, 2019 except for the lack of work itself?
A: Don't recall exactly but I'm not sure.
Q: Sure.
MR. ELLER: Your Honor, may I approach the witness?
COMMISSIONER CAMPBELL: Certainly.
A: As far as ...
MR. ELLER: It's page 53, Chip.
MR. ALEXANDER: Uh-huh.
Q: Mr. Casey, I'm going to give you -- for the record this is -- I guess we'll mark this as Defendants' Exhibit Number 1. This is your

deposition transcript from April 1st, 2019.

(Defendant's Exhibit Number 1 was marked for identification purposes.)

Q: I'm going to give you this copy then I'm going to over there and grab my copy so I don't have to lean over your shoulder. I want you to turn to page 53.

A: Okay.

Q: And I'll you a couple quick questions. At the top of that page -- and just to give you some context, Mr. Casey, we were talking about you working a couple days at the Colorado job in early March. That's at the bottom of page 52 ---

A: Okay.

Q: --- and then I ask you, now are you just waiting for another job to open up -- this is line 4 at the top of that page. Your answer there could you read that aloud for the Court please?

A: Yes, sir. And I put my -- I'm always looking for work. If Al calls me with work, great, but I have to find a job. I'm putting my application with every company that I know of.

Q: And then I asked you for UXO work or anything

else and what was your response?
A: UXO work is my primary occupation but if I can get a job shoveling manure and I can take care of my family I'll do whatever it takes to take care of my family.
Q: Okay. And then I asked you, as we sit here today is there anything that prevents you from being a UXO tech 3 other than the availability of work? And what was your answer?
A: No. The restrictions that was put on me from Dr. Lamotta was to not lift anything on my own more than 45 pounds.
Q: Okay. So would you agree with me that as of April 1st, 2019 you were able to do UXO tech 3 work?
A: Yes. At this point in time when Dr. Lamotta had made it where the restrictions were 45 pounds, which I had requested, you're absolutely correct.
Q: Okay. And so would you agree with me then whenever Dr. Lamotta saw you in March of 2019 you could do any job offered to you by APTIM, either the construction support job that you were doing in Virginia or the tech 3 type work?
A: If that was when I asked for the limitation to

go from 10 pounds to 45 pounds, yes.
Q: Well let me ask you this, Mr. Casey, isn't it true that you asked the VA doctor to give you that 10 pound lifting restriction?
A: No. I spoke to the doctor and told him that my back was messed up still. I told him what was given to me when I first was seen at the hospital and they said that they would continue what was being done.
Q: Okay. And isn't it true that you had a lumbar MRI in this case? They took an MRI of your back?
A: Yes, that came from Dr. Askins who wrote down the work restrictions for the doctor's note that you don't have.
Q: Okay.
A: That was from the appointment that was made -- I don't remember if it was in January or February but when the request was made from Ms. Michele Wingate with Sedgewick for me in order to receive compensation and I had done so.
Q: Uh-huh.
A: I was still on those same restrictions that was basically continued from the injury being done, happening.

Q: Well let's clarify that. Isn't it true that Dr. Cooper said you could go back to work full duty on December 13th, 2018?
A: Provided I had no more pain, correct.
Q: Now you're the one that's adding the provided you had no more pain, right? That's not in any of Dr. Cooper's notes is it?
A: On the paper that you have provided ---
Q: Uh-huh.
A: --- it said if I had any further problems to see the whomever it was ---
Q: Right.
A: --- yes, provided.
Q: Okay. So you ---
A: If there is no more problems with the back, as I read from that paper that you had given to me, it said I had a 10 pound weight limit unless -- well, no, I would be returning to full duty because the job was supposed to be ending and starting back up with construction support and had I had any more problems to seek further assistance. So as you said, return to full duty if there are no further problems, which there were.
Q: Okay.

MR. ELLER: And, Your Honor, I'll just direct you to page 40 of the Defendant's APA, along with 43 of the Defendant's APA, along with 80 of the supplemental APA for all of Dr. Cooper's opinions about his ability to return to work.

COMMISSIONER CAMPBELL: Thank you.

Q: Now you went to go see Dr. Lamotta twice, correct?

A: Yes.

Q: Isn't it true the second time you went to go see Dr. Lamotta that he told you you were at maximum medical improvement for this injury?

A: I believe so.

Q: And that was on or about May 10th or May 9th?

A: Around there sometime, yes.

Q: All right.

MR. ELLER: That's Plaintiff's APA page 16, Your Honor.

COMMISSIONER CAMPBELL: Thank you.

Q: So on that date isn't it true that Dr. Lamotta also told you that there was no need for future medical care?

A: He told me that -- well, yes, he said that and if I had any further pain to see him again or contact him.

Q: Isn't it true that he said that you should follow-up on an as needed basis only if your condition were to significantly deteriorate?
A: That sounds about right.
Q: Isn't it true that he also told you that you didn't have any permanent impairment?
A: He told me that I could possibly return to -- there's a possibility that I could return to what I -- where I was before but it's not guaranteed.
Q: Okay. When you were told by the adjuster to go see a panel physician isn't it true that she gave you three different options and that you chose Dr. Lamotta's practice?
A: I didn't choose any practice.
Q: Who chose Dr. Lamotta's practice if you were sent an e-mail that had three different options on it?
A: I called each of them and I believe Dr. Lamotta's the only one that returned the phone call.
Q: Okay. So you called Lexington Orthopaedics ---
MR. ELLER: And this is APA -- Claimant's APA page 30, Your Honor.
COMMISSIONER CAMPBELL: Thank you.

Q: --- you called Lexington Ortho, Midlands Ortho and Palmetto Health USC, right?
A: Yes, I tried to contact each of them.
Q: You tried to contact each of them and the only one that called you back was Dr. Lamotta?
A: Yes.
Q: So you went to go see Dr. Lamotta ultimately on March 14, 2019?
A: If that's the date then yes.
Q: And on that date when you went to go see him you got restrictions that were actually less restrictive than your job, the most difficult job you have as a UXO tech 3 position, correct?
A: Yes.
Q: And so as of March 14, 2019 without question you could have done any UXO tech 3 job, correct?
A: Yes.
Q: And you would agree with me if you didn't have any restrictions after December 13th, 2018 that you could have any job, not just a tech 3 job but any job, correct?
A: As the letter said if there was no pain that persists then, yes, but because pain persisted I was unable to do anything. And I was never

contacted by any adjuster until I believe it was the 16th of January when I finally heard something from someone from workers' comp.

Q: Now, Mr. Casey, are you also suing the individual that hit you ---

MR. ALEXANDER: Objection. There's no relevance to this.

COMMISSIONER CAMPBELL: Okay. Let me -- you can go ahead and state the question again.

MR. ELLER: Sure.

Q: Is it true that you're also suing the individual that hit you in this case, the third party?

MR. ALEXANDER: Object to relevance. It has nothing to do with this case.

COMMISSIONER CAMPBELL: Okay. I'll let you respond to that.

MR. ELLER: Sure. I'd like to respond. If he is actually suing, Your Honor, then he's got to prove damages in his third party case and so I think that this is a relevant line of questioning to show that he's trying to establish more serious damages in his third party case and that's why the question is relevant.

COMMISSIONER CAMPBELL: I'll allow it. Go ahead.
A: To my understanding I'm not trying to sue anyone. There is a claim.
Q: Okay. So you haven't filed a lawsuit; is that what you're saying?
A: Correct. To my understanding there has been no lawsuit that has been filed against the person that caused the injury in the beginning.
Q: Okay.
MR. ELLER: One second, Your Honor.
COMMISSIONER CAMPBELL: Take your time.
Q: Mr. Casey, just so we're clear, the time line of this -- you're healthcare -- you went to Chesapeake Regional Healthcare the day of the accident, correct?
A: I believe that is the name of the place, Chesapeake Regional.
Q: Okay. So the hospital essentially -- the emergency room, right?
A: Yes, sir.
Q: Isn't it true that when you went to the hospital ---
MR. ELLER: And it's Claimant's APA pages 1 through 6.
Q: --- when you went to the hospital you were

discharged without any work restrictions, correct?

A: Incorrect.

Q: Your testimony is you were assigned work restrictions by the ER provider?

A: I said that after going to the emergency room I was given a 5 pound work restriction limit. After going to Bayview it was lifted to 10 pounds.

Q: But you don't have an actual work restriction note from Chesapeake Regional Healthcare in your APA though do you?

A: In the APA, I have no clue what's in there.

MR. ELLER: No further questions, Your Honor.

COMMISSIONER CAMPBELL: Okay. Mr. Alexander?

MR. CASEY - REDIRECT EXAMINATION BY MR. ALEXANDER:

Q: Just to reiterate again, since you've started working for APTIM in March of '17 your first job you said was March to September of 2017?

A: Yes.

Q: And then your next assignment was November 2017 to March of 2018?

A: Yes.

Q: And then April ---

A: That would have basically gone until the --

until I went to Adak but my father-in-law died last year and my wife was going through depression and Al Grant connected me to the EAP so that my wife's mental health could be consistent because she was going through such depression after losing her father.

Q: Okay. The Adak job was after -- or you finished Texas in March of '18 and in April of '18 you went to Adak?

A: Yes, sir.

Q: And you were there until September of '18?

A: Yes.

Q: And then you went to Virginia in October of '18?

A: Yes.

Q: Okay. I'd like to discuss a couple of things here with the Bayview records which have been brought up. And I know Mr. Eller asked you if you got a copy of that form when you left. And let's see Defendant's APA 41, which was submitted on June 17th. I'm going to hand you that and then I'm also going to hand you what is Defendant's 80 which was submitted a few days later. Is there anything you see different in those two documents? Actually,

let me ask you this, do you see a signature on APA 41?

A: Okay, which one is APA 41?

Q: Right here (indicating). This one's 41.

A: Okay.

Q: Is there any signature on that?

A: No, I don't see any signature.

Q: Okay. And what does it say at the very bottom in caps on that page?

A: Complete this report immediately after seeing patient for the first time.

Q: Okay. And again let's -- we're going to refer to Defendant's APA's and as mentioned ...

MR. ALEXANDER: Directing you to 43, Your Honor. Permission to approach?

COMMISSIONER CAMPBELL: Sure. Thank you.

Q: So can you tell me what it says there in the follow-up plan section?

A: Into patient's assignment on his job ending 12/12 the patient returning home on 12/13 will release patient to full duty on 12/13 with attention not to aggravate his injury. If patient has further problems connected to this injury he will contact his case manager. I have spoken with Ben at Core Health this

morning who agrees with this plan.
Q: And so that's similar to what Mr. Eller showed you earlier as far as contacting the case manager on APA 39, correct?
A: I believe so.
Q: Okay. But the difference on 43 is it says ---
A: David Casey. Okay, yes.
Q: Okay. But that says attention not to aggravate and that's on 39 but that's in their records there is that you're at full duty but attention not to aggravate?
A: Yes.
Q: Okay. So based on your testimony during cross your understanding was you have restrictions?
A: Yes.
Q: Okay.
A: For there being attention not to aggravate anything. Once I got home my wife made sure that I didn't do anything. She basically put me on house arrest. My kids had to do everything for me, my wife had to do everything for me to make sure that I didn't further injure myself because at the time I was the only person working. My wife was a stay-at-home mother, so to make sure that I can

actually take care of my family she made sure that I didn't do anything to try to aggravate my injuries. Upon returning to work in January, I believe it was around the 7th or the 8th, I went to use the magnetometers in 15 minutes -- do you mind if I stand up to show you how I actually have to wear it?

COMMISSIONER CAMPBELL: No, go ahead.

A: Standing up straight isn't a problem but I'm using a metal detector and to keep it from picking up on anything that I have, I have to lean like this (indicating). I get shooting pain in my back from leaning like this (indicating). And like 10, 15 minutes like that I told my supervisor, Ryan Bizarto (sic), that I still had serious pain in my back. He said you need to see a doctor. Period. He heard -- he had just left the job the Friday before the accident happened. He said that I need to make sure that I'm taken care of. Period. He told me to make a doctor's appointment which I -- I actually thought that I was going to be getting out of there a little bit sooner. I ended up -- the VA appointment ended up getting changed about two days later.

I think it might have been from like a Wednesday to a Friday. That's when I saw the -- my primary care physician with the VA. I spoke with Michele Wingate and that was the first time that she had contacted me, either the end of that last week or that Monday or Tuesday around the 14th, 15th, maybe 16th of January and I -- she explained to me all of the workers' comp stuff. I had a lot of questions because I didn't -- I have -- I've never been hurt on a job before. I've been injured in the military; that's completely different. But I asked her primarily is this workers' comp or is this unemployment because if I'm coming off of this job I need to know so I can receive whatever compensation I need. She said you're still injured, you can't return to full duty so it can't be workers' comp -- not workers' comp, it can't be unemployment because unemployment you have to be able to do whatever duty comes to. Okay. That was my understanding; this is a workers' comp issue.

Q: Mr. Casey, let me ask you this, when you attempted to work at Quantico you were under restrictions? Or, I'm sorry, not when you

attempted, but when the job at Quantico, you testified earlier you were under restrictions?

A: According to the doctor's note that said I was released to full duty on the 13th with regards not to aggravate the injury. To my understanding, yes.

Q: Okay.

A: That work note was to carry me through the end of the week to where I wasn't going to be working at that time after the 13th.

Q: Okay. And you were under restrictions when you went to -- or when the job at Dam Neck came up?

A: Yes.

Q: And that was in February?

A: Yes.

Q: You saw Dr. Lamotta in March and he changed your restrictions on that visit?

A: Yes.

Q: Okay. And that was the 40 to 45 pound?

A: Yes.

Q: Okay. But -- and you testified earlier that there was an opportunity in Adak, Alaska that was in April; is that right?

A: Yes.

Q: Okay. So when he changed your restrictions to

the 40 to 45 pounds did that keep you from getting the job at Adak? Were you -- was that -- I mean, why is it you weren't able to do the job in Adak?

A: Because the position had already been filled a couple of weeks prior to going to see Dr. Lamotta.

Q: Okay. So ---

A: I had been asked about Adak; they ended up giving the job to Gary who agreed to it toward the end of February, early March.

Q: Okay. So that job ---

A: So I missed out on that chance.

Q: So that -- so you -- so your restrictions ---

A: I was out of the pool. Yes. The restrictions ---

Q: So they filled that position before you saw Dr. Lamotta.

A: Yes, sir.

Q: Okay. So that's why -- so you were under those restrictions and was there no construction support once he changed your restrictions or any job I guess up until Pendleton?

A: I did whatever work was -- I did what I could.

Q: Okay.

A: Yes.
Q: My question is though, once you missed out on that job ---
A: I had to wait for ---
Q: --- there was nothing until Pendleton?
A: Pretty much so.
Q: Okay.
A: Yes.
Q: All right.
MR. ALEXANDER: Nothing further at this time, Your Honor.
COMMISSIONER CAMPBELL: Okay. Mr. Eller?
MR. ELLER: Just very briefly, Your Honor.
MR. CASEY - RECROSS-EXAMINATION BY MR. ELLER:
Q: Mr. Casey, when you first were contacted by Al about going to Adak it wasn't in March was it?
A: It's probably around February time frame. They had the one job come up talkin' about -- what is it, what is it, Dam Neck. That was in February time frame.
Q: Was that in Colorado?
A: No.
Q: So you were contacted by ---
A: Dam Neck is in Virginia.
Q: Okay. What was the -- the Colorado job, you

were contacted in March about the Colorado job and isn't it true that you were offered the Colorado job?

A: Yes, I was offered the Colorado job, and I took the Colorado job.

Q: And you took the Colorado job.

A: Yes.

Q: And you worked it in March, correct?

A: Yes. I took every job opportunity that I could. There's sometimes that Al will call me up and say, I got a job comin' up, it's four months from now, but it's gonna be right there in your hometown. You might not get per diem or what have you but I know that that's gonna suit you. He can ask me about a job six to eight months when he knows contracts are in the works. He tries to get people assigned beforehand so that he has slide positions for people. Adak happened and he ended up filling that position, therefore, even though the job started in April I was contacted about it February, early March time frame and it was given to Gary.

Q: Now according to your deposition I asked you about the timing of when you were contacted by

Al Grant to take this Adak job. It's on page 47 of Defendant's Exhibit Number 1.

A: Is it in here?

Q: Yes, page 47. If you turn to page 47, look at line 17, 18 and 19. You said, did you not, Al Grant has called me to let me know there was some work right after I had seen the doctor, Dr. Askins, but they were moving these 100 pound tarps, can't go.

A: Yes, that was in January.

Q: Okay. So in January you go to Dr. Askins, your testimony is Dr. Askins gave you some work restrictions which are not in the APA ---

A: Okay.

Q: --- and you turned down the job, is that your testimony?

A: I was unable to perform the tasks because of the restrictions. I believe that that job started maybe two or three days after I went to go and see my primary care physician, Dr. Askins.

Q: Well let me ask you this ---

A: I was unable to do the job because of the restrictions because there were hundred pound tarps ---

Q: All right.
A: --- and I had a restriction of 10 pounds.
Q: Okay, Mr. Casey, let me ask you something, this is very -- timing is very important. In your deposition you said that they were getting ready to go to Adak in April. This was -- your deposition was on April 1st.
A: Okay.
Q: Okay. Are you telling us that you -- there was two trips to Adak or is there just one trip to Adak?
A: The -- no there was no trip this year. I went last year.
Q: One trip to Adak?
A: Uh-huh.
Q: Okay. So you would agree with me if you talked to Al about going to Adak in January and you turned it down 'cause that's when you went to go see Dr. Askins, right? You were turning down a job for April, correct?
A: Say that again.
Q: Sure. If there's only one trip to Adak and it's in April of 2019 ---
A: Uh-huh.
Q: --- you with me so far?

A: Yes, one trip to Adak ---
Q: All right.
A: --- in '19.
Q: That Al -- you testified just now that Al can talk to you about a job six months down the road, four months down the road, whenever down the road, correct?
A: Yes, sir.
Q: Isn't it true that when Al offered you the job to go to Adak, according to your testimony you said it was right after you had seen Dr. Askins, that's your primary care physician here in Lexington, correct?
A: Correct.
Q: You went to go see him in January of 2019, correct?
A: Correct.
Q: So would you agree with me that he was offering you a job for April in January of 2019?
A: Yeah.
Q: Okay.
A: Yes. Excuse me.
Q: And you didn't -- and you also will agree with me that your APA does not have any work restrictions from Dr. Askins in it; that's not

in the record, correct? I mean, you're saying you've got work restrictions but we don't actually have them in the record; do you agree with that?

A: If you don't have it in the record, correct. I can get it for you.

Q: Okay. Now when you were offered that and you turned it down but then I took your testimony on April 1st, 2019 ---

A: Uh-huh.

Q: --- and isn't it true on that date you testified that you could do the UXO tech 3 position?

A: Yes.

Q: And you testified today that you could do the UXO tech 3 position in March, the day you saw Dr. Lamotta?

A: Yes, when the restrictions were put up to 45 pounds.

Q: You also testified that you were instructed not to aggravate your back, correct?

A: Correct.

Q: And isn't it true that you've picked up your children on multiple occasions, even as documented by the physical therapist in the

Defendant's APA, picking up your daughter? You've picked up your kids since December of 2018, right?

A: Since then, yes, I have.

Q: Okay. And has it aggravated your back when you picked up your kids?

A: After -- well, you know what, pretty much after I had the work restrictions and stuff released, I tried to do what I could when I can. Up until then I did as best I could not to aggravate anything. To say that I know that I lifted my daughter before that, I can't say that I have 'cause I know that my wife would tell me on more than one occasion don't do that. Mimi, Daddy can't pick you up.

Q: Okay. Isn't it true on February 19, 2019 you told the physical therapist -- this is APA page 61 -- that yesterday I was able to pick up my daughter and it didn't hurt?

A: Possibly, yeah. Yes. Excuse me.

MR. ELLER: I have no further questions, Your Honor.

COMMISSIONER CAMPBELL: Okay. Mr. Alexander?

MR. ALEXANDER: Just a second, Your Honor.

COMMISSIONER CAMPBELL: Sure. Take your time.

MR. CASEY: Actually, to answer that statement, sir.

MR. ELLER: Objection. Non-responsive.

MR. CASEY: I'm quite sure ---

COMMISSIONER CAMPBELL: Yeah, he -- since we've already moved on we can't back to that, okay?

MR. CASEY: Okay.

MR. CASEY - REDIRECT EXAMINATION BY MR. ALEXANDER:

Q: This is APA 24. Mr. Casey, can you read that e-mail you received? Just the -- at the bottom there what you received and who that's from?

A: Okay. From Michele Wingate. Good morning, Mr. Casey. I did receive the work note that you sent over dated to 2/8/2019. The notes state that you worked up to 12/13, were off for Christmas and returned to work in January. I have reached out to your employer to determine the first day -- date that you missed from work and to secure your 52 week wage statement which is required in order to pay you.

Q: That e-mail was in mid-February, so I probably should have started with this, but in APA 22 can you read the e-mail that Michele sent you?

A: In follow-up to our television (sic) conversation this morning please forward me any and all documentation that you received from Dr. Askins. Work notes, referrals, et cetera.

Thank you for your attention to this matter. Michele Wingate.

Q: And so based on that and the e-mail you read before that you did exactly what she asked you to?

A: Yes, sir.

MR. ALEXANDER: Nothing further, Your Honor.

COMMISSIONER CAMPBELL: Okay. Mr. Eller, anything more?

MR. CASEY - RECROSS-EXAMINATION BY MR. ELLER:

Q: Mr. Casey, isn't it true that Ms. Wingate was handling your Virginia workers' compensation claim?

A: Yes.

Q: And we've got all these e-mails in here and numerous times she's telling you about a FEMA Virginia claim, correct?

A: Uh-huh.

Q: Is that a yes?

A: Yes.

Q: There was another adjuster handling your South Carolina claim, correct?

A: Honestly, I'm not even sure because once I ended up contacting a lawyer the lawyer was able to take care of things and how things got

switched over and moved I'm not exactly sure.

Q: Okay. No further questions.

MR. CASEY - REDIRECT EXAMINATION BY MR. ALEXANDER:

Q: This is APA 34. Can you read that e-mail from I think that's Sherry Gardner?

A: Mr. Alexander, if that is the case then the claim will need to be reassigned to South Carolina workers' comp claim handler and we rescind our denial for the IW to seek treatment with his primary care physician. Furthermore, the -- what's the IW?

Q: Injured worker.

A: --- injury worker -- injured worker does not need to seek treatment with a paneled physician we provided.

Q: Okay.

A: Since the ---

Q: That's all we need.

MR. ALEXANDER: That's all I have, Your Honor.

COMMISSIONER CAMPBELL: Okay. Mr. Eller, anything?

MR. ELLER: No.

COMMISSIONER CAMPBELL: Okay. All right. There being nothing further, Mr. Casey, thank you for your testimony and for being here today, sir. You can step down and there being nothing

further today then that concludes today's hearing. Appreciate it. Thank you, sir.

(There being nothing further, the commissioner's hearing concluded at 2:55 p.m.)

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC No. 1822255

David Casey,	)
	)
Claimant,	)
	)
v.	)
	)
APTIM Federal Services,	)
	)
Employer,	)
	)
and	)
	)
XL Speciality Insurance Company,	)
	)
Carrier/Defendants.	)
	)

FULL COMMISSION HEARING

****

Monday, March 16, 2020
2:07 p.m. - 2:26 p.m.

COPY

The Full Commission Hearing was heard before Commissioners Melody L. James, Aisha Taylor and Avery B. Wilkerson, Jr., at the Workers' Compensation Commission, 1333 Main Street, Suite 500, Columbia, South Carolina, on the 16th day of March 2020, before Cortney N. Glover, Court Reporter and Notary Public in and for the State of South Carolina.

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EXHIBITS

(There were no exhibits marked during the hearing.)

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure.

CALL TO ORDER:

COURT REPORTER: Today is March 16th, 2020. This is South Carolina Workers' Compensation Case Number 1822255. This is the case of David Casey, Claimant, versus APTM [sic] Federal Services, Employer, and XL Specialty Insurance, Carrier.

The appellant is the claimant, represented by Richard Charles Alexander. The respondent is represented by Daniel B. Eller.

Each side is allowed ten minutes for oral argument and the appellant, three minutes in reply. You are argued to -- you are requested to argue the grounds of exception and stay within the record.

COMMISSIONER WILKERSON: Mr. Alexander?

ORAL ARGUMENT - BY THE CLAIMANT:

MR. ALEXANDER: May it please the Court. Commissioners, I am here representing Mr. Casey in this appeal. Mr. Casey's a military veteran who, upon his honorable discharge in 2005, began working as what's referred in short as a UXO, which is unexploited ordnance technician, which easiest definition is they go out and look for unexploited ordnances at air fields

and test sites and make sure nothing is there. And if so, they dispose of it properly.

Now, the normal UXO job, which he's testified to, is a very labor-intensive job. In general, normally they have to pass an OSHA physical requiring them to lift up to 40 to 45 pounds. He testified that they lift things up to 80 pounds at times in that job. It also involves a lot of digging and bending and walking and, you know, heavy manual labor.

Now, that's an alternate job that he performs for this company that's also covered by Aldrich Construction support, which is essentially almost a light-duty type job where he doesn't do much more than carry a metal detector around, and they kind of search for things and make sure, you know, there's not -- there shouldn't be anything where they are, you know. But, again, it's more of a light-duty fashion of that job.

And his explanations of both of those are on -- in the hearing transcript on page 11. The only issue, again, that we're here on today is the TTD concern for the period from when he was injured and released by the urgent care in

December of 2018. So December 13th, 2018, is the first date that he did not work and then covering up through May 9th of 2019 when he was released at full duty by the authorized treating physician. Now, we believe the error is as simple as looking at only Finding 11 in the Commissioner's decision. And if you go down, it's even more simple than that. It's the second half of the first sentence, which factually is inaccurate.

And the Commissioner says two reasons why he didn't meet his burden for entitlement to TTD. One, he didn't have a doctor completely writing him out of work; and, two, that the defendants provided him alternative light duty. Which, again, the first part we don't disagree with. No doctor ever wrote him out. But we do disagree that they offered him light duty this entire time.

Now, they did offer him construction support's position on three occasions, and we're not requesting payment for that period. But the entire period that we're here for, that December 13th through May 9th, covers 21.5714 weeks.

COMMISSIONER TAYLOR: And he was not offered the temporary position during that time?

MR. ALEXANDER: Except for three occasions where he worked a total of, I think it was 19 days so ---

COMMISSIONER TAYLOR: Okay. So ---

MR. ALEXANDER: The total in that period that we are requesting is 19 weeks ---

COMMISSIONER TAYLOR: I gotcha.

MR. ALEXANDER: --- of TTD.

COMMISSIONER JAMES: But what about the defendant's position -- let me just see how the dates, whether they cross over, about cross over and what your position is -- that the airfield was off work for the holidays for, it looks like, about a month of that?

MR. ALEXANDER: Yes, ma'am. And he testified regarding the time that they were off for that assignment. He also testified that there was additional work that would have been available but or his restrictions. And he's able to transition to other locations for other work, but the work that was in Quantico that was -- that he discussed in his testimony was -- you know, he needed to be full-duty at that point.

And based on the urgent care releasing him with the restriction of attention not to aggravate his injury, he was not able to transition over to that job. So he had to wait until he could go back to the construction support job in Chesapeake, which started in January.

COMMISSIONER JAMES: Thank you, sir.

MR. ALEXANDER: Now, again, the only person that was testifying in this case was Mr. Casey, so his testimony and the medical evidence are the only evidence available. And, again, as stated in our brief, his testimony is simply that he was under restrictions during this 21-and-half-week period and they didn't provide him work for 19 of those weeks, during which he was out because of the work restrictions.

Again, his -- the hearing transcript, page 17, line 16 through -- excuse me 6 through 15 and page 25, lines 3 through 14, is where the defendants -- he noted in his testimony that they were only gonna accommodate his restrictions on those three occasions. He also likewise testified about several jobs that would have been available that he missed out on because of his restrictions. Those are listed

on -- in page 14, lines 4 through 8; page 15, lines 8 through 24; and page 16, line 2 through page 17 line 15. Again, there's no testimony to the contrary regarding them offering him work. So it is -- I mean, it's -- he has restrictions. They didn't offer him work. And that's -- it's pretty simple in that regard. So as such, the finding that they offered him light duty is just actually inaccurate, and we're requesting that that be reversed by the panel.

And subsequently the Conclusion of Law Number 4 is that he has not met his burden would, you know, also be an error because he was not offered the work and has met his burden showing that he had restrictions that were preventing him from performing his job and they did not offer him work under the Lee v. Bondex case.

Additionally, I would address the Cranford case the defense brought up in their response brief, which actually, I feel helps our case more than hurts it because the restrictions, as you can see in the Cranford case, they -- his restriction was even less specific than our client's in saying to take it easy. The Court

found that that period when they said that his restriction was only nothing more than to take it easy, he was entitled to TTD during that period.

Now, in our case he had even more, again, specific instruction to not aggravate his injury. Now, we agree that if the restriction had been as in Cranford as they referenced where he was released to use good body mechanics and was at MMI and all that, that's a different story. But the specific restriction of it to continue to aggravate is distinguished and, again, I think lines up more -- if you read the entirety of Cranford, it lines up more with our position that he was under a restriction that entitled him to TTD. That period, you know, even if you only use the Bayview Urgent Care record from defense's APAs that shows that restriction, he was under restrictions as of December 13th, 2018. Even if you ignore the fact that the carrier sent -- or instructed him to go to his own doctor and he ends up with another restriction of a 10-pound lifting restriction, which is in Claimant's APA 2, even if you ignore that,

there's still the restriction that's out there from Bayview Urgent Care telling him, you know, it's aggravating his injury. That restriction, again, I've -- we don't think that the VA should be ignored. But either way, we still think there's a restriction and that restriction isn't changed until mid-March when he saw Dr. LaMotta for the first time, which is when it was increased to the 40 to 45 pounds. Now, again, when that he was increased, it still -- he still was not offered work, other than the construction support that he was offered in April. He basically, and as he testified, he -- at that point, when he got that increase in his -- or decrease in his restriction, he was returned to the pool of employees almost, you know, kind of like a temp agency employee. He's able to do the job now, but they didn't offer him any employment. So, you know, it's almost as if his benefits should have been started in December and then when they were -- when the restrictions were changed in March, that would be the point where you look at 42-9-260 to see whether, you know, okay, we'll have -- you know, his restrictions

have changed, but have they made an offer of employment? And they don't meet that second prong of making an offer of employment at that point.

So, again, that's our position is that during that entire period from December 13th, 2018, until May 9th, 2019, when he was released at full duty, he would be entitled to TTD for those 19 weeks that he was not working.

COMMISSIONER WILKERSON: Any questions?

(No response.)

COMMISSIONER WILKERSON: Okay. Thank you, sir. Appreciate it.

Three minutes in reply.

COURT REPORTER: Just a minute.

(Off the record.)

COMMISSIONER WILKERSON: Ten minutes, please. Thank you.

ORAL ARGUMENT - BY THE DEFENDANTS:

MR. ELLER: May it please the court. This is a pretty narrow issue for appeal, your Honors, so I'll try to be as brief as I possibly can. I think it is important though to understand two things about this case when looking at this issue. Number one is the character of the

claimant's employment with the defendant APTIM. The second thing is to look at what is a work restriction and whether or not he's actually got work restrictions. And I think both of those are very related, so if you just give me a little bit of leeway, I think I can make all this make sense.

So first, the character and nature of his employment. If you go back and look at the hearing transcript, he doesn't work 52 weeks a year, okay? So this guy, by his own admission, he is a project employee. There are not UXO or construction support jobs available 52 weeks out of the year. So the claimant's got an added burden of proof in this case because he doesn't have the availability of work 52 weeks out of the year. And so in this case, it's clear from the defendant's APA at page 39 when he gets his alleged first work restriction, the doctor even notes that he's an out-of-town contractor, and he'll return to home to South Carolina on 12/13/18; therefore, we'll release to full duty on 12/13/18.

That's clear in the record that he's full duty as of December 13th. The first date you just

heard from my colleague, the first date they're asking for TTD is the day that he goes home. The project is over for the holidays on the 13th of December, and everybody else is returning on January 6. So no one would be entitled to TTD during that time because the nature of his employment is everybody's gone anyway. And that assumes that ---

COMMISSIONER JAMES: What about the claimant's position -- 'cause I asked that question. I was wondering about those dates. Claimant's position is there would have been work available for him somewhere else that y'all could have given him?

MR. ELLER: The claimant admitted at the hearing, I believe, your Honor, that he knew the holiday was taking place on the 13th of December. So everybody was gone from the 13th of December to January 6th. I think that's undisputed in the hearing testimony. I think what my colleague was referring to was these other potential jobs the claimant testified ---

COMMISSIONER TAYLOR: Okay. Starting on January 6th?

MR. ELLER: Correct.

COMMISSIONER TAYLOR: All right.

MR. ELLER: Correct. And he also testified he missed out on a job opportunity that -- because he thought he had work restrictions. And I think, your Honors, that's what this really kind of boils down to. The claimant's argument in this case appears to be paying attention to not aggravate his injury, he's equated that as a work restriction. And the defendant's position is that's not actually the case. The claimant at first testified in this case he though he was given a five-pound work restriction in the emergency room. That's nowhere in the APAs. That's not there. There's no reason to go back and look at it. There's nothing from the ER in either the claimant's or the defendant's APA.

And then he says it got ratcheted up to ten pounds by Bayview. That's incorrect. If you look at page 39 and page 42 of the Bayview records, he was released at full duty on December 13th. And so that's inaccurate.

Then the claimant goes on to his own to the VA and gets this work note, and there was a big kind of blow-up at the hearing about the weight

to be entitled to that work note. And the Commissioner said, I'll take it into consideration and assign it the amount of weight I feel it's entitled to. Commissioner did not have whatever that is that went along with that work restriction note. And so the defendant's position that we outlined in the brief is any type of real weight to be given to this VA restriction, we don't know what that's for. We don't know if it's for his back. We don't know if it's for another condition that he's treating at the VA for. We have no idea. And so it would be speculation or surmise to assume that that ten-pound restriction is causally related to the back injury in this case. And so that's the other problem.

But really the Cranford case actually says that when you're released to return to work and take it easy, that's not the -- that does not equal work restrictions. In this case, we've got two -- actually three reports. We've got page 39 of Defendant's APA, 42, and then the defendant's supplemental APA, which I believe is page 80 of the defendant's APA. There are three records from Bayview Urgent Care Dr. Ann

Cooper that all indicate he was released full duty as of December 13, 2018. And so the defendant's position is, in light of the fact that he was full duty as of December 30, 2018, the hearing commissioner in this case was absolutely correct in denying his request for TTD from that point forward.

There were other jobs that he did elect to take, these three light-duty jobs. But, again, due to the nature of his employment, it would be unfair to apt him -- if you were to find that this full-duty release on the 13th is not actually a full-duty release, if you were to find that to be the case, I think you will still have the problem that the claim has to overcome is the nature of his employment. He's -- he doesn't work every day. And so to give him TTD for the entire period from the 13th through May 6th or 9th when he was released by Dr. LaMotta would be unfair to the employer in this case. But, again, the defendants contend that those three records, APA 39, 42, and 80 are crystal clear he's got a full-duty release and he's not entitled to TTD. Thank you.

COMMISSIONER WILKERSON: Any questions?

(No response.)

COMMISSIONER WILKERSON: Okay. Three minutes in reply.

REBUTTAL STATEMENT - BY THE CLAIMANT:

MR. ALEXANDER: Just to briefly touch on the nature of his employment again, I don't think that's any different than any other person, especially, as I mentioned in my initial arguments as liking it to a temp agency employee. If there's -- the work's not available within that person's capacity, then it's not available. Even if you hired him to do heavy duty and then they have a light-duty restriction, you don't have light-duty work, that doesn't mean they don't get benefits just because you don't have light-duty work available for them.

Regarding the -- defense keeps talking about the full-duty release from Bayview, but they keep ignoring their own record, page 43 of their records, which clearly has that additional restriction that it tells you not to aggravate the injury. So, again, there is a restriction there. It's -- you know, to say,

oh, we'll only look at this page but don't look at this other page is, you know, is inaccurate, you know, to say there's not a restriction just because one page didn't have the restriction written on it. It's the same medical records. It's all there.

Regarding his VA restriction, he didn't go there just because he wanted to. The -- you can see from the exhibits from all the correspondence he had before I was even involved with this case with the insurance company where they're telling him just go to your doctor; get his restriction or get us something showing you're -- you know, and we'll -- you know, we'll -- that's all we need. So they were sending him to his doctor. He didn't just go get that on his own. Again, even if you ignore the VA's restriction, he still has the restriction from Bayview from December 13th, 2018.

And -- give me just a second. He also, again, discussed the work that he missed out on. I know, you know, we talked about the time period where they were breaking from that job for the holiday. Again, there were other job [sic].

And he's testified there was another job in Quantico that was going on. When his job in Chesapeake ended on the 13h, he could have transitioned over to another job. So they mentioned that they were on break. But, again, he still had the ability to go to another job but for these restrictions. Because it was restrictions, again, he missed out on that job in addition to other jobs. And that's -- unless there's any questions or if someone ---

COMMISSIONER WILKERSON: None here. Thank you. Appreciate it. This concludes the hearing.

(There being nothing further, the full commission hearing concluded at 2:26 p.m.)

CERTIFICATE

This is to certify that the within hearing consisting of nineteen (19) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on November 23, 2020.

Cortney N. Glover
Court Reporter

Notary Public for South Carolina
My Commission Expires: December 1, 2025

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www.LeekeLaw.com

June 10, 2019

Via Upload Only
Commissioner Mike Campbell
S.C. Workers' Compensation Commission
PO Box 1715
Columbia, SC 29202-1715

RE: David Casey v. APTIM Federal Services
Date of Loss: 12/10/2018
WCC File #: 1822255

Dear Commissioner Campbell,

Enclosed herewith please find the Claimant's Pre-Hearing Brief and Notice of Witnesses and Written Report(s)/Physician or Other Evidence to Be Introduced on Behalf of Claimant in accordance with South Carolina Administrative Procedures Act.

By copy of this letter to Defense Counsel, Daniel B. Eller & William Childers, attorneys for the Defendants, I am providing them with a copy of same as required by the Rules and Regulations of the Commission, together with copies of the submissions under the Administrative Procedures Act.

I look forward to appearing before you. With kindest regards I am

Sincerely,

Richard C. Alexander
Attorney at Law

RCA/mmw

Enclosures

cc: Danisel B. Eller, Esq. (w/encls)
William Childers, Esq (w/encls)

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739 www.wcc.sc.gov

PRE-HEARING BRIEF
WCC File No: 1822255

Claimant's Name:	David Casey	Employer's Name:	APTIM Federal Services, LLC
Address:	521 Meadow Grass Lane	Address:	7171 Essen Lane
City:	Lexington State: SC Zip: 29072	City:	Baton Rouge State: LA Zip: 70809
Home Phone:	(803) 520-6158 Work Phone:	Carrier:	XL Specialty Insurance Co., c/o Sedgwick CMS
Preparer's Name:	Richard C. Alexander, Esquire	Preparer's Phone #:	(843) 297-8485

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $838.21 2. AWW: $2,327.54 **Date of Injury:** 12/10/2018
3. Type of injury and body part(s): Lower back injury with radicular symptoms into shoulders and into buttocks
4. Facts in controversy: 1) Whether Claimant and Employer are subject to the Act; 2) Whether Claimant is at MMI; 3) Whether Claimant is entitled to past, present, and future medical treatment.
5. Legal issues involved: **(1) Nature and extent of injury**- § 42-1-160; All consequences of an injury are compensable; *Mullinax v. Winn Dixie Stores*, 458 S.E. 2d 76 (Ct. App. 1995); *Whitfield v. Daniel Construction*, 83 S.E.2d 460 (1954); **(2) Claimant is entitled to past, present, and ongoing medical treatment**- § 42-15-60; *Dodge v. Bruccoli*, 514 SE.2d 593 (Ct. App. 1999). **(3) The Claimant's entitlement to past, present and future temporary compensation**- § 42-9-10.
6. Unusual aspects:
7. Witnesses (designate if expert):* Claimant; any and all witnesses listed by Defendants
8. Exhibits: See attached Notice of Witnesses for Exhibits to be Introduced as Direct Evidence on behalf of Claimant.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
   See attached Notice of Witnesses and Written Medical Reports to be Introduced as Direct Evidence on behalf of Claimant.
10. Name, address, and specialty, if any, of the treating physician:
    Unknown EMS, Chesapeake Regional Medical Center, 736 N. Battlefiled Blvd., Chesapeake, VA 23320; Lexington Family Practice – Lake Murray, 2006 Augusta Hwy, Lexington, SC 29072; WM Jennings Bryan Dorn VA Medical Center, 6439 Garners Ferry Road, Columbia, SC 29209; Midlands Orthopaedics, 1013 Lake Murray Blvd., Irmo, SC 29063
11. Impairment rating(s); body part(s); physician and date of opinion: n/a
12. I am amending my Form 50/51 in the following manner:

☐ **Mediation**

- ☐a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐b. Mediation is required pursuant to Reg. 67-1802.
- ☐c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov.**

I verify the contents of the form are accurate and true to the best of my knowledge. I certify I have served the document pursuant to Reg. 67-211 by delivering a copy to Daniel B. Eller, Esq. via E-Mail to: deller@etblawfirm.com, William Childers via E-Mail to: wchilders@etblawfirm.com and Commissioner Mike Campbell via upload on the ___day of June 2019 ☐ first class postage ☐ certified mail ☐ personal service ☒ electronic service

Signature: C. J. Alexander
Date of hearing: 06/25/2019
Email: chip@leekelaw.com
Time needed for hearing: One hour

Questions about the use of the form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67- 1801. File the form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC file number: 1822255

David Casey, Employee, Claimant, Versus APTIM Federal Services, Employer, and XL Specialty Insurance Company, Carrier, Defendants.	)	NOTICE OF WITNESSES

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND DANIEL B. ELLER, ESQ. & WILLIAM CHILDERS, ESQ., ATTORNEYS FOR THE DEFENDANTS,

PLEASE TAKE NOTICE THAT the Claimant, pursuant to the provisions of the South Carolina Workers' Compensation Act and S.C. Code Section 1-23-330 (1976, as amended), herewith submits the following written medical reports as direct evidence on behalf of the Claimant, to wit:

APA#	PROVIDER	TYPE OF REPORT	DATED	NO. OF PAGES	PAGES
1	Chesapeake Regional	Medical Record	12/10/2018	6	1 – 6
2	VA Hospital	Medical Record	1/18/2019	1	7
3	Lexington Family Medical	Medical Record	1/22/2019–2/8/2019	6	8 – 13
4	Midlands Ortho*	Medical Record	3/14/2019–5/9/2019	8	14 – 21

Exhibit #	SOURCE	TYPE OF REPORT	DATED	NO. OF PAGES	PAGES
A	Claimant*	E-Mails	1/23/2019	1	22
B	Claimant*	E-Mails	2/13/2019–2/28/2019	3	23-25
C	Claimant*	E-Mails	2/21/2019–2/22/2019	2	26-27
D	Claimant*	E-Mails	2/22/2019	2	28-29

E	Claimant*	E-Mails	2/25/2019	2	30-31
F	Claimant*	E-Mails	2/26/2019– 2/28/2019	5	32-36

*Records provided in reverse chronological order by source

YOU ARE FURTHER HEREBY NOTIFIED that you have the right of cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the depositions of any physicians, whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the Claimant.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Claimant.

1. Claimant;
2. Any witnesses named by Defendants

Richard C. Alexander
Attorney for the Claimant
3614 Ashley Phosphate Rd.
North Charleston, SC 29418
(843) 297-8485

North Charleston, SC
June 10, 2019

Social History (continued)

Sexually Active
Not Asked

Activities of Daily Living
Not Asked

ED Notes

ED Triage Notes by Mack, Evan R at 12/10/18 0702

Author: Mack, Evan R | Service: — | Author Type: Registered Nurse
Filed: 12/10/18 0705 | Date of Service: 12/10/18 0702 | Status: Signed
Editor: Mack, Evan R (Registered Nurse)

Patient was pinned between two vehicles approximately 1 hour ago. Both cars were parked side-by-side, patient was between the two and one car backed up pinning him between the cars. Patient was up and walking about and ambulates without difficulty. No collapse or LOC. Respirations are even and regular with no apparent signs of distress.

Electronically signed by Mack, Evan R at 12/10/18 0705

ED Provider Notes by Santiago-Rodriguez, Tirza, MD at 12/10/18 0724

Author: Santiago-Rodriguez, Tirza, MD | Service: Emergency Medicine | Author Type: Physician
Filed: 12/10/18 1244 | Date of Service: 12/10/18 0724 | Status: Signed
Editor: Santiago-Rodriguez, Tirza, MD (Physician)

HPI
41 y/o male w/o PMHx who comes to ED due to back pain. Patient reports that he was doing okay until this morning when he was standing next to his truck behind the open door when another truck was going backward and hit the door. Patient was pinned between the door and his truck. He states that the truck driver realized it right away and he moved forward. Patient states that when he was pinned he was hit on the right lower back. Patient denies head trauma, neck pain, chest pain, shortness of breath, abdominal pain, numbness or tingling sensation, loss of consciousness, urinary changes, or other complaints. Patient came to ED to get xray's.
History reviewed. No pertinent past medical history.

History reviewed. No pertinent surgical history.

History reviewed. No pertinent family history.

Social History

Socioeconomic History

• Marital status:	SINGLE
Spouse name:	Not on file
• Number of children:	Not on file
• Years of education:	Not on file
• Highest education level:	Not on file

Social Needs

• Financial resource strain:	Not on file

ED Notes (continued)

ED Provider Notes by Santiago-Rodriguez, Tirza, MD at 12/10/18 0724 (continued)

- Food insecurity - worry: Not on file
- Food insecurity - inability: Not on file
- Transportation needs - medical: Not on file
- Transportation needs - non-medical: Not on file

Occupational History

- Not on file

Tobacco Use

- Smoking status: Current Every Day Smoker
- Smokeless tobacco: Never Used
- Tobacco comment: black and milds

Substance and Sexual Activity

- Alcohol use: No
  Frequency: Never
- Drug use: No
- Sexual activity: Not on file

Other Topics | Concern

- Not on file

Social History Narrative

- Not on file

ALLERGIES: Patient has no allergy information on record.

Review of Systems
Constitutional: Negative.
HENT: Negative.
Eyes: Negative.
Respiratory: Negative. Negative for shortness of breath.
Cardiovascular: Negative. Negative for chest pain.
Gastrointestinal: Negative. Negative for abdominal pain, nausea and vomiting.
Genitourinary: Negative. Negative for flank pain.
Musculoskeletal: Positive for back pain. Negative for neck pain and neck stiffness.
Skin: Negative.
Neurological: Negative. Negative for dizziness, weakness and numbness.
All other systems reviewed and are negative.

Vitals:

	12/10/18 0708
BP:	**(!) 164/99**
Pulse:	83
Resp:	17
Temp:	98.2 °F (36.8 °C)
SpO2:	98%
Weight:	99.8 kg (220 lb)

ED Notes (continued)

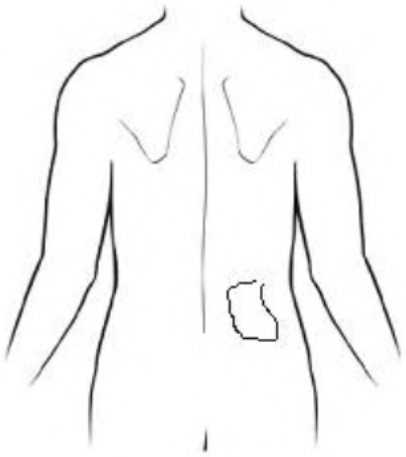
ED Provider Notes by Santiago-Rodriguez, Tirza, MD at 12/10/18 0724 (continued)

Height: 5' 8" (1.727 m)

Physical Exam
Constitutional: He is oriented to person, place, and time. He appears well-developed and well-nourished.
HENT:
Head: Normocephalic and atraumatic.
Eyes: Conjunctivae and EOM are normal. Pupils are equal, round, and reactive to light.
Neck: Normal range of motion. Neck supple.
Cardiovascular: Normal rate, regular rhythm, normal heart sounds and intact distal pulses.
Pulses:
Posterior tibial pulses are 2+ on the right side, and 2+ on the left side.
Pulmonary/Chest: Effort normal and breath sounds normal.
Abdominal: Soft. Bowel sounds are normal. He exhibits no distension. There is no tenderness. There is no rebound and no guarding.
Musculoskeletal: Normal range of motion. He exhibits tenderness. He exhibits no edema or deformity.
Right shoulder: Normal.
Left shoulder: Normal.
Right elbow: Normal.
Left elbow: Normal.
Right wrist: Normal.
Left wrist: Normal.
Right hip: Normal.
Left hip: Normal.
Right knee: Normal.
Left knee: Normal.
Right ankle: Normal.
Left ankle: Normal.
Cervical back: Normal.
Thoracic back: Normal.
Lumbar back: He exhibits tenderness, pain and spasm. He exhibits normal range of motion, no bony tenderness, no swelling, no edema, no deformity and no laceration.
Back:

ED Notes (continued)

ED Provider Notes by Santiago-Rodriguez, Tirza, MD at 12/10/18 0724 (continued)



Bilateral negative leg raising test.
Neurological: He is alert and oriented to person, place, and time. He has normal strength and normal reflexes. No cranial nerve deficit or sensory deficit. He displays a negative Romberg sign. Coordination and gait normal. GCS eye subscore is 4. GCS verbal subscore is 5. GCS motor subscore is 6.
Skin: Skin is warm and dry. Capillary refill takes less than 2 seconds.
Nursing note and vitals reviewed.

MDM
Xr Spine Lumb Min 4 V

Result Date: 12/10/2018
IMPRESSION: Normal study.

8:45 AM Lumbar x-ray negative. POC UA shows trace of blood. Patient was informed of the results and he agrees with urine microscopic test.

Recent Results (from the past 12 hour(s))
POC URINE MACROSCOPIC
Collection Time: 12/10/18 8:34 AM

Result	Value	Ref Range
Glucose	Negative	NEGATIVE, Negative mg/dl
Bilirubin	Negative	NEGATIVE, Negative
Ketone	Negative	NEGATIVE, Negative mg/dl
Specific gravity	1.025	1.005 - 1.030
Blood	Trace-intact (A)	NEGATIVE, Negative
pH (UA)	6.0	5 - 9

ED Notes (continued)

ED Provider Notes by Santiago-Rodriguez, Tirza, MD at 12/10/18 0724 (continued)

Protein	Negative	NEGATIVE, Negative mg/dl
Urobilinogen	0.2	0.0 - 1.0 EU/dl
Nitrites	Negative	NEGATIVE, Negative
Leukocyte Esterase	Negative	NEGATIVE, Negative
Color	Other	
Appearance	Clear	

URINALYSIS W/ RFLX MICROSCOPIC

Collection Time: 12/10/18 8:45 AM

Result	Value	Ref Range
Color	YELLOW	YELLOW,STRAW
Appearance	CLEAR	CLEAR
Glucose	NEGATIVE	NEGATIVE, Negative mg/dl
Bilirubin	NEGATIVE	NEGATIVE, Negative
Ketone	NEGATIVE	NEGATIVE, Negative mg/dl
Specific gravity	1.025	1.005 - 1.030
Blood	NEGATIVE	NEGATIVE, Negative
pH (UA)	6.0	5.0 - 9.0
Protein	NEGATIVE	NEGATIVE, Negative mg/dl
Urobilinogen	0.2	0.0 - 1.0 mg/dl
Nitrites	NEGATIVE	NEGATIVE, Negative
Leukocyte Esterase	NEGATIVE	NEGATIVE, Negative

9:06 AM Microscopic UA negative. Patient was informed of the results. Patient is comfortable in no distress and nontoxic. No evidence of fracture. No suspicion of acute intracranial injury, acute cervical injury, intrathoracic/intrabdominal injury, spinal cord injury. Patient will be discharged home with instructions to follow with the primary doctor and to return to the ED if no improvement or worsening of the condition. Patient understood and agreed

ProceduresNA

ED Notes (continued)

ED Provider Notes by Santiago-Rodriguez, Tirza, MD at 12/10/18 0724 (continued)

		ICD-10-CM	ICD-9-CM
1.	**Acute right-sided low back pain without sciatica**	**M54.5**	**724.2**
2.	Strain of lumbar paraspinal muscle, initial encounter	S39.012A	847.2

Electronically signed by Santiago-Rodriguez, Tirza, MD at 12/10/18 1244

Physical Diagram

No physical diagram documentation exists for this encounter

Other Notes

No notes of this type exist for this encounter.

MEDICAL RECORD — Progress Notes

NOTE DATED: 01/18/2019 10:05
LOCAL TITLE: RETURN TO WORK/ACTIVITY LIMITATIONS
STANDARD TITLE: ADMINISTRATIVE NOTE
VISIT: 01/18/2019 09:00 WJB PC GAP TEAM 5
MEMORANDUM FOR WHOM IT MAY CONCERN:
Subject: Absentee form

REFERENCE: DAVID B CASEY was seen on this date at the VA HOSPITAL at Columbia, SC.

The patient has been advised not to return to work until:

RESTRICTIONS: Patient is unable to lift more than 10 pounds until medically cleared.

REMARKS:

PA-C 18 Jan 19

Signed by: /es/ TRACY R HARRISON
PHYSICIAN ASSISTANT, PRIMARY CARE
01/18/2019 10:07

Encounter Notes

Progress Notes by Askins, Benjamin Jerome, MD on 01/23/19 0758 Version 1 of 1

Author: Askins, Benjamin Jerome, MD
Filed: 01/23/19 0758
Status: Signed

Service: (none)
Encounter Date: 1/22/2019
Editor: Askins, Benjamin Jerome, MD (Physician)

Author Type: Physician
Creation Time: 01/22/19 1036

Subjective[BA.1]
Patient is a[CM.1] 41 y.o. male[BA.1].[CM.1]

BP 140/88 (BP Location: Left arm, Patient Position: Sitting) | Pulse 69 | Temp 98.9 °F (37.2 °C) (Oral) | Ht 5' 8" (1.727 m) | Wt 100.2 kg (221 lb) | SpO2 98% | BMI 33.60 kg/m²

Chief Complaint
Patient presents with
- Back Pain[BA.1]

Pt here to discuss back pain as a f/u from an accident he had in Virginia in December 2018. Patient was at his truck with the door open standing between his truck and the door. A very large truck in the parking space right beside him started backing up very large tire hit his door, pinning him between the door and his truck. The large truck continued until the tire started to spin and the driver started the vehicle and pulled up. Patient was seen in the emergency department in Virginia, had negative x-rays. Prescribed Soma, which gave him some relief. He was able to work, but he did not do anything but supervision. Slightest physical activity was very painful for him. He's a continued pain for the last month. In the lower back. Denies any bladder or bowel incontinence or weakness in the legs[BA.2]

Back Pain
Pertinent negatives include no[CM.1] abdominal pain[BA.2],[CM.1] chest pain[BA.2],[CM.1] fever[BA.2],[CM.1] numbness[BA.2] or[CM.1] weakness[BA.2].

Review of Systems
Constitutional: Negative for[CM.1] fatigue[BA.2] and[CM.1] fever[BA.2].
HENT: Negative for[CM.1] ear pain[BA.2],[CM.1] sinus pressure[BA.2] and[CM.1] sore throat[BA.2].
Respiratory: Negative for[CM.1] shortness of breath[BA.2].
Cardiovascular: Negative for[CM.1] chest pain[BA.2].
Gastrointestinal: Negative for[CM.1] abdominal pain[BA.2].
Musculoskeletal: Positive for back pain.
Neurological: Negative for[CM.1] weakness[BA.2] and[CM.1] numbness[BA.2].[CM.1]

Reviewed and updated this visit by provider:

Objective[BA.1]
Physical Exam
Constitutional: He appears[CM.1] well-developed[BA.2] and[CM.1] well-nourished[BA.2].[CM.1] No distress[BA.2].
HENT:
Head:[CM.1] Normocephalic[BA.2] and[CM.1] atraumatic[BA.2].
Eyes:[CM.1] Conjunctivae[BA.2] are normal.
Neck:[CM.1] Normal range of motion[BA.2].
Musculoskeletal:
Lumbar back: He exhibits[CM.1] decreased range of motion[BA.2],[CM.1] tenderness[BA.2],[CM.1] pain[BA.2] and[CM.1] spasm[BA.2]. He exhibits[CM.1] no bony tenderness[BA.2].
Neurological: He has[CM.1] normal strength[BA.2]. He displays[CM.1] no atrophy[BA.2] and[CM.1] no tremor[BA.2].

Encounter Notes (continued)

Progress Notes by Askins, Benjamin Jerome, MD on 01/23/19 0758 (continued) Version 1 of 1

No[CM.1] sensory deficit[BA.2]. He exhibits[CM.1] normal muscle tone[BA.2].
Skin: Skin is[CM.1] warm[BA.2] and[CM.1] dry[BA.2].
Psychiatric: He has a[CM.1] normal mood and affect[BA.2]. His[CM.1] behavior is normal[BA.2].[CM.1] Judgment[BA.2] and[CM.1] thought content[BA.2] normal.

Procedures[CM.1]

Assessment/Plan
Diagnoses and all orders for this visit:

1. Crushing injury of low back
- XR Lumbar Spine AP and Lateral
- carisoprodol (SOMA) 350 mg tablet; Take 1 tablet (350 mg total) by mouth 3 (three) times daily as needed for muscle spasms.
- HYDROcodone-acetaminophen (NORCO) 5-325 mg tablet; Take 1 tablet by mouth 3 (three) times daily as needed for pain.
- Referral to PT for Eval and Treat[BA.1]

Repeat x-rays. Given mechanism of injury. No abnormality seen on film today except 6 lumbar vertebrae. Radiologist report pending. Refill the Soma and hydrocodone. Discussed sedating side effects. Discussed heat, ice and stretching exercises. Would like to make referral to physical therapy. Consider further imaging or referral if pain continues[BA.2]

No Follow-up on file.[BA.1]

Electronically Signed by Askins, Benjamin Jerome, MD on 01/23/19 0758

Attribution Key
BA.1 - Askins, Benjamin Jerome, MD on 01/23/19 0757
BA.2 - Askins, Benjamin Jerome, MD on 01/23/19 0754
CM.1 - Mallon, Courtney L, RN on 01/22/19 1036

Surgery Report

Anesthesia Post-Op Notes

No notes of this type exist for this encounter.

Medications - Clinical Orders

carisoprodol (SOMA) 350 mg tablet [36496182]

Electronically signed by: **Askins, Benjamin Jerome, MD on 01/22/19 1157** Status: **Discontinued**
Ordering user: Askins, Benjamin Jerome, MD 01/22/19 1157 Ordering provider: Askins, Benjamin Jerome, MD
Authorized by: Askins, Benjamin Jerome, MD
PRN reasons: muscle spasms
Frequency: TID PRN 01/22/19 - 02/08/19 Discontinued by: Askins, Benjamin Jerome, MD 02/08/19 1135 [Reorder]
Diagnoses
Crushing injury of low back [S38.1XXA]

Medications - Clinical Orders (continued)

HYDROcodone-acetaminophen (NORCO) 5-325 mg tablet [36496183]

Electronically signed by: **Askins, Benjamin Jerome, MD on 01/22/19 1157**
Ordering user: Askins, Benjamin Jerome, MD 01/22/19 1157
Authorized by: Askins, Benjamin Jerome, MD
PRN reasons: pain
Frequency: TID PRN 01/22/19 - 02/08/19
Diagnoses
Crushing injury of low back [S38.1XXA]

Ordering provider: Askins, Benjamin Jerome, MD

Status: **Discontinued**

Discontinued by: Askins, Benjamin Jerome, MD 02/08/19 1135 [Reorder]

Imaging - Clinical Orders

XR Lumbar Spine AP and Lateral [36496181]

Electronically signed by: **Smith, Stephanie E on 01/22/19 1124**
This order may be acted on in another encounter.
Ordering user: Smith, Stephanie E 01/22/19 1124
Authorized by: Askins, Benjamin Jerome, MD
Frequency: 01/22/19 -
Diagnoses
Crushing injury of low back [S38.1XXA]

Ordering provider: Askins, Benjamin Jerome, MD

Status: **Completed**

XR Lumbar Spine AP Lateral and Obliques [36496180]

Electronically signed by: **Smith, Stephanie E on 01/22/19 1123**
Ordering user: Smith, Stephanie E 01/22/19 1123
Authorized by: Askins, Benjamin Jerome, MD
Frequency: 01/22/19 -
Diagnoses
Crushing injury of low back [S38.1XXA]

Ordering provider: Askins, Benjamin Jerome, MD

Status: **Discontinued**

Discontinued by: Smith, Stephanie E 01/22/19 1124 [Entered in Error]

XR Lumbar Spine AP Lateral and Obliques [36496179]

Electronically signed by: **Askins, Benjamin Jerome, MD on 01/22/19 1102**
Ordering user: Askins, Benjamin Jerome, MD 01/22/19 1102
Authorized by: Askins, Benjamin Jerome, MD
Frequency: 01/22/19 -
Diagnoses
Crushing injury of low back [S38.1XXA]

Ordering provider: Askins, Benjamin Jerome, MD

Status: **Discontinued**

Discontinued by: Smith, Stephanie E 01/22/19 1123 [Entered in Error]

Outpatient Referral - Other Orders

Referral to PT for Eval and Treat [36496184]

Electronically signed by: **Askins, Benjamin Jerome, MD on 01/22/19 1157**
Ordering user: Askins, Benjamin Jerome, MD 01/22/19 1157
Authorized by: Askins, Benjamin Jerome, MD
Frequency: 01/22/19 -
Diagnoses
Crushing injury of low back [S38.1XXA]

Ordering provider: Askins, Benjamin Jerome, MD

Status: **Active**

Questionnaire

Question	Answer
Medication use:	May use Phonophoresis with topical hydrocortisone 10% cream and/or Iontophoresis with topical dexamethasone 4mg/mL solution for pain and inflammation control.

Clinical Lab Results

Lab, Radiology, ECG/EMG and Cardiac Results

XR Lumbar Spine AP and Lateral [36496181] Resulted: 01/22/19 1525, Result status: Final result

Resulted by: Askins, Benjamin Jerome, MD
Performed: 01/22/19 1126 - 01/22/19 1135
Accession number: 0002290486
Narrative:
Normal alignment. Good disc space. 6 lumbar vertebrae

Medications

All Meds and Administrations

(There are no med orders for this encounter)

Historical Medications Entered This Encounter

metFORMIN (GLUCOPHAGE) 500 mg tablet
Sig: Take 500 mg by mouth daily with breakfast as indicated for Type 2 Diabetes.
Class: Historical Med
Route: Oral

diclofenac (VOLTAREN) 75 mg EC tablet
Sig: Take 75 mg by mouth daily as indicated for Backache.
Class: Historical Med
Route: Oral

vitamin D (CHOLECALCIFEROL) 1000 units tablet
Sig: Take 1,000 Units by mouth daily.
Class: Historical Med
Route: Oral

Patient Education

Education

No education to display

Discharge Instructions Casey, David B Jr. (MR # M002084366)

None

Warning! This summary shows information as of your visit. It might not contain the most up-to-date information in your chart.

After Visit Summary printed by Askins, Benjamin Jerome, MD on 1/23/2019 7:58 AM (Automatically Generated)

Encounter Notes

Progress Notes by Askins, Benjamin Jerome, MD on 02/08/19 1258 Version 1 of 1

Author: Askins, Benjamin Jerome, MD | Service: (none) | Author Type: Physician
Filed: 02/08/19 1258 | Encounter Date: 2/8/2019 | Creation Time: 02/07/19 0843
Status: Signed | Editor: Askins, Benjamin Jerome, MD (Physician)

Subjective[BA.1]
Patient is a[SD.1] 41 y.o. male[BA.1].[SD.1]

BP 130/80 | Temp 99.3 °F (37.4 °C) | Ht 5' 8" (1.727 m) | Wt 99.1 kg (218 lb 6.4 oz) | BMI 33.21 kg/m²

Chief Complaint
Patient presents with
- Back Pain[BA.1]

Pt is here today to discuss back pain due to an injury at work. He would like to discuss works comp.[SD.2]

Review of Systems
Constitutional: Negative for[SD.1] fatigue[BA.2] and[SD.1] fever[BA.2].
HENT: Negative for[SD.1] ear pain[BA.2].[SD.1] sinus pressure[BA.2] and[SD.1] sore throat[BA.2].
Respiratory: Negative for[SD.1] shortness of breath[BA.2].
Cardiovascular: Negative for[SD.1] chest pain[BA.2].
Gastrointestinal: Negative for[SD.1] abdominal pain[BA.2].
Musculoskeletal: Positive for[SD.1] back pain[BA.2] and[SD.1] gait problem[BA.2].[SD.1]

Reviewed and updated this visit by provider:

Objective[BA.1]
Physical Exam
Constitutional: He appears[SD.1] well-developed[BA.2] and[SD.1] well-nourished[BA.2].[SD.1] No distress[BA.2].
HENT:
Head:[SD.1] Normocephalic[BA.2] and[SD.1] atraumatic[BA.2].
Eyes:[SD.1] Conjunctivae[BA.2] are normal.
Neck:[SD.1] Normal range of motion[BA.2].
Musculoskeletal:
Lumbar back: He exhibits[SD.1] decreased range of motion[BA.2].
Skin: Skin is[SD.1] warm[BA.2] and[SD.1] dry[BA.2].
Psychiatric: He has a[SD.1] normal mood and affect[BA.2]. His[SD.1] behavior is normal[BA.2].[SD.1] Judgment[BA.2] and[SD.1] thought content[BA.2] normal.

Procedures[SD.1]

In evaluating this patient, I have accessed SCRIPTS (SC Reporting & Identification Prescription Tracking System) and reviewed this patient's prior utilization of controlled substances in an effort to formulate an appropriate plan of care for this patient: Date/Time Stamp (02/08/19 1126)
Assessment/Plan
Diagnoses and all orders for this visit:

1. Crushing injury of low back
- carisoprodol (SOMA) 350 mg tablet; Take 1 tablet (350 mg total) by mouth 3 (three) times daily as

Encounter Notes (continued)

Progress Notes by Askins, Benjamin Jerome, MD on 02/08/19 1258 (continued) Version 1 of 1

needed for muscle spasms.

- HYDROcodone-acetaminophen (NORCO) 5-325 mg tablet; Take 1 tablet by mouth 3 (three) times daily as needed for pain.[BA.1]

Has had 6 sessions of physical therapy. Noticing some benefit. Still requiring pain medications regularly. He is still unable to work his job description due to the pain. Accident 12/10. Worked until 12/13 but was only in a supervisor role, no vigorous physical activity required. Was off for christmas Back jan 8-15 but was just observation duties. and Has been out of work since then.[BA.3]

Discuss he denies regular stretching. Refill medications could make referral to orthopedist is not making significant progress the next couple weeks[BA.2]
No Follow-up on file.[BA.1]

Electronically Signed by Askins, Benjamin Jerome, MD on 02/08/19 1258

Attribution Key

BA.1 - Askins, Benjamin Jerome, MD on 02/08/19 1257
BA.2 - Askins, Benjamin Jerome, MD on 02/08/19 1256
BA.3 - Askins, Benjamin Jerome, MD on 02/08/19 1118
SD.1 - Dugger, Shardae J, MOT on 02/07/19 0843
SD.2 - Dugger, Shardae J, MOT on 02/08/19 1050

Surgery Report

Anesthesia Post-Op Notes

No notes of this type exist for this encounter.

Medications - Clinical Orders

carisoprodol (SOMA) 350 mg tablet [36496188]

Electronically signed by: **Askins, Benjamin Jerome, MD on 02/08/19 1135** Status: **Active**
Ordering user: Askins, Benjamin Jerome, MD 02/08/19 1135 Ordering provider: Askins, Benjamin Jerome, MD
Authorized by: Askins, Benjamin Jerome, MD
PRN reasons: muscle spasms
Frequency: TID PRN 02/08/19 - Until Discontinued
Diagnoses
Crushing injury of low back [S38.1XXA]

HYDROcodone-acetaminophen (NORCO) 5-325 mg tablet [36496189]

Electronically signed by: **Askins, Benjamin Jerome, MD on 02/08/19 1135** Status: **Active**
Ordering user: Askins, Benjamin Jerome, MD 02/08/19 1135 Ordering provider: Askins, Benjamin Jerome, MD
Authorized by: Askins, Benjamin Jerome, MD
PRN reasons: pain
Frequency: TID PRN 02/08/19 - Until Discontinued
Diagnoses
Crushing injury of low back [S38.1XXA]

Other Orders

No orders found

CASEY, DAVID (id # ID # , dob: DOB 1977)

MIDLANDS orthopaedics & NEUROSURGERY

WORKERS' COMP PATIENT REFERRAL
Phone: 803.256.4107 Option 4
Fax
Ortho 803.933.6193 ❖ Neuro 803.462.3647

ALL INFORMATION MUST BE OBTAINED PRIOR TO MAKING APPOINTMENT

Patient Name: David Casey Daytime Phone # 252-267-0136
Patient Address: 521 MEADOW GRASSLINE City/St/Zip: Lexington, SC 29072
Patient SS#: SS# Patient DOB: DOB 77
DOI: 12/10/18 Body Part/ Side: low back State injury occurred: VA/ SC claim
How Injury Occurred: [illegible]

Employer at Time of Injury: Aptim Phone # 225 932 2607
Employer Address: 4171 Essen Ln. City/St/Zip Baton Rouge, LA 70809
Worker's Comp Carrier: Sedgwick Claim #: 30181558672-0001
Carrier Address: P O box 14151 City/St/Zip Lexington, KY 40512
Therapy Network Medrisk
Adjuster Name Alison Griffin Adjuster Phone 770 901 3129
Adjuster E-mail alison.griffin@sedgwick.com Adjuster Fax: 859 264 4060
Case Manager Name Case Mgr Phone:
Case Mgr E-mail: Case Mgr Fax:
Work Comp Verified & Approved by: Alison Griffin Relationship to Pt: clams examiner

☐ IME only ☐ IME with treatment ☐ Consult Only ☑ Consult with treatment ☐ injection
☐ Authorization for patient to be seen by PAs as needed per physician
☐ Other

Referring Physician: Referring Physician Contact:
Referring Physician Phone # Fax #:
Patient Attorney: Phone: Fax:
Have x-rays/MRI been taken since this injury Occurred: ☐ Yes ☑ No *(If yes, films must accompany Patient to appt.)*
Has treatment been rendered for this injury: ☑ Yes ☐ No *(If yes, records must accompany Patient to appt.)*

Comments: Injury occurred in VA, this is a SC claim.

CASEY, DAVID (id # ID # , dob: DOB /1977)

Clinical Encounter Summaries

Encounter Date: 05/09/2019

Patient

Name	CASEY, DAVID (41yo, M) ID# ID #	**Appt. Date/Time**	05/09/2019 08:45AM
DOB	DOB 1977	**Service Dept.**	Irmo
Provider	IVAN E. LAMOTTA, MD		
Insurance	Med Worker's Comp: SEDGWICK PCP : ASKINS, BENJAMIN J Employer Name : APTIM Case # : 30181558672-0001 Case Injury Date : 12/10/2018 Prescription: SURESCRIPTS LLC - This member could not be found in the payer's files. Please verify coverage and all member demographic information. details		

Chief Complaint

Low back pain

Patient's Care Team

Insurance Adjuster (Worker's Comp): ALISON GRIFFIN: Ph (770) 901-3129, Fax (859) 264-4060
Primary Care Provider (Worker's Comp): ASKINS, BENJAMIN J: 2006 AUGUST HWY, LEXINGTON, SC 29160, Ph (803) 785-4747, Fax (803) 785-4750

Patient's Pharmacies

CVS/PHARMACY #2497 (ERX): 2373 AUGUSTA HWY, LEXINGTON SC 29072, Ph (803) 951-0786, Fax (803) 951-0693

Vitals

05/09/2019 09:00 am

Ht: 5 ft 8 in (172.72 cm)

Allergies

Reviewed Allergies
NKDA

Medications

Reviewed Medications

diclofenac sodium	03/14/19	entered
HYDROcodone	03/14/19	entered
metFORMIN	03/14/19	entered
Soma	03/14/19	entered
Vitamin D3	03/14/19	entered

Problems

Reviewed Problems

Family History

Reviewed Family History
Sister - Hypercholesterolemia

Social History

Reviewed Social History
Smoking Status: Former smoker
Non-smoker
Cigar/Pipe use: N
Chewing tobacco: none
Alcohol intake: Occasional
Number of children: 4
Marital status: Married
Diet: Regular
Work History: Currently Working

CASEY, DAVID (id # ID # , dob: DOB 1977)

Are you currently employed?: N

Surgical History

Reviewed Surgical History
lipoma removed , fractured tibia

Past Medical History

Reviewed Past Medical History

Screening

None recorded.

HPI

Mr. David Casey is a 41-year-old male who comes to the clinic for a workers' compensation follow-up. His previous assessment from 03/14/2019 is work-related injury from 12/10/2018, lumbar contusion, and chronic low back pain. VAS is 4/10, and he notes 50% improvement. The patient presents today reporting some improvement with physical therapy. He has continued exercises on his own. He has not tried lidocaine patches. The patient has returned to work on medium duty but is hoping to return to regular work duties when he returns to California next week.

ROS

ROS as noted in the HPI

Physical Exam

Patient is a 41-year-old male.

Lumbar spine examination reveals:
Mildly limited range of motion
The patient ambulates without assistive devices
Lower extremity strength reveals no deficits, 5/5
Intact sensation to all major dermatomes, stable
Improvement: 50%
Incision: n/a

Assessment / Plan

IMPRESSION:
Work-related injury from 12/10/2018.
Lumbar contusion.
Chronic low back pain.

DISPOSITION:
My recommendation is for the patient to perform core exercises and stretching on a daily basis as well as incorporating a yoga program along with weight loss. More than likely, with time, the patient's condition should continue to improve. I really see no contraindications for the patient to return to regular duty work. The patient has reached maximum medical improvement. At this time, I see loss of function for his lumbar spine and therefore no permanent impairment. There is no need for future medical care. The patient will follow up on an as-needed basis only if his condition were to significantly deteriorate.

Return to Office

None recorded.

Encounter Sign-Off

Encounter signed-off by Ivan E. LaMotta, MD, 05/10/2019.

Encounter performed by Ivan E. LaMotta, MD
Encounter scribed for Ivan E. LaMotta, MD by Jennifer Reynolds
Encounter signed by Jennifer Reynolds as scribe at 05/09/2019 at 11:23am
Encounter reviewed & signed by Ivan E. LaMotta, MD on 05/10/2019 at 11:05am

Encounter Date: 03/14/2019

Patient

Name	CASEY, DAVID (41yo, M) ID# ID #	**Appt. Date/Time**	03/14/2019 12:00PM
DOB	DOB 1977	**Service Dept.**	Irmo
Provider	IVAN E. LAMOTTA, MD		
Insurance	Med Worker's Comp: SEDGWICK PCP : ASKINS, BENJAMIN J Employer Name : APTIM Case # : 30181558672-0001 Case Injury Date : 12/10/2018 Prescription: SURESCRIPTS LLC - This member could not be found in the payer's files. Please verify coverage and all member demographic information. details		

CASEY, DAVID (id # ID # dob: DOB /1977)

Chief Complaint

Low Back

New patient low back pain smashed between 2 trucks ****work comp****

Patient's Care Team

Insurance Adjuster (Worker's Comp): ALISON GRIFFIN: Ph (770) 901-3129, Fax (859) 264-4060
Primary Care Provider (Worker's Comp): ASKINS, BENJAMIN J: 2006 AUGUST HWY, LEXINGTON, SC 29160, Ph (803) 785-4747, Fax (803) 785-4750

Patient's Pharmacies

CVS/PHARMACY #2497 (ERX): 2373 AUGUSTA HWY, LEXINGTON SC 29072, Ph (803) 951-0786, Fax (803) 951-0693

Vitals

03/14/2019 12:54 pm

BMI: 33.5 **Ht:** 5 ft 8 in (172.72 cm) **Wt:** 220 lbs (99.79 kg)

Allergies

Reviewed Allergies
NKDA

Medications

Reviewed Medications

diclofenac sodium	03/14/19	entered
HYDROcodone	03/14/19	entered
metFORMIN	03/14/19	entered
Soma	03/14/19	entered
Vitamin D3	03/14/19	entered

Problems

Reviewed Problems

Family History

Reviewed Family History
Sister - Hypercholesterolemia

Social History

Reviewed Social History
Smoking Status: Former smoker
Non-smoker
Cigar/Pipe use: N
Chewing tobacco: none
Alcohol intake: Occasional
Number of children: 4
Marital status: Married
Diet: Regular
Work History: Currently Working
Are you currently employed?: N

Surgical History

Reviewed Surgical History
lipoma removed , fractured tibia

Past Medical History

Reviewed Past Medical History

Screening

None recorded.

HPI

CASEY, DAVID (id # ID # , dob: DOB /1977)

General HPI

Reported by patient.

Location: right; medial
Quality: aching; dull
Severity: moderate; pain level 3/10; worst pain 4/10
Context: MVA
Alleviating Factors: heat; ice; rest; stretching; brace
Aggravating Factors: sitting; standing; walking; lifting
Associated Symptoms: **weakness**; **warmth**
Previous Surgery: none
Prior Imaging: x ray; MRI
Previous PT: none
Working: modified duty

Mr. David Casey is a 41-year-old male UXO technician who comes to the clinic for an initial workers' compensation evaluation. The patient presents today reporting a work-related injury from 12/10/2018 when he was putting something into the back of his company truck and was pinned in between the door and the truck by another truck pulling out of the parking spot next to the patient. He was hit in the flank region where he is currently experiencing pain. He states his symptoms today compared to right after the accident are approximately 60% to 80% improved when taking medications as prescribed. He takes a muscle relaxer as needed, primarily to help with sleep. He has been trying to wean himself off of medication. He has not received any injections but has participated in physical therapy for 4-5 weeks. He states the work he performed last week is considered construction support and he has not been performing any heavy lifting.

ROS

ROS as noted in the HPI

Physical Exam

Patient is a 41-year-old male.

Constitutional: General Appearance: healthy-appearing, NAD, and normal body habitus.

Psychiatric: Orientation: oriented to time, place, and person. Mood and Affect: normal mood and affect and active and alert.

Gait and Station: Gait And Stance heel to shin test normal and and toe test normal and fluid gait, normal stance, no limp, ambulating with no assistive devices, and tandem gait test normal.

Cardiovascular System: Arterial Pulses Right: femoral normal, posterior tibial normal, dorsalis pedis normal, and popliteal normal. Arterial Pulses Left: femoral normal, posterior tibial normal, dorsalis pedis normal, and popliteal normal. Edema Right: none. Edema Left: none. Varicosities Right: no varicosities and capillary refill test normal. Varicosities Left: no varicosities and capillary refill test normal.

Lymph Nodes: Inspection/Palpation Right: no inguinal LAD. Inspection/Palpation Left: no inguinal LAD.

Skin: Lumbosacral Spine: normal skin.

Lumbar Spine: Inspection: no induration, ecchymosis, or swelling and normal alignment. Bony Palpation of the Lumbar Spine: no tenderness of the spinous process, the transverse process, the sacral promontory, the sacrum, or the coccyx. Bony Palpation of the Right Hip: no tenderness of the iliac crest, the ASIS, the PSIS, the pubic tubercle, the iliac tubercle, the sciatic notch, the ischial tuberosity, the SI joint, or the greater trochanter. Bony Palpation of the Left Hip: no tenderness of the iliac crest, the ASIS, the PSIS, the pubic tubercle, the iliac tubercle, the sciatic notch, the ischial tuberosity, the SI joint, or the greater trochanter. Soft Tissue Palpation on the Right: no tenderness of the supraspinous ligament, the paraspinal region, the iliolumbar region, the gluteus maximus, the gluteus medius, the sciatic nerve, the anterior abdominal muscles, the inguinal ligament, or the piriformis. Soft Tissue Palpation on the Left: no tenderness of the supraspinous ligament, the paraspinal region, the iliolumbar region, the gluteus maximus, the gluteus medius, the sciatic nerve, the anterior abdominal muscles, the inguinal ligament, or the piriformis. Active Range of Motion: flexion normal, extension normal, lateral flexion normal, rotation normal, and no pain with motion. Passive Range of Motion: flexion normal, extension normal, lateral flexion normal, rotation normal, and no pain with motion.

Motor Strength: L1-2 Motor Strength on the Right: hip flexion iliopsoas 5/5. L1-2 Motor Strength on the Left: hip flexion iliopsoas 5/5. L2-L4 Motor Strength on the Right: knee extension quadriceps 5/5. L2-L4 Motor Strength on the Left: knee extension quadriceps 5/5. L5 Motor Strength on the Right: ankle dorsiflexion tibialis anterior 5/5 and great toe extension extensor hallucis longus 5/5. L5 Motor Strength on the Left: ankle dorsiflexion tibialis anterior 5/5 and great toe extension extensor hallucis longus 5/5. S1 Motor Strength on the Right: plantar flexion gastrocnemius 5/5. S1 Motor Strength on the Left: plantar flexion gastrocnemius 5/5.

Neurological System: Babinski Reflex Right: plantar reflex absent. Babinski Reflex Left: plantar reflex absent. Special Tests: Valsalva's test negative. Ankle Reflex Right: normal (2). Ankle Reflex Left: normal (2). Knee Reflex Right: normal (2). Knee Reflex Left: normal (2). Sensation on the Right: T12 normal, L1 normal, L2 normal, L3 normal, L4 normal, L5 normal, S1 normal, S2 normal, and normal distal extremities. Sensation on the Left: T12 normal, L1 normal, L2 normal, L3 normal, L4 normal, L5 normal, S1 normal, S2 normal, and normal distal extremities. Special Tests on the Right: compression test negative, femoral nerve traction test negative, Patrick-Fabere test negative, supine straight leg raising test negative, seated straight leg raising test negative, and no clonus of the ankle/knee. Special Tests on the Left: compression test negative, femoral nerve traction test negative, Patrick-Fabere test negative, supine straight leg raising test negative, seated straight leg raising test negative, and no clonus of the ankle/knee.

CASEY, DAVID (id # ID # , dob: DOB 1977)

Full range of motion

Assessment / Plan

Radiographic Findings:
Lumbar radiographs performed today are normal.

IMPRESSION:
Work-related injury from 12/10/2018.
Lumbar contusion.
Chronic low back pain.

DISPOSITION:
The patient sustained a lumbar contusion causing subsequent chronic low back pain. The patient's x-rays and MRI examination look good. There is no damage for the nerves, for the discs, or for the bone. The patient has sustained muscular damage because of the impact. He has about a 90% to 95% chance of his symptoms continuing to improve with time. It may take 6 months to a year to completely improve. I recommend for the patient to continue to stretch and exercise. There is a 5% chance that the patient may have chronic residual pain from the injury. The patient may try lidocaine patches.I recommend for the patient to try to avoid activities which aggravate his symptoms.

From the surgical standpoint, the patient has reached maximum medical improvement. There is no additional therapy, injections, or surgery that can be recommended for the patient. I see no contraindications for the patient to do limited light duty to medium duty work lifting up to 40-45 pounds.

An additional 5-10 minutes was spent with the case manager, Howard Altman, updating them of the patient's progress and condition.

1. Low back pain

M54.5: Low back pain

- BACK CARE AND PREVENTING INJURIES: CARE INSTRUCTIONS
- GETTING BACK TO NORMAL AFTER LOW BACK PAIN: CARE INSTRUCTIONS
- LEARNING ABOUT RELIEF FOR BACK PAIN
- XR, LUMBAR SPINE

Views (X-RAY, LUMBAR SPINE): 3
View

XR, LUMBAR SPINE
- Views (X-RAY, LUMBAR SPINE): 3 View

Lumbar radiographs performed today are normal.

MRI, LUMBAR SPINE, W/O CONTRAST

MRI of the lumbar spine performed at Palmetto Imaging Irmo on 03/12/2019 reveals an essentially normal MRI examination.

Return to Office

None recorded.

Encounter Sign-Off

Encounter signed-off by Ivan E. LaMotta, MD, 03/15/2019.

Encounter performed by Ivan E. LaMotta, MD
Encounter scribed for Ivan E. LaMotta, MD by Jennifer Reynolds
Encounter signed by Jennifer Reynolds as scribe at 03/14/2019 at 2:50pm
Encounter reviewed & signed by Ivan E. LaMotta, MD on 03/15/2019 at 10:19am

CASEY, DAVID (id # ID # , dob: DOB 1977)
CASEY, DAVID (id # ID # , dob: DOB 1977)

MIDLANDS orthopaedics & NEUROSURGERY

1910 Blanding Street
Phone: (803) 256-4107 * www.midorthoneuro.com * Fax: (803) 253-6676

WORK STATUS INFORMATION

NAME: David Casey
DATE OF BIRTH: DOB 1977
PROVIDER'S NAME: IVAN E. LAMOTTA, MD
CARRIER:SEDGWICK
WC CLAIM#:30181558672-0001
DX CODE(S) & DESCRIPTION:M545/LUMBAR SPINE

ACCOUNT: ID #
EMPLOYER:APTIM
DOS: 05/09/2019
DOA:12/10/2018

WORK STATUS:

☑ Regular duty as of 05/09/2019 with no restrictions.
(Availability of light duty is determined by the employer and not the physician).
☐ Medium physical demands as of * with restrictions.
☐ Light physical demands as of * with restrictions.
☐ Remain out of work until *
☐ Part-time (whether regular duty or light duty)
☐ Full-time (whether regular duty or light duty)

PHYSICAL LIMITATIONS

☑ None	☐ No kneeling, squatting, crawling
☐ No walking	☐ Pushing or pulling limit ___ (lbs)
☐ No climbing	☐ Lifting and carrying limit ___ (lbs)
☐ No standing	☐ Sedentary duties only
☐ No prolonged standing	☐ No overhead work
☐ No twisting	☐ No stretching
☐ No work at heights	☐ Specific restrictions per FCE date: _____

Other:
These restrictions are recommended to promote healing of the body part which is injured or which has had surgery. Unrestricted use is recommended when it will not adversely affect the healing process. This is not a statement as to the capacity to undertake a given task or participate in a given sport, nor is it a warranty against subsequent injury. All restrictions or the lack of such restrictions may be subject to revision or modification if conditions change. It is your responsibility to contact us for any clarification, questions, or concerns.

Follow-up appointment date:

- Ivan E. LaMotta, MD for ROV 5 at Irmo on PRN



Electronically Signed by: IVAN E. LAMOTTA, MD
IVAN E. LAMOTTA, MD
05/09/2019

MIDLANDS orthopaedics & NEUROSURGERY

1910 Blanding Street
Phone: (803) 256-4107 * www.midorthoneuro.com * Fax: (803) 253-6676

WORK STATUS INFORMATION

NAME: David Casey
DATE OF BIRTH: DOB 1977
PROVIDER'S NAME: IVAN E. LAMOTTA, MD
CARRIER:SEDGWICK
WC CLAIM#:30181558672-0001
DX CODE(S) & DESCRIPTION:M545/LUMBAR SPINE

ACCOUNT: ID #
EMPLOYER:APTIM
DOS: 03/14/2019
DOA:12/10/2018

WORK STATUS:

- ☐ Regular duty as of with no restrictions.
  (Availability of light duty is determined by the employer and not the physician).
- ☐ Medium physical demands as of * with restrictions.
- ☑ Light physical demands as of 03/14/2019 with restrictions.
- ☐ Remain out of work until *
- ☐ Part-time (whether regular duty or light duty)
- ☐ Full-time (whether regular duty or light duty)

PHYSICAL LIMITATIONS

☐ None	☐ No kneeling, squatting, crawling
☐ No walking	☑ Pushing or pulling limit 45 (lbs)
☐ No climbing	☑ Lifting and carrying limit 45 (lbs)
☐ No standing	☐ Sedentary duties only
☐ No prolonged standing	☐ No overhead work
☐ No twisting	☐ No stretching
☐ No work at heights	☐ Specific restrictions per FCE date: _____

Other:
These restrictions are recommended to promote healing of the body part which is injured or which has had surgery. Unrestricted use is recommended when it will not adversely affect the healing process. This is not a statement as to the capacity to undertake a given task or participate in a given sport, nor is it a warranty against subsequent injury. All restrictions or the lack of such restrictions may be subject to revision or modification if conditions change. It is your responsibility to contact us for any clarification, questions, or concerns.

Follow-up appointment date:

- Ivan E. LaMotta, MD for ROV 5 at Irmo on



Electronically Signed by: IVAN E. LAMOTTA, MD
IVAN E. LAMOTTA, MD
03/06/2019

Chip Alexander

From: dbcaseyjr77 <dbcaseyjr77@yahoo.com>
Sent: Tuesday, February 26, 2019 11:46 AM
To: Chip Alexander
Subject: Fwd: RE: 30181558672-0001 - CASEY, DAVID - 12/10/2018

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution smartphone

-------- Original message --------
From: "Wingate, Michele" <Michele.Wingate@sedgwick.com>
Date: 1/23/19 10:37 AM (GMT-05:00)
To: dbcaseyjr77@yahoo.com
Subject: RE: 30181558672-0001 - CASEY, DAVID - 12/10/2018

Good Morning Mr. Casey,

In follow up to our telephone conversation this morning, please forward me any and all documentation that you receive from Dr. Askins, work notes, referrals, etc.

Thank you for your attention to this matter.

Michele L. Wingate | Claims Examiner

Sedgwick

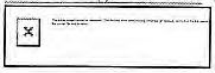
P.O. Box 14491

Lexginton, KY 40512

DIRECT 410-527-7699 | EMAIL Michele.Wingate@sedgwick.com

FAX 410-773-4221

www.sedgwick.com Caring Counts



Chip Alexander

From: Griffin, Alison <Alison.Griffin@sedgwick.com>
Sent: Thursday, February 28, 2019 6:32 PM
To: Chip Alexander
Cc: Mandi Whitaker
Subject: RE: David Casey 30181558672-0001

Well they set him up for 3/14, we can get the MRI after hours as some places do that or the weekend.

Sincerely,

Alison Griffin | Claims Examiner

Sedgwick Claims Management Services, Inc.

DIRECT 770-901-3129 | EMAIL Alison.Griffin@sedgwick.com
www.sedgwick.com | Caring counts®

sedgwick.

From: Chip Alexander [mailto:chip@leekelaw.com]
Sent: Thursday, February 28, 2019 5:42 PM
To: Griffin, Alison
Cc: Mandi Whitaker
Subject: RE: David Casey 30181558672-0001

Hi Alison,

It looks like he's been offered an assignment within his restrictions that starts on 3/3 and he's been advised this should last approximately week. I wanted to let you know so you don't schedule his MRI for next week.

- Chip

From: Griffin, Alison <Alison.Griffin@sedgwick.com>
Sent: Thursday, February 28, 2019 4:53 PM
To: Chip Alexander <chip@leekelaw.com>
Subject: David Casey 30181558672-0001

I will look more into the file for the out of work slips and I have inquired with the account.
They are faxing over the MRI order and I will get it set before 3/14 but this is his appt:

Thursday March 14th at 12:00PM at the Irmo Office with Dr. LaMotta

****please arrive 30 minutes early and bring MRI disc****

1013 Lake Murray Boulevard

Irmo, SC 29063

P: 803-462-3614

Sincerely,

Alison Griffin | Claims Examiner

Sedgwick Claims Management Services, Inc.

DIRECT 770-901-3129 | EMAIL Alison.Griffin@sedgwick.com
www.sedgwick.com | Caring counts®



From: Chip Alexander [mailto:chip@leekelaw.com]
Sent: Thursday, February 28, 2019 2:10 PM
To: Griffin, Alison
Subject: FW: RE:

See below – it appears Alison was reaching out to the employer to see when he last worked. He confirmed to me it was January 15, but I understand you need them to confirm.

From: dbcaseyjr77 <dbcaseyjr77@yahoo.com>
Sent: Tuesday, February 26, 2019 11:48 AM
To: Chip Alexander <chip@leekelaw.com>
Subject: Fwd: RE:

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution smartphone

-------- Original message --------
From: "Wingate, Michele" <Michele.Wingate@sedgwick.com>
Date: 2/14/19 10:05 AM (GMT-05:00)
To: dbcaseyjr77 <dbcaseyjr77@yahoo.com>
Subject: RE:

Good Morning Mr. Casey,

I did receive the work note that you sent over dated 2/8/19. The note states that you worked up until 12/13/18, were off for Christmas then returned to work in January. I have reached out to your employer to determine the first date that you missed from work and to secure your 52 week wage statement which is required in order to pay you.

I will let you know once that has been received.

Michele L. Wingate | Claims Examiner

Sedgwick

P.O. Box 14491

Lexginton, KY 40512

DIRECT 410-527-7699 | EMAIL Michele.Wingate@sedgwick.com

FAX 410-773-4221

www.sedgwick.com Caring Counts

From: dbcaseyjr77 [mailto:dbcaseyjr77@yahoo.com]
Sent: Wednesday, February 13, 2019 8:49 PM
To: Wingate, Michele
Subject:

Mrs. Wingate,

I have been calling to get information about my worker's comp claims since last Friday. I have sent the letter from my physician and have been waiting to find out if you've received it and what's going on with my claim. Any information you can provide will be very helpful. I look forward to hearing from you soon. Claim number: 30181558672-0001

David Casey

Chip Alexander

From: dbcaseyjr77 <dbcaseyjr77@yahoo.com>
Sent: Tuesday, February 26, 2019 11:48 AM
To: Chip Alexander
Subject: Fwd: RE: Med Report

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution smartphone

-------- Original message --------
From: "Wingate, Michele" <Michele.Wingate@sedgwick.com>
Date: 2/22/19 11:59 AM (GMT-05:00)
To: David Casey <dbcaseyjr77@yahoo.com>
Cc: "Gardner, Sherry L." <Sherry.Gardner@sedgwick.com>
Subject: RE: Med Report

Good Morning Mr. Casey,

We agree that you were injured at work on 12/10/18 and you were seen at Chesapeake Medical Center on 12/10/18. You had a follow up visit with Bayview Urgent Care on 12/11/18 and were placed out of work through 12/13/18. It is my understanding that is when the project was over and you went back to South Carolina. You were off for the Christmas holiday but returned to work in January in a supervisory role. You then went to your PCP, Lexington Family Practice, on 1/22/19, where you were given a referral for physical therapy which you began on 1/28/19. You then sent a work note from your doctor at Lexington Family Practice on 2/8/19.

As you are aware, your claim is a VA workers' compensation claim. We will NOT approve any additional visits with your PCP as you must follow the Virginia Workers' Compensation guidelines which state that you MUST treat with a panel physician. I am compiling a list so that you can choose a panel doctor to continue your care under. I will provide you with that by days end.

Michele L. Wingate | Claims Examiner

Sedgwick

P.O. Box 14491

Lexginton, KY 40512

DIRECT 410-527-7699 | EMAIL Michele.Wingate@sedgwick.com

FAX 410-773-4221

www.sedgwick.com Caring Counts

From: David Casey [mailto:dbcaseyjr77@yahoo.com]
Sent: Thursday, February 21, 2019 12:18 PM
To: Wingate, Michele
Cc: Gardner, Sherry L.
Subject: Med Report

Mrs. Wingate,

When my wife and I spoke with you on 2/8/19, you stated I needed to send a note from my PCP indicating I wasn't able to work and I'd be receiving compensation through Sedgwick right away and you could arrange for a check to be cut expeditiously. When you called me on 2/19/19, eleven days later, you stated that the note from my PCP had been received and I'd be receiving compensation within the next day or so. After speaking with you today on 2/21/19, you've now stated you will need a medical report from my physician. Is there anything else that is needed in order to receive compensation. I've taken upon myself to get what i believe to be a medical report. Please let me know whatever else is needed as soon as humanly possible, so this process isn't drawn out any longer than it has already been.

David Casey

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Chip Alexander

From: dbcaseyjr77 <dbcaseyjr77@yahoo.com>
Sent: Tuesday, February 26, 2019 11:49 AM
To: Chip Alexander
Subject: Fwd: RE: Med Report

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution smartphone

-------- Original message --------
From: "Wingate, Michele" <Michele.Wingate@sedgwick.com>
Date: 2/22/19 2:49 PM (GMT-05:00)
To: dbcaseyjr77 <dbcaseyjr77@yahoo.com>
Subject: RE: Med Report

Mr. Casey,

I have listed below a panel of physicians. You may select one. Please contact one of the providers listed below to schedule an appointment. Once you have scheduled an appointment, please let me know who you have chosen and the date and time of your appointment.

Thank you.

Michele L. Wingate | Claims Examiner

Sedgwick

P.O. Box 14491

Lexginton, KY 40512

DIRECT 410-527-7699 | EMAIL Michele.Wingate@sedgwick.com

FAX 410-773-4221

From: dbcaseyjr77 [mailto:dbcaseyjr77@yahoo.com]
Sent: Friday, February 22, 2019 2:13 PM
To: Wingate, Michele
Cc: Gardner, Sherry L.
Subject: RE: Med Report

Mrs. Wingate,

I want to thank you for responding to my email, however, your response doesn't include any information about being compensated through Sedgwick which you stated would happen upon receiving a doctor's note and then a medical report. If you can let me know how I will be compensated, whether by direct deposit or check, that would be very helpful. Along with that information, anything I need to do to assist in expediting the process.

In reference to being aware of this being a VA worker's compensation claim, yes, I agree. However, this is the first time you've mentioned following the Virginia Workers' Compensation guidelines which state that I MUST treat with a panel physician. Had that been the case, that should have been arranged the first time we spoke on 1/16/19. This is my first time ever being involved with any kind of worker's compensation situation leaving me unaware of the guidelines you are NOW mentioning. Had the proper steps been taken initially, I'm sure I'd be getting some type of compensation by now and wouldn't have had the dozen or so unanswered phone calls over the past several weeks.

I hope to hear something about being compensated when you send the list of panel physicians for me to chose from by days end. I have a family to take care of and would like to know how much worker's comp pay I should expect.

David Casey

Chip Alexander

From: dbcaseyjr77 <dbcaseyjr77@yahoo.com>
Sent: Tuesday, February 26, 2019 11:49 AM
To: Chip Alexander
Subject: Fwd: RE: Panel of physicians list

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution smartphone

-------- Original message --------
From: "Wingate, Michele" <Michele.Wingate@sedgwick.com>
Date: 2/25/19 11:39 AM (GMT-05:00)
To: dbcaseyjr77 <dbcaseyjr77@yahoo.com>
Subject: RE: Panel of physicians list

Sorry for that.

Lexington Orthopedics 803-936-7230

Midlands Orthopedics 803-256-4107

Palmetto Health USC 803-296-7846

From: dbcaseyjr77 [mailto:dbcaseyjr77@yahoo.com]
Sent: Monday, February 25, 2019 11:21 AM
To: Wingate, Michele
Cc: Gardner, Sherry L.
Subject: Panel of physicians list

This email is once again to inform you that the email you sent last Friday was missing the list of physicians I was to call for continued care. I have called and emailed in hope of getting the information I need to proceed and I'm awaiting your response. Additionally, I am still waiting for details regarding how and when I'll be receiving worker's compensation pay. I asked about compensation last week and it was completely neglected in the email I received about the panel of physicians. However, the questions about being paid (how & when) still needs to be answer.

David Casey

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution smartphone

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Chip Alexander

From: Surrency, Gretta <Gretta.Surrency@sedgwick.com>
Sent: Thursday, February 28, 2019 11:03 AM
To: Chip Alexander
Cc: Mandi Whitaker
Subject: RE: 30181558672-0001 Casey

We will coordinate it.

GRETTA SURRENCY | Claims Team Lead -WC
Sedgwick Claims Management Services, Inc.
Direct 770-901-3123
Email Gretta.Surrency@sedgwickcms.com
www.sedgwickcms.com | *The leader in innovative claims and productivity management solutions*

From: Chip Alexander [mailto:chip@leekelaw.com]
Sent: Thursday, February 28, 2019 11:02 AM
To: Surrency, Gretta
Cc: Mandi Whitaker
Subject: RE: 30181558672-0001 Casey

He has tried calling all three providers (Midlands Ortho, Lexington Ortho, and Palmetto Health USC), but none of them will set an appointment with him. They all advised it has to come from the Carrier, so no appointment has been scheduled. Obviously, we would like to have him seen as soon as possible, so whichever of those providers can see him soonest is preferred at this point.

- Chip

From: Surrency, Gretta <Gretta.Surrency@sedgwick.com>
Sent: Thursday, February 28, 2019 11:00 AM
To: Chip Alexander <chip@leekelaw.com>
Cc: Mandi Whitaker <mandi@leekelaw.com>
Subject: RE: 30181558672-0001 Casey

Who is the appointment with?

GRETTA SURRENCY | Claims Team Lead -WC
Sedgwick Claims Management Services, Inc.
Direct 770-901-3123
Email Gretta.Surrency@sedgwickcms.com
www.sedgwickcms.com | *The leader in innovative claims and productivity management solutions*

From: Chip Alexander [mailto:chip@leekelaw.com]
Sent: Thursday, February 28, 2019 10:55 AM
To: Surrency, Gretta
Cc: Mandi Whitaker
Subject: RE: 30181558672-0001 Casey

Gretta,

Can you please respond?

- Chip

From: Chip Alexander
Sent: Wednesday, February 27, 2019 9:09 AM
To: Surrency, Gretta <Gretta.Surrency@sedgwick.com>
Cc: Mandi Whitaker <mandi@leekelaw.com>
Subject: FW: 30181558672-0001 Casey

Hi Gretta,

Could you please provide a status on authorizing Mr. Casey to get to an orthopedist or other authorized treating physician? This morning he attempted to schedule an appointment with the facilities Sherry and Michele previously provided, and he was told that his adjuster would have to send his information to the provider (along with medical records and pertinent claim info) before he could be seen. Apparently that wasn't done by the previous adjuster. At this time, I'm respectfully requesting that this be handled today so Mr. Casey can be evaluated and treated so that he can return to work as quickly as possible. Thanks in advance for your assistance!

- Chip

From: Gardner, Sherry L. <Sherry.Gardner@sedgwick.com>
Sent: Tuesday, February 26, 2019 5:15 PM
To: Chip Alexander <chip@leekelaw.com>
Cc: Mandi Whitaker <mandi@leekelaw.com>; Wingate, Michele <Michele.Wingate@sedgwick.com>; Surrency, Gretta <Gretta.Surrency@sedgwick.com>
Subject: RE: 30181558672-0001 Casey

You're welcome.

SHERRY L. GARDNER | Claims Team Lead - WC
Sedgwick Claims Management Services, Inc.
Direct 410-773-4234 | Fax 410-773-4221
Email Sherry.Gardner@sedgwickcms.com
www.sedgwickcms.com | *The leader in innovative claims and productivity management solutions*

From: Chip Alexander [mailto:chip@leekelaw.com]
Sent: Tuesday, February 26, 2019 3:20 PM
To: Gardner, Sherry L.
Cc: Mandi Whitaker; Wingate, Michele; Surrency, Gretta
Subject: RE: 30181558672-0001 Casey

Thanks so much for your assistance, Sherry! Gretta – if you could advise I would appreciate it.

- Chip

From: Gardner, Sherry L. <Sherry.Gardner@sedgwick.com>
Sent: Tuesday, February 26, 2019 3:06 PM
To: Chip Alexander <chip@leekelaw.com>
Cc: Mandi Whitaker <mandi@leekelaw.com>; Wingate, Michele <Michele.Wingate@sedgwick.com>; Surrency, Gretta <Gretta.Surrency@sedgwick.com>
Subject: RE: 30181558672-0001 Casey

Mr. Alexander:

I will leave that decision to the Team Lead who supervises SC as she is listed on this email.

Thank you,
SHERRY L. GARDNER | Claims Team Lead - WC
Sedgwick Claims Management Services, Inc.
Direct 410-773-4234 | Fax 410-773-4221
Email Sherry.Gardner@sedgwickcms.com
www.sedgwickcms.com | *The leader in innovative claims and productivity management solutions*

From: Chip Alexander [mailto:chip@leekelaw.com]
Sent: Tuesday, February 26, 2019 3:03 PM
To: Gardner, Sherry L.
Cc: Mandi Whitaker; Wingate, Michele
Subject: RE: 30181558672-0001 Casey

Sherry,

I'm hoping we can expedite some of this by not changing much. In South Carolina, he still needs to be treated by a doctor of the employer's choosing, which in my experience would be one of the three you previously provided. To avoid a delay, can we allow him to keep this authorization to set up an appointment while the claim is being reassigned to a SC adjuster?

- Chip

From: Gardner, Sherry L. <Sherry.Gardner@sedgwick.com>
Sent: Tuesday, February 26, 2019 2:51 PM
To: Chip Alexander <chip@leekelaw.com>
Cc: Mandi Whitaker <mandi@leekelaw.com>; Wingate, Michele <Michele.Wingate@sedgwick.com>
Subject: RE: 30181558672-0001 Casey

Mr. Alexander:

If that is the case, then the claim will need to be reassigned to a SC w/c claim handler and we rescind our denial for the IW to seek treatment with his PCP. Furthermore, the IW does not need to seek treatment with the panels we provided. '

Since the IW was not physically in the State of VA when the job was offered/extended, he has no standing in VA.

I will follow on my end to get the claim reassigned.

Thank you,
SHERRY L. GARDNER | Claims Team Lead - WC
Sedgwick Claims Management Services, Inc.
Direct 410-773-4234 | Fax 410-773-4221
Email Sherry.Gardner@sedgwickcms.com
www.sedgwickcms.com | *The leader in innovative claims and productivity management solutions*

From: Chip Alexander [mailto:chip@leekelaw.com]
Sent: Tuesday, February 26, 2019 2:47 PM
To: Gardner, Sherry L.
Cc: Mandi Whitaker; Wingate, Michele
Subject: RE: 30181558672-0001 Casey

Sherry,

This is a South Carolina claim per *Hill v. Eagle Motor Lines*, 373 S.C. 422 (2007). Mr. Casey is a resident of South Carolina, applied for the job from South Carolina, and was hired in South Carolina. He is based in South Carolina and leaves from here to participate in jobs for the employer. I just spoke with Mr. Casey this morning and advised him to contact one of those providers to schedule an appointment. I will let you know when we see which one can see him soonest.

- Chip

From: Gardner, Sherry L. <Sherry.Gardner@sedgwick.com>
Sent: Tuesday, February 26, 2019 2:23 PM
To: Chip Alexander <chip@leekelaw.com>
Cc: Mandi Whitaker <mandi@leekelaw.com>; Wingate, Michele <Michele.Wingate@sedgwick.com>
Subject: RE: 30181558672-0001 Casey

Mr. Alexander:

Please be advised this is a VA w/c claim and as such will be handled under the VA w/c act. I will review the claim as per the VA Act and will respond. Further, has the IW chosen a treating from the panel provided to him via Michele's email? If so, he needs to let us know who he has chosen and to schedule an appointment as soon as possible.

Just for our records, your letterhead has your office located in SC, are you licensed to handle VA w/c claims?

Thank you,
SHERRY L. GARDNER | Claims Team Lead - WC
Sedgwick Claims Management Services, Inc.
Direct 410-773-4234 | Fax 410-773-4221
Email Sherry.Gardner@sedgwickcms.com
www.sedgwickcms.com | *The leader in innovative claims and productivity management solutions*

From: Chip Alexander [mailto:chip@leekelaw.com]
Sent: Tuesday, February 26, 2019 1:46 PM
To: Gardner, Sherry L.
Cc: Mandi Whitaker
Subject: FW: 30181558672-0001 Casey

Hi Sherry,

I'm forwarding this to you as well to hopefully expedite a response. Thanks for any assistance you can offer.

- Chip

From: Chip Alexander
Sent: Tuesday, February 26, 2019 12:48 PM
To: 'Michele.Wingate@sedgwick.com' <Michele.Wingate@sedgwick.com>
Cc: Mandi Whitaker <mandi@leekelaw.com>
Subject: 30181558672-0001 Casey

Hi Michele,

Looking forward to working with you on this. My understand from my client is he hasn't been paid for approximately 6 weeks (last date of work was January 15, 2019). I also understand he is authorized to see a doctor at either Lexington

Ortho, Midlands Ortho, or Palmetto Health USC Ortho. Can you let me know about instating TTD while he's out back to January 16, 2019? Also, if there is any with the authorization for the doctor? Thanks in advance!

Richard C. Alexander
Attorney At Law

SHELLY LEEKE
LAW FIRM, LLC

3614 Ashley Phosphate Rd.
N. Charleston, S.C. 29418

TEL: 843-297-8485
FAX: 843-297-8497

www.LeekeLaw.com

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ELLER TONNSEN BACH
Attorneys at Law

Daniel B. Eller
Licensed in South Carolina and North Carolina
deller@etblawfirm.com

1306 South Church Street
Greenville, SC 29605
Telephone (864) 236-5013
Facsimile (864) 312-4191

June 17, 2019

Commissioner Mike Campbell
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715

Re: David Casey v. APTIM Federal Services, LLC
WCC File Number: 1822255
Claim Number: 30181558672-0001
D.O.I.: 12/10/2018

Dear Commissioner Campbell:

Enclosed please find Defendants' Pre-Hearing Brief and Notice of Witnesses and Written Medical Reports for filing in the above-captioned matter. By copy of this correspondence, I am notifying Claimant's attorney, Richard C. Alexander, of these submissions and am serving a copy of the same upon him by mail.

Thank you for your attention to this matter.

With kind regards,

Daniel B. Eller

DBE/wc
Enclosures

cc: Richard C. Alexander, Esquire (w/enclosures)

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739
www.wcc.sc.gov

PRE-HEARING BRIEF
WCC File No: 1822255

Claimant's Name: David B. Casey, Jr.
Address: 521 Meadow Grass Lane
City: Lexington State: SC Zip: 29072
Home Phone: (803) 520-6158 Work Phone:

Employer's Name: APTIM Federal Services, LLC
Address: 4171 Essen Lane
City: Baton Rouge State: LA Zip: 70809
Carrier: XL Specialty Insurance Company, c/o Sedgwick Claims Management Services, Inc.

Preparer's Name: Daniel B. Eller
Preparer's Phone #: (864) 236-5013

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $838.21 2. AWW : $2,378.03 **Date of Injury:** 12/10/2018
3. Type of injury and body part(s): Alleged lower back radiating to shoulder level and down into buttocks
4. Facts in controversy:
Whether the South Carolina Workers' Compensation Commission has jurisdiction over the claim, and, if so, whether Claimant is entitled to benefits under the Act; whether Claimant has reached maximum medical improvement.
5. Legal issues involved:
S.C. Code Ann. § 42-15-10; § 42-1-160; § 42-15-60; § 42-9-30; and *Pollack v. S. Wine & Spirits of Am.*, 405 S.C. 9, 747 S.E.2d 430 (2013).
6. Unusual aspects:
Defendants have requested Claimant execute an authorization for the release of medical records of his treatment at the VA Medical Center before and after the date of alleged accident. Claimant has refused to sign an authorization for the release of records prior to the alleged accident. Defendants assert that these records are needed to adequately prepare for this hearing, and we reserve the right to supplement our APA with the records upon receipt.
7. Witnesses (designate if expert):*
Claimant; any and all called by Claimant; and possibly employer representative.
8. Exhibits:
Claimant's deposition transcript; possibly Claimant's personnel file; and Virginia Workers' Compensation Commission documents.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
See attached APA submissions.
10. Name, address, and specialty, if any, of the treating physician:
Ivan E. LaMotta, M.D., Midlands Orthopaedic & Neurosurgery, Columbia, SC.
11. Impairment rating(s); body part(s); physician and date of opinion: no permanent impairment to the spine; Dr. LaMotta; 5/9/2019.
12. I am amending my Form 51 in the following manner: N/A

☐ **Mediation**
- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐ b. Mediation is required pursuant to Reg. 67-1802.
- ☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov.**

I verify the contents of this form are accurate and true to the best of my knowledge.
I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Richard C. Alexander, Shelly Leeke Law address 3614 Ashley Phosphate Road, North Charleston, SC 29418 on the 17th day of June 2019, by X first class postage certified mail personal service.

Signature: Email: deller@etblawfirm.com

Date of hearing: June 25, 2019 Time needed for hearing: 45 minutes

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67-1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1822255

David B. Casey, Jr., Employee, Claimant, vs. APTIM Federal Services, LLC, Employer, XL Specialty Insurance Company, Carrier, and Sedgwick Claims Management Services, Inc., Third-Party Administrator, Defendants.	**NOTICE OF WITNESSES AND WRITTEN MEDICAL REPORTS TO BE INTRODUCED AS DIRECT EVIDENCE ON BEHALF OF DEFENDANT**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND RICHARD C. ALEXANDER, ESQUIRE:

YOU ARE NOTIFIED that the Defendants, pursuant to the provisions of the South Carolina Workers' Compensation Act and Section 1-23-330 of the South Carolina Code of Laws (Cum. Supp. 1988) submit the following medical records and other documents as evidence:

APA No.	NAME OF PROVIDER	DATES	PAGES
5	Bayview Urgent Care	12/11/2018	37-44
6	Midlands Orthopaedic	12/10/2018 – 3/14/2019	45-54
7	Palmetto Imaging	3/12/2019	55-56
8	Progressive Physical Therapy	1/28/2019 – 2/22/2019	57-78

YOU ARE FURTHER NOTIFIED that you have the right to cross-examine or otherwise oppose this evidence and, should you desire to exercise this right, you are to promptly schedule the deposition of any provider whose records are submitted, for the purposes of cross-examination, or otherwise promptly submit opposing medical records into evidence.

YOU ARE FURTHER NOTIFIED that these records, or photocopies of the same, will be provided to the South Carolina Workers' Compensation Commission for insertion in their file and for consideration as evidence on behalf of the Defendants.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Defendants: Claimant; any and all called by Claimant; and possibly employer representative.

Daniel B. Eller, Esq.
ELLER TONNSEN BACH, LLC
1306 South Church Street
Greenville, SC 29605
Phone: (864) 236-5013
Fax: (864) 312-4191
Attorneys for the Employer/Carrier

June 17, 2019
Greenville, SC

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1822255

David B. Casey, Jr., Employee, Claimant, vs. APTIM Federal Services, LLC, Employer, XL Specialty Insurance Company, Carrier, and Sedgwick Claims Management Services, Inc., Third-Party Administrator, Defendants.	)	**DEFENDANTS' APA SUBMISSIONS**

HEARING BEFORE THE HONORABLE R. MICHAEL CAMPBELL, II
June 25, 2019 at 02:00 PM

APA No.	Provider	Dates	Pages
5	Bayview Urgent Care	12/11/2018	37-44
6	Midlands Orthopaedic	12/20/2018 – 3/14/2019	45-54
7	Palmetto Imaging	3/12/2019	55-56
8	Progressive Physical Therapy	1/28/2019 – 2/22/2019	57-78
9	VA Records		

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1822255

David B. Casey, Jr., Employee, Claimant, vs. APTIM Federal Services, LLC, Employer, XL Specialty Insurance Company, Carrier, and Sedgwick Claims Management Services, Inc., Third-Party Administrator, Defendants.	**CERTIFICATE OF SERVICE**

The undersigned certifies that he has served, on the date set forth below, a copy of the document described below in the above-entitled action to the following persons, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of the same in the United States Mail, postage prepaid, addressed to:

Richard C. Alexander
Shelly Leeke Law Firm, LLC
3614 Ashley Phosphate Road
North Charleston, SC 29418

DOCUMENT: Pre-Hearing Brief and Notice of Witnesses and Written Medical Reports

DATE OF MAILING: June 17, 2019

William Childers, Attorney
ELLER TONNSEN BACH, LLC

APA #5

Bayview Urgent Care

Bayview Physicians Group

www.BayviewPhysicians.com

Providers:

Anthony Cetrone, MD
Ann Cooper, MD
Andrew Fekete, MD
Matthew Hickey, DO
Ronald Jones, MD
Timothy Kearns, PA
Donna Lapeyrolerie, MD
Erika Mansfield, MD
Megan McDevitt, PA-C
Jodi Newcombe, MD
Michael Sotosky, MD
Karen Washington, MD
Michael Webb, MD
Diana Wolan, MD

Workman's Comp Back Injury -- (Initial | Follow Up) Visit

Chart #: 10202074	COMPANY INFO
DOS: December 11, 2018 Time: 10:42 AM	Company Name:
Patient Name: CASEY, DAVID	Employee Job Title:
DOB: DOB-1977	Contact:
Age: 41 year	
Sex: male	

CC: Middle Back Pain for x 2 days

DOI: 12/10/18

MOI/HPI:pt was standing in the open door of his truck at jobsite yesterday when another truck begain backing up and hit his door thus pinning the patient between his door and the body of his truck for a few seconds. Pt was seen at CRMC ER where Lumbar spine XR were taken and read as normal. A U/A was initially positive for trace blood but blood cleared upon repeat. Pt was prescribed Robaxin 500 mg which he took last night. He had tramadol on hand already and had taken one already that day due to extreme cold causing joint pain. Pt did not take any NSAIDS or Tyl. State pain is better this am but the R lumbar region of his back feels "warm."

Pattern: persistent
Course: Improving
Duration: 2 days
Severity: moderate

VITALS
BP: 142/89 HR: 69 RR: 16 Temp: 98.6 - 12/11/2018 11:09:00 AM

ALLERGIES

MEDS
Diclofenac
Metformin
Vit D
Tramadol

Pain Level: 3 - Functional
Scale - 0: No Pain, 1-4: Functional, 5-7: Uncomfortable, 8-9: Severe, 10: Unbearable

REVIEW OF SYSTEMS
Has pain with bending

Address:
7924 Chesapeake Blvd
Norfolk, VA 23518
Ph: (757) 587-1700
Fax: (757) 480-1295

Has pain with twisting
Has pain with lifting
Denies incontinence
Denies hematuria
Denies saddle anesthesias
Denies radicular sx or parasthesias
Denies weakness to LEs or UEs
Denies previous hx of significant back injury
Denies hx of back surgery
Has not tried OTC meds {with | without} relief
Has not tried {heat | ice}

PHYSICAL EXAM
Back: NTTP to spine
TTP to paralumbar/parathoracic muscles
Positive pain with bending
Positive pain with extension
Positive pain with lateral bending
Positive pain with rotation
Negative radicular sx and/or parasthesias induced with ROM
SLR Negative bilaterally
Normal DTRs bilateral (patellar)

IMPRESSION/DDX
Middle R lumbar contusion

ORDERS
{No orders | Xray: ____ | Ice | Hydroculator |Aleve | Ibuprofen | Tylenol | Toradol 30mg IM | Toradol 60mg IM}

TREATMENT
{Icex24 | Ice | Heat | Aleve | Ibuprofen | Tylenol || Toradol 30mg IM | Toradol 60mg IM | PT | HEP}

WORK STATUS
Light Duty x 2 days

PLAN
Meds:

Cont w/ Robaxin from ER
Pt may take his own Diclofenac OR IB prn BUT NOT BOTH

{HEP Provided | Wound Care Instructions Provided}

Supplies given to pt: ____

Nurses Orders: ____

Follow up in prn. Pt has only 2 day left to work on this job as he is an out of town contractor and will return home to SC on 12/13/18. Therefore, will release pt to full duty on 12/13/18 but pt will contact his case manager if he has any further problems connected w/ this injury in the future.

Provider Signature,



Ann Cooper, MD
Electronically Signed by Ann Cooper, MD on 12/11/2018 at 11:43:29 AM

Use Of This Form Is Required Under The Provisions Of The Workmen's Compensation Act

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF WORKMEN'S COMPENSATION

INDUSTRIAL COMMISSION OF VIRGINIA
P.O. BOX 1794 - RICHMOND, VIRGINIA 23214

Case No. _____

Case of _____

ATTENDING PHYSICIAN'S REPORT

All questions in this blank should be answered and the report should contain an account of all injuries, no matter how trivial. Fill out blank in ink using pen or typewriter and mail promptly to the employer or the Claim Office of the insurance carrier.

1. NAME OF INJURED EMPLOYEE (First, middle initial, last)	2. DATE OF INJURY (Mo., date, yr.)
David B Casey, Jr	12/10/18

3. EMPLOYEE'S HOME ADDRESS (Number and street, city, state, zip code)	4. DATE OF BIRTH (or age) (Mo., date, yr.)	5. SEX
521 Meadow Grass Lane, Lexington, SC 29072	DOB '77	M

6. NAME OF EMPLOYER	7. EMPLOYER'S ADDRESS (Number and street, city, state, zip code)
APTIM	

8. DATE OF FIRST VISIT (Mo., date, yr.)	9. DATE DISCHARGED (Mo., date, yr.)	10. WHO AUTHORIZED TREATMENT?
12/11/18		Arianne Reyes

11. EMPLOYEE'S ACCOUNT OF HOW INJURY OR EXPOSURE TO OCCUPATIONAL DISEASE OCCURRED
While standing in the driver's side door of the company truck, other vehicle began moving. The other vehicle's tire hit our truck's door, thus smashing me ~~my~~ Vehicles door.

12. FINDINGS UPON EXAMINATION (INCLUDE RESULTS OF X-RAYS, LABORATORY STUDIES, ETC. NOTE PRIOR INJURIES AND PRE-EXISTING CONDITIONS AND ANY REMARKS AND RECOMMENDATIONS ON THE REVERSE OF THIS FORM)

13. DIAGNOSIS	14. IS DIAGNOSED CONDITION DUE TO OCCURRENCE DESCRIBED IN ITEM 11? ☐ YES ☐ NO IF "NO" EXPLAIN ON REVERSE OF THIS FORM

15. NATURE OF TREATMENT	16. DATES OF YOUR TREATMENT (Mo., day, yr.)

17. WAS EMPLOYEE HOSPITALIZED? (If "Yes", give name and address of hospital in item 19) ☐ YES ☐ NO	18. WERE X-RAYS TAKEN? (If "Yes", give results in item 12) ☐ YES ☐ NO	

19. GIVE (1) NAMES (2) ADDRESSES AND (3) DATES OF TREATMENTS PROVIDED BY HOSPITALS OR OTHER DOCTORS FOR THIS INJURY.

20. WAS THERE DISABILITY FOR WORK? ☐ YES ☐ NO (If "Yes", answer 20-A, B, C)	A. DATE DISABILITY BEGAN (Mo., day, yr.)	B. DATE ABLE TO RETURN TO LIGHT WORK (Mo., day, yr.)	C. DATE ABLE TO RETURN TO REGULAR WORK (Mo., day, yr.)

21. WILL THERE BE PERMANENT DEFECT OR DISFIGUREMENT? ☐ YES ☐ NO
(If "Yes", describe nature and extent of same. Estimate loss of function in % terms)

22. NAME OF ATTENDING PHYSICIAN (Type or print)	23. ADDRESS (Number and street, city, state, zip code)

24. I CERTIFY THAT I PERSONALLY EXAMINED AND TREATED THIS PATIENT	25. DATE OF THIS REPORT
SIGNATURE _____ Signature of Attending Physician M.D.	

COMPLETE THIS REPORT IMMEDIATELY AFTER SEEING PATIENT FOR THE FIRST TIME

BUC0004

41

1-22-2019

Name:	CASEY, DAVID	DOB: DOB 1977	
Chart:	10202074	Age: 41y	
Date:	12/11/2018	Sex: M	*10202074-15*

Facility: Bayview Urgent Care — Ann Cooper, MD
7924 Chesapeake Blvd, Norfolk, VA 23518 Ph: (757) 587-1700 Fax: (757) 480-1295

PROBLEMS & FINDINGS WORKER'S COMPENSATION

CO No: | CIP No: Ø

Patient's Name: CASEY, DAVID
Company Name: ARTIM
Company Phone: 757-685-5884
Report To Name: ABIGNNE REYES
Date: 12/11/2018 Sign In: 1035 Lodge: 1057
Presenting Problem:
DOI 12/10/2018
DOV: 12/11/2018
Fax: 225-372-7321

Allergies: [illegible] knee Inflam.
Meds: Diclof, Mot, VitD,
Last TT: Tramadol
"CC": hit by car door in back.
seen in ED 12/10/18.

Date/Time	BP	Pulse	Resp	Temp.
12/11/18 1105 (PD)	142/89	69	16	98.6

Subjective/Objective/Assessment Chart Date & Time of Exam	Plan Number orders consecutively	Nurse/Tech Initials Chart Orders
Warm feeling		
Pain back + hip		
Pain		
PT		
Tramadol		

BUC0005

42

1-22-2019 30181568872000I 6020190122010063

Bayview Urgent Care

Bayview Physicians Group

www.BayviewPhysicians.com

Providers:

Anthony Cetrone, MD
Ann Cooper, MD
Andrew Fekete, MD
Matthew Hickey, DO
Ronald Jones, MD
Timothy Kearns, PA
Donna Lapeyrolerie, MD
Erika Mansfield, MD
Megan McDevitt, PA-C
Jodi Newcombe, MD
Michael Sotosky, MD
Karen Washington, MD
Michael Webb, MD
Diana Wolan, MD

RETURN TO WORK

Patient:	CASEY, DAVID		
DOB:	DOB 1977	Chart #:	10202074
DOS:	December 11, 2018	Age & Sex:	41 year old male

Date of injury: 12/10/18
Diagnosis: Contusion of R lumbar paraspinal muscles
Outline of Treatment:
____X-ray: ____
____ Meds: ____
____ Other: ____

1. May return to regular work: Date: 12/13/18 WITH ATTENTION NOT TO AGGRAVATE HIS INJURY
2. May return to modified duty: From 12/11/18 to 12/12/18

	Never 0%	Occas. 1-33%	Freq. 34-66%	Cont. 67-100%		Never 0%	Occas. 1-33%	Freq. 34-66%	Cont. 67-100%
Lift/Carry Restriction #lbs		<10lbs			Reaching&Working above shoulder	x			
Sitting				x	Fine use of hands				x
Standing		x			Pulling/Pushing		<10 lbs		
Walking		x			Twisting	x			
Climbing/Stairs /Ladders		No ladders			Stooping		x		
Kneeling		x			Bending	x			
					Driving Co. Vehicles? Nox Driving Personal Vehicles? Yexs				

Other Limitations/Remarks: (Must maintain | intermittent) elevation of (left | right | both) upper extremity. ____

3. NO Work for the period from ____ through: ____
4. Follow-up planned?

Due to pt's assignment of this job ending on 12/12/18 and pt returning home to SC on 12/13/18, will releast pt to full duty on 12/13/18. WITH ATTENTION NOT TO AGGRAVATE HIS INJURY. If pt has further problems connected to this injury, he will contact his case manager. I have spoken w/ Ben at CoreHealth this morning who agrees with this Plan.

☐ Yes/Date: ____ ☑ NOT REQUIRED

Spoke with: ____

Provider Signature:

Ann Cooper, M.D

Ann Cooper, MD
Electronically Signed by Ann Cooper, MD on 12/11/2018 at 11:47:17 AM

Address:
7924 Chesapeake Blvd
Norfolk, VA 23518
Ph: (757) 587-1700
Fax: (757) 480-1295

Discharge Time: ____

APA #6

CASEY, DAVID (id # ID # , dob: DOB /1977)

ncounters nd rocedure

MAR/14/2019/THU 11:33 AM FAX No. P.005

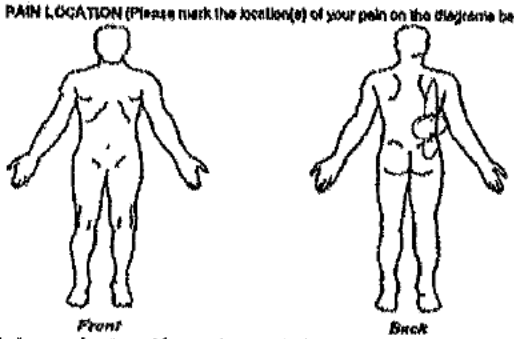
CASEY, DAVID DOB 77 # ID #

MIDLANDS orthopaedics & NEUROSURGERY

Patient Name: _____
Date of Birth: _____
Chart Number: _____

* 0479227w8499 E-HealthHx

PAIN LOCATION (Please mark the location(s) of your pain on the diagrams below)



Front Back

Circle your average level of pain in your back and/or neck:
(no pain) 0 1 2 3 4 5 6 7 8 9 10 (severe)

Circle your average level of pain in your leg and/or arm:
(no pain) 0 1 2 3 4 5 6 7 8 9 10 (severe)

How did your pain start? Check all that apply to you.
__Suddenly Lifting____Bending____Fall____Gradually____Twisting____Pulling____Accident____No apparent

Please indicate which activities below increase, decrease or cause no change in the level of your pain.

	Lying	Standing	Bending Forward	Bending Backward	Twisting	Sitting	Walking	Coughing Sneezing	Exercise (during)	Exercise (after)
Increases Pain		✓				✓				
Reduces pain	✓									
No change										

Please check the approximate amount of time you can perform the following activities.

	unable	15 minutes	30 minutes	45 minutes	1 hour	Indefinitely
Sit						
Stand						
Walk						

What treatments have you tried for this current pain?

✓ Physical Therapy ___Chiropractic ___Acupuncture ✓ Home Exercises ___Surgery ___None

If surgery becomes a treatment option, would you consider it? ___yes ___no ✓ maybe

REVIEW OF SYMPTOMS - Please check ALL items that apply to you.

- ☐ Weight Loss/Gain
- ☐ Fever
- ☐ Arm Numbness
- ☑ Stiffness
- ☐ Severe Nighttime Pain
- ☐ Difficulty Buttoning Buttons
- ☐ Change in Handwriting Ability
- ☐ Night Sweats
- ☐ Recent Infections
- ☐ Leg Numbness
- ☐ Swelling
- ☐ Difficulty Walking
- ☐ Rashes
- ☐ Changes in Appetite
- ☑ Poor Sleep
- ☐ Fatigue
- ☑ Muscle Weakness
- ☐ Joint Pain
- ☐ Genital Numbness
- ☐ Bowel Accidents/Incontinence
- ☐ Mood Changes Agitation/Anxiety
- ☐ Bladder Accidents/Incontinence
- ☐ Bleeding/Bruising Problems
- ☐ Blurred Vision
- ☐ Dizziness
- ☐ Recent Chest Pain
- ☐ Shortness of Breath
- ☐ Other (describe): _____

CASEY, DAVID (id # ID # dob: DOB 1977)

MAR/14/2019/THU 11:33 AM FAX No. P. 006

CASEY, DAVID DOB 77 # ID #

MIDLANDS orthopaedics &NEUROSURGERY

Patient Name: _____
Date of Birth: _____
Chart Number: _____

*0479227w5499 E-HealthHx

Please read: This questionnaire has been designed to give the doctor information on how your back pain has affected your ability to manage everyday life. Please answer every section, and mark in each section only the one answer that applies to you. We realize you may consider that two of the statements in any one section relate to you, but please check just one which most closely describes your problem.

Section 1 - Pain Intensity
- ☐ I can tolerate the pain I have without having to use painkillers.
- ☒ The pain is bad but I manage without taking painkillers
- ☐ Painkillers give complete relief from pain.
- ☒ Painkillers give moderate relief from pain.
- ☐ Painkillers give very little relief from pain.
- ☐ Painkillers have no effect on the pain and I don not use them.

Section 2 - Personal Care (Washing, Dressing, etc.)
- ☐ I can look after myself normally without causing extra pain.
- ☒ I can look after myself normally but it causes extra pain.
- ☐ It is painful to look after myself but I am slow and careful.
- ☐ I need some help but manage most of my personal care
- ☐ I need some help everyday in most aspects of selfcare.
- ☐ I do not get dressed, wash with difficulty, and stay in bed

Section 3 - Lifting
- ☐ I can lift heavy weights without causing extra pain.
- ☐ I can lift heavy weights but it gives extra pain.
- ☐ Pain prevents me from lifting heavy weights off the floor. But I can manage if they are conveniently positioned, e.g. on a table.
- ☐ Pain prevents me from lifting heavy weights, but I can manage light to medium weights if they are conveniently positioned.
- ☐ I can lift only very light weights.
- ☐ I cannot lift or carry anything at all.

Section 4 - Walking I CAN WALK BUT WITH SOME PAIN
- ☐ Pain does not prevent me from walking any distance.
- ☐ Pain prevents me from walking more than 1 mile
- ☐ Pain prevents me from walking more than 1/2 mile.
- ☐ Pain prevents me from walking more than 1/4 mile.
- ☐ I can only walk using a stick/cane or crutches.
- ☐ I am in bed most of the time and have to crawl to the toilet.

Section 5 - Sitting
- ☐ I can sit still in any chair as long as I like.
- ☐ I can only sit in my favorite chair as long as I like.
- ☐ Pain prevents me from sitting more than an hour.
- ☐ Pain prevents me from sitting more than 1/2 hour
- ☐ Pain prevents me from sitting more than 10 minutes
- ☐ Pain prevents me from sitting at all.

ALWAYS SHIFTING FOR COMFORTABLE POSITION

Section 6 - Standing
- ☐ I can stand as long as I want without extra pain
- ☒ I can stand as long as I want but it gives me extra pain
- ☐ Pain prevents me from standing more than 1 hour.
- ☐ Pain prevents me from standing more then 30 minutes.
- ☐ Pain prevents me from standing more then 10 minutes.
- ☐ Pain prevents me from standing at all.

Section 7 - Sleeping
- ☐ Pain does not prevent me from sleeping at all.
- ☐ I can sleep well only by using tablets.
- ☒ Even when I take tablets, I have less than 6 hours sleep.
- ☐ Even when I take tablets, I have less than 4 hours sleep
- ☐ Even when I take tablets, I have less than 2 hours sleep.
- ☐ Pain prevents me from sleeping at all.

Section 8 - Sex Life
- ☐ My sex life is normal and causes no extra pain.
- ☐ My sex life is normal but causes some extra pain
- ☐ My sex life is nearly normal but is very painful.
- ☒ My sex life is severely restricted by pain.
- ☐ My sex life is nearly absent because of pain.
- ☐ Pain prevents any sex life at all

Section 9 - Social Life
- ☐ My social life is normal and gives no extra pain.
- ☐ My social life is normal but increases the degree of pain.
- ☐ Pain has no significant effect on my social life apart from limiting my more energetic interest, e.g. dancing, etc.
- ☒ Pain has restricted my social life and I do not go out as often.
- ☐ Pain has restricted my social life to my home.
- ☐ I have no social life because of pain.

Section 10 - Traveling
- ☐ I can travel anywhere without extra pain.
- ☐ I can travel anywhere but it gives me extra pain.
- ☒ Pain is bad but I can manage journeys over 2 hours.
- ☐ Pain restricts me to journeys of less than 1 hour.
- ☐ Pain restricts me to short, necessary journeys less than 30 minutes
- ☐ Pain prevents me from traveling except to the doctor or hospital.

This spine follow-up form was reviewed by _____ **MD/NP Date:** _____

CASEY, DAVID (id # ID # , dob: DOB 1977)

MAR/14/2019/THU 11:32 AM FAX No. P. 001

CASEY, DAVID DOB 77 # ID #



* 2479226w5499 E-HealthFx

GENERAL MEDICAL INFORMATION

Reason for your visit today? Worker's Comp

Was this the result of an accident? ___No ✓ Yes If yes, DATE of accident and please describe.

Date: 12/10/18 I was smashed in between two truck

Where did the injury occur? Work ✓ Auto ___ Home ___ Other ___

Primary Physician Information Name: Dr Askins Lexington Family Medical	Other Specialist Involved in care?:
Please provide your preferred pharmacy information	
Preferred Pharmacy: Name: CVS Address: 2373 Augusta Hwy Phone:	Mail-In Pharmacy: Name: Address: Phone:

Height: 5'8 Weight: 220 Current Pain Scale: (circle one number)

MILD			MODERATE				SEVERE			
NO PAIN	1	2	3	4	5	6	7	8	9	10 SEVERE PAIN

ALLERGIES AND REACTIONS (list allergies to Medications, Metals or Latex)

Name of Allergy:	Reaction:	Name of Allergy:	Reaction:

FAMILY HISTORY please check any that have occurred with a blood relatives

	Relationship		Relationship
Blood Clots in Legs or Lungs		Heart Disease	
Bleeding Disorder		Aneurysm	
Osteoporosis		High blood pressure ✓	SISTER
Osteoarthritis		Diabetes	
Rheumatoid arthritis		Nerve Disease	
Muscle or Bone Disease		Depression	
Cancer		Lupus	
Thyroid disease		Malignant Hyperthermia	

CASEY, DAVID (id # ID # , dob: DOB 1977)

MAR/14/2019/THU 11:32 AM FAX No. P. 002

CASEY, DAVID DOB 77 # ID #

MIDLANDS orthopaedics & NEUROSURGERY

*2479226w5499 E-HealthHx

Social History: *(please circle what applies to you)*

Are you a: Current Smoker | Nonsmoker | (Former Smoker)
Tobacco-years of use (current and former smokers): 11e
If current smoker, how often do you smoke cigarettes? Every Day | Some Days
If current smoker, how much do you smoke per day? ¼ PD | ½ PD | 1PD | 1 ½ PD | 2PD | 3PD
Cigar/pipe Use: Yes | No
Chewing Tobacco: 1/day | 2-4/day | 5/day
Alcohol: None | (Occasional) | Moderate | Heavy
Number of Children? 4
Marital Status: (Married) | Single | Divorced | Separated | Widowed | Domestic Partner
Diet: (Regular) | Vegetarian | Vegan | Gluten free | Carbohydrate (limited) | Cardiac | Diabetic
Work History: Disabled | Student | Homemaker | Retired
Are you currently employed? (Yes) No Are you currently working? Yes | (No)
Occupation: UXO Tech III
Employer: APTIM
Type of work: UXO Contractor

Surgical History/Broken Bones/Recent Hospitalizations:	All Daily Medications
Please List:	Please list:
Lipoma Removal Fractured Tibia	Diclofenac Vitamin D Metformin Soma Hydrocodone

CASEY, DAVID (id # ID # , dob: DOB 1977)

MAR/14/2019/THU 11:32 AM FAX No. P. 003

MIDLANDS orthopaedics & NEUROSURGERY

CASEY, DAVID DOB 77 # ID #



* 2479226w5499 E-HealthHx

Past Medical History: *(please circle all that apply to you)*		
Blood Clots in legs or lungs	Diabetes	Bronchitis
High Blood Pressure	Lupus	Skin Disorder
Congestive Heart Failure	Parkinson's Disease	Enlarged prostate
Heart Disease	Multiple Sclerosis	Bladder disease
Mitral Valve Prolapse	Hepatitis B or C	Kidney disease
Heart Attack	Stomach Ulcers	Seizure disorder
Irregular Heart Beat	Irritable Bowel	Thyroid Disorder
Congenital Heart Defect	Heartburn	Cancer
High Cholesterol	Liver Disease	Glaucoma
Stroke	Pneumonia	Osteoarthritis
Circulation problems	Tuberculosis	Rheumatoid Arthritis
Bleeding disorder	Emphysema	Restless legs
Gout	Infectious Blood Disease	Pregnancy (current or recent)

Do you have sleep apnea? Yes or No
If yes, do you use C-PAP or Bi-PAP? Yes or (No) Device Settings:

Do you have cardiac stents: Yes or (No) If yes, please list date(s):

Do you have a pacemaker or AICD? Yes or (No) If yes, please date of placement:

Review of Systems: *(Please circle all that apply to you)*

Mouth/Throat: sore throat | bleeding gums | snoring | dry mouth | mouth ulcers | oral abnormalities | teeth problems

Cardiovascular: shortness of breath | palpitations | heart murmur

Respiratory: coughing | wheezing | shortness of breath | coughing up blood | sleep apnea

Musculoskeletal: muscle aches | muscle weakness | joint pain | back pain | swelling in extremities | cramps | Osteoporosis | recent fracture | neck pain

Any additional information you would like to share:

CASEY, DAVID (id #[ID #], dob: [DOB]1977)

MAR/14/2019/THU 11:33 AM FAX No. P. 004

MIDLANDS orthopaedics & NEUROSURGERY

CASEY, DAVID [DOB]77 # [ID #]

[redacted]

^2479226w5499 E-HealthHx

History of Present Illness: *(Please circle all that apply).*

Body Part: Right side of back

Location: left | right | left & right | front | back | in the middle | on the side | deep | surface

Type of pain: aching | burning | gnawing | stabbing | throbbing | sharp | dull | superficial | deep | occasional | frequent | constant | worsening | improving | not changing warm intermittently

Severity: no pain | mild | moderate | severe | pain level 3-4 /10 | worst pain ___/10

Duration: date of onset:_____ | days_____ | weeks_____ | months _____ |years _____ | continuous since onset

Timing: cannot identify | acute | chronic | gradual | morning | daytime | nighttime | recurrent | rare | occasional | intermittent episodes lasting:_____

How did injury occur: fall | bending | lifting | twisting | sports injury | work injury | MVA | assault | overuse | cut | no injury

What helps ease the pain/discomfort: nothing helps | sitting | standing | lying down | position change | heat | ice | rest | elevation | exercise | stretching | limited weight bearing | PT/OT | chiropractic care | ESI | over the counter medication | narcotics | NSAIDs | cortisone injection | visc supplement injection | orthotics | previous surgery | brace | crutches | cane | wheelchair | walker

What movements cause pain/discomfort: cannot identify | sitting | standing | lying down | walking | lifting | ALL DEPENDS ON carrying | twisting | bending/squatting | pushing/pulling | weight-bearing | exercise | previous surgery | changing POSITION clothes | getting out of bed | going from sit to stand | upstairs | downstairs | morning | daytime | nighttime | cold weather | damp weather

Describe the pain/discomfort: weakness | numbness | tingling | swelling | redness | warmth | bruising | catching/locking | popping/clicking | buckling | grinding | instability | radiation down leg | drainage | fever | chills | weight loss | loss of consciousness | seizures | dizziness | headaches | migraines | restless legs | loss of bowel/bladder habits RADIATION UP/DOWN BACK

Previous Surgery:(on affected body part): none | Yes, date:_____

Prior Imaging: no recent studies | x ray | MRI | CT scan | bone scan | EMG

Previous Injections: none | did not help | helped a little | helped temporarily | helped significantly

Previous Physical Therapy: none | did not help | helped a little | helped temporarily | helped significantly HELP MODERATELY

Working: no | regular duty | modified duty

CASEY, DAVID (id # ID # dob: DOB 1977)

MAR/14/2019/THU 11:33 AM FAX No. P. 007

MIDLANDS orthopaedics &NEUROSURGERY

CASEY, DAVID DOB 77 # ID #

*2479226w5499 E-HealthHx

LAST NAME:	FIRST NAME:	MIDDLE INITIAL:
Casey	David	B
GENDER: Male	DATE OF BIRTH: DOB /77	SS#: SS#

MAILING ADDRESS:	CITY:	STATE:	ZIP CODE:
521 Meadow Grass Lane	Lexington	SC	29072

HOME #:	MOBILE #: (252) 267-6136	WORK #:
(803) 520-6158	CONSENT TO TEXT: YES or NO	

Email: Consent to call: YES or NO dbcasey jr1@yahoo.com Contact preference: (please circle) Home # Cell # Work # Email Mail Portal

LANGUAGE: ENGLISH DECLINE TO ANSWER ☐	RACE: BLACK DECLINE TO ANSWER ☐	ETHNICITY: DECLINE TO ANSWER ☐

MARITAL STATUS:	Emergency Contact Name/Relationship:	Mobile #: (252) 267-4152 Home #: (803) 520-6158
M	Deirdre Casey	

PATIENT'S EMPLOYER: APTIM Referring Doctor: Worker's Comp

OCCUPATION: UXO Tech III ☐ Self referred

GUARANTOR - PERSON RESPONSIBLE FOR THE BILL IF THE PATIENT IS A MINOR OR STUDENT:

LAST NAME:	FIRST NAME:	RELATIONSHIP:

MAILING ADDRESS:	CITY:	STATE:	ZIP CODE:

DATE OF BIRTH:	SS#:	HOME #:	MOBILE #:	WORK #:

*INSURANCE INFORMATION *COPIES OF YOU INSURANCE CARDS ARE REQUIRED**

INSURANCE #1 (PRIMARY INSURANCE)		INSURANCE #2 (SECONDARY INSURANCE)	
INSURED'S NAME:	RELATIONSHIP TO PATIENT:	INSURED'S NAME:	RELATIONSHIP TO PATIENT:
SS# OF INSURED (IF DIFFERENT FORM PATIENT): ☐ SAME AS ABOVE		SS# OF INSURED (IF DIFFERENT FORM PATIENT):	
DATE OF BIRTH OF INSURED: ☐ SAME AS ABOVE		DATE OF BIRTH OF INSURED:	
INSURED'S EMPLOYER (IF DIFFERENT FROM PATIENT): ☐		INSURED'S EMPLOYER (IF DIFFERENT FROM PATIENT):	

Work Comp

I acknowledge that by providing insurance information, I have asked and promised to pay for services provided in exchange for this information. I assign to Midlands Orthopaedics & Neurosurgery, PA, all health insurance benefits available for services provided to me. I understand that fees for services provided by Midlands Orthopaedics & Neurosurgery, PA, are my responsibility and I agree to pay any balance left unpaid by any insurance company or third party entity immediately upon notification of said balance. If I do not have insurance, I understand that I am responsible for any incurred expenses in their entirety.

Patient/Guarantor: David B Casey Jr Date: 3/14/18

MIDLANDS ORTHOPAEDICS & NEUROSURGERY (MON) AUTHORIZATIONS AND ACKNOW

1. **NOTICE OF PRIVACY POLICIES:** I have been offered a copy of the *MON Notice of Privacy Policies* detailing how my protected health information (PHI) may be used and disclosed as permitted under federal and state law. I understand that MON is permitted to disclose my PHI without my authorization to facilitate treatment, payment and health care operations. This Notice is always available on the MON website *(www.midorthoneuro.com)* and at each office location upon request.

2. **FINANCIAL POLICY:** I have been offered a copy of the *MON Financial Policy* and acknowledge its requirements. This Notice is always available on the MON website *(www.midorthoneuro.com)* and at each office location upon request.

3. **ePrescribe:** I understand that MON utilizes electronic health record software which incorporates ePrescribing technology. I understand that MON may access and use my prescription history through ePrescribing software to facilitate appropriate treatment.

4. **PAPERLESS BILLING:** MON delivers paperless billing statements via our patient portal. I understand that I am automatically enrolled to receive paperless billing statements via the email address provided at registration. Changes to statement preferences may be made via the patient portal at any time.

5. **PATIENT PORTAL:** The patient portal is the most efficient tool to securely request appointments and communicate with our staff members, allowing you to bypass our phone system completely. Registering by smartphone is fast and easy. Ask the front desk staff to send a text with the registration link. Use the link and temporary password to login. You may also follow the Patient Portal link on our website (www.midorthoneuro.com), and click "Sign Up Today." You will need to enter your name, date of birth and email address as they appear in your MidOrthoNeuro account.

I acknowledge understanding of the items described on this Authorizations & Acknowledgements form.

David B Casey Jr 3/14/19

Patient/Guardian Signature *Date*

CASEY, DAVID (id # [redacted], dob: [redacted] 1977)

MAR/14/2019/THU 11:34 AM FAX No. P. 009

CASEY, DAVID [redacted] 77 # [redacted]

*2479226w5499 E-HealthHx

HIPAA PRIVACY AUTHORIZATION

I hereby authorize Midlands Orthopaedics & Neurosurgery, PA, to use and/or disclose the protected health information below to: [Name of individual, Address, and Telephone Number] (i.e. Spouse, Family member, Doctor, etc)

NAME	CONTACT INFORMATION
Deirdre Casey	(803) 520-6158
Shelley Leeke Law Firm	(843) 297-8485

Authorization for Release of Information:

-Covering the period of health care from:

Date: _____ to _____ *OR* ☑ All past, present and future periods

-Covering the following protected health information:

☑ I hereby authorize the release of my complete health record

☐ I hereby authorize the release of my complete health record with the exception of the following Information:

_____

_____

- I understand that I have the right to revoke this authorization, in writing, at any time. I understand that a revocation is not effective to the extent that any person or entity has already acted in reliance on my authorization or if my authorization was obtained as a condition of obtaining insurance coverage and the insurer has a legal right to contest a claim.
- I understand that my treatment, payment, enrollment or eligibility for benefits will not be conditioned upon signing this authorization.
- I understand that information used or disclosed pursuant to this authorization may be disclosed by the recipient and may no longer be protected by federal or state law.

David B Casey Jr 3/14/19

Signature of Patient or Personal Representative — Date

Print Name of Patient or Personal Representative — Relationship to Patient

APA #7

SOUTH CAROLINA DIAGNOSTIC IMAGING

Palmetto Imaging at Irmo
1 Wellness Boulevard, Suite 100, Irmo, SC 29063
p: (803) 732-1741 f: (803) 732-2982

PATIENT NAME: Casey, David
DOB: DOB 1977
MRN: 08-1387714
PHONE: 252-267-0136
PHYSICIAN: Ivan E. Lamotta, MD
EXAM DATE: 03/12/2019

EXAM: MR-Lumbar Spine without contrast

REASON FOR EXAM: M54.5 - Low back pain

ADDITIONAL HISTORY:

COMPARISON:

TECHNIQUE: Multiplanar, multisequence imaging of the lumbar spine without contrast.

No renal obstruction or aortic caliber abnormality as sources for back pain. Cord terminates normally without contour deforming lesion.

No vertebral body compression or pathologic edema. No spondylolisthesis.

Each disc level has normal height and hydration. No level with bulge or herniation. No significant facet hypertrophy. No central or foraminal stenoses.

IMPRESSION: Unremarkable lumbar spine.

William Perry Edenfield, MD

*** THIS IS AN ELECTRONICALLY VERIFIED REPORT ***
3/13/2019 10:38 AM: William Perry Edenfield, MD

WPE/wpe
DD: 03/13/2019 10:37 am
DT: 03/13/2019 10:38 am
Accession #: 08-3038937

APA #8

Progressive Physical Therapy

Patient Information

Please Print

Claim Type: (check one) ☐ Workers' Compensation ☒ Health Insurance ☐ Self-Pay ☐ Personal Injury/Attorney

PATIENT DEMOGRAPHICS

DAVID	B	CASEY	JR	DOB 1977	☒ Male ☐ Female
First Name	Middle Name	Last Name	Suffix	Date of Birth	
521 MEADOW GRASS LANE		LEXINGTON	SC	29072	
Mailing Address	Apt. #	City	State	Zip	
803-520-6158		dbcasey1c77@yahoo.com			
Home Phone Number	Cell Phone Number	Email Address			
5	8	~~230~~ 217	439-41-0221e	ENGLISH	☐ Single ☐ Married
Height (feet)	Height (inches)	Weight	Social Security Number	Language	

Have you been treated at Progressive Physical Therapy before? ☐ Yes ☐ No

How did you hear about us? ☐ Radio ☐ TV ☐ Friend ☐ Referral ☐ Phone Book ☐ Internet ☐ Sign ☐ Other

EMERGENCY CONTACT: DEIRDRE CASEY (Name) WIFE (Relationship) (252) 267-4152 (Phone Number) (Address)

RESPONSIBLE PARTY: (Name) (Social Security Number) (Address)

INJURY DETAILS

LOW BACK
Type of Injury

Date of Injury

EMPLOYMENT INFORMATION

Employer Name | Occupation | Employment Status

Employment Contact Name | Phone Number | Address

Has a claim been filed to the workers' compensation carrier? ☐ Yes ☐ No

MEDICAL INSURANCE INFORMATION (Please present your insurance card and ID with this form)

PRIMARY INSURANCE

CIGNA	U6427348001	3340960	Are you the policyholder? ☒ Yes ☐ No*
Insurance Company Name	Policy Number	Group Number	

*COMPLETE THIS BOX IF YOU ARE NOT THE POLICY HOLDER FOR YOUR PRIMARY INSURANCE

Policy Holder's Name	Date of Birth	Social Security Number	Relationship to Patient: ☐ Self ☐ Spouse ☐ Child ☐ Other
Policy Holder's Address		Policy Holder's Employer	

SECONDARY INSURANCE

Insurance Company Name	Policy Number	Group Number	Are you the policyholder? ☐ Yes ☐ No*

*COMPLETE THIS BOX IF YOU ARE NOT THE POLICY HOLDER FOR YOUR SECONDARY INSURANCE

Policy Holder's Name	Date of Birth	Social Security Number	Relationship to Patient: ☐ Self ☐ Spouse ☐ Child ☐ Other
Policy Holder's Address		Policy Holder's Employer	

Do you have Medicare? ☐ Yes ☒ No (If yes, please give a copy of your card to the front desk.)

AUTHORIZATION

By my signature below, I hereby authorize the release of medical information needed to process my claim through my insurance company. I authorize my insurance benefits to be paid directly to Progressive Therapy Services and agree that I am financially responsible for any amounts not covered and/or paid by them. It is the policy of this office to collect charges for services as they are rendered, unless prior arrangements are made and credit is established. Insurance patients are responsible for paying their co-payments and deductible at the time services are rendered.

I hereby authorize such treatment as is necessary and to perform medical treatment on the basis of findings during the course of said treatment. I hereby certify that I have read and fully understand the above authorization for treatment, the reason the above named treatment is considered necessary the advantages and possible complications, if any, as well as possible alternative modes of treatment which were explained to me. I also certify that no guarantee or assurance had been made as to the results that may be obtained.

X David B Casey Jr 1/28/2019

Patient or Responsible Party's Signature | Date

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[PPT-F013-(10-16)]

Progressive Physical Therapy

Time In: 8:00
Time Out: 8:58

PATIENT ACCT NUMBER	VISIT DATE	VISIT ID	VISIT REASON
P. ACCT #	02/22/2019	8343624	Follow up

PATIENT NAME: David Casey Jr DOB: DOB 1977
ADDRESS: 521 MEADOW GRASS
CITY: LEXINGTON STATE: SC ZIP: 29072
PATIENT PHONE: (803) 520-6158
INSURANCE: CIGNA

INSURANCE BALANCE	
ACCOUNT BALANCE	
CURRENT CHARGES	$154
AMOUNT PAID	
NEW BALANCE	

CASH	CHECK	M.O.	C.C.

	PROCEDURES	CPT	FEE
☐	PT Eval Low Complex 20 Min Start:_____/ End:_____	97161	
☐	PT Eval Mod Complex 30 Min Start:_____/ End:_____	97162	
☐	PT Eval High Complex 45 Min Start:_____/ End:_____	97163	
☐	PT Re-Eval	97164	
☐	OT Eval Low Complex 30 Min Start:_____/ End:_____	97165	
☐	OT Eval Mod Complex 45 Min Start:_____/ End:_____	97166	
☐	OT Eval High Complex 60 Min Start:_____/ End:_____	97167	
☐	OT Re-Eval	97168	
☐	Functional Capacity Evaluation	97750	
☐	Work Hardening, 2 hours	97545	
☐	Work Hardening, additional 1 hour	97546	
☑	Therapeutic Exercise, 15 min Start: 9:00 / End: 9:58 (4)	97110	$184
☐	Functional Activities, 15 min Start:_____/ End:_____	97530	
☐	Electrical Stim., Unattended, 15 min Start:_____/ End:_____	97014	
☐	Electrical Stim., Unattended, 15 min, Medicare Start:_____/ End:_____	G0283	
☐	Ultrasound, 15 min Start:_____/ End:_____	97035	
☐	Gait Start:_____/ End:_____	97116	
☐	Manual Therapy Start:_____/ End:_____	97140	
☐	Neuromuscular Re-Educ., 15 min Start:_____/ End:_____	97112	
☐	Group Start:_____/ End:_____	97150	
☐	Self Care Training, 15 min Start:_____/ End:_____	97535	
☐	ROM Measure and Report Start:_____/ End:_____	95851	
☐	Mechanical Traction Start:_____/ End:_____	97012	

NOTES

ICD-10 CODE:

S'. Doing good -

O'. Arc flow start

A'. Tol all well,

P'. ~~CP~~ PDL
Arc P/C

☐ Other / Supplies (99070) $_____

Visit Number: 12 of 12
Staff: Shaun Smith, PTA
Therapist Signature:

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IPPT-F088-(01-19)]

Progressive Physical Therapy

Time In: 8:00
Time Out: 9:05

PATIENT ACCT NUMBER	VISIT DATE	VISIT ID	VISIT REASON
P. ACCT #	02/20/2019	8343602	Follow up

PATIENT NAME: David Casey Jr DOB: DOB 977
ADDRESS: 521 MEADOW GRASS
CITY: LEXINGTON STATE: SC ZIP: 29072
PATIENT PHONE: (803) 520-6158
INSURANCE: CIGNA

INSURANCE BALANCE	
ACCOUNT BALANCE	
CURRENT CHARGES	$184
AMOUNT PAID	
NEW BALANCE	

CASH	CHECK	M.O.	C.C.

	PROCEDURES	CPT	FEE
☐	PT Eval Low Complex 20 Min Start:____ / End:____	97161	
☐	PT Eval Mod Complex 30 Min Start:____ / End:____	97162	
☐	PT Eval High Complex 45 Min Start:____ / End:____	97163	
☐	PT Re-Eval	97164	
☐	OT Eval Low Complex 30 Min Start:____ / End:____	97165	
☐	OT Eval Mod Complex 45 Min Start:____ / End:____	97166	
☐	OT Eval High Complex 60 Min Start:____ / End:____	97167	
☐	OT Re-Eval	97168	
☐	Functional Capacity Evaluation	97750	
☐	Work Hardening, 2 hours	97545	
☐	Work Hardening, additional 1 hour	97546	
X	Therapeutic Exercise| 15 min Start: 8:00 / End: 8:55 (4)	97110	$184
☐	Functional Activities, 15 min Start:____ / End:____	97530	
☐	Electrical Stim., Unattended, 15 min Start:____ / End:____	97014	
☐	Electrical Stim., Unattended, 15 min, Medicare Start:____ / End:____	G0283	
☐	Ultrasound, 15 min Start:____ / End:____	97035	
☐	Gait Start:____ / End:____	97116	
☐	Manual Therapy Start:____ / End:____	97140	
☐	Neuromuscular Re-Educ., 15 min Start:____ / End:____	97112	
☐	Group Start:____ / End:____	97150	
☐	Self Care Training, 15 min Start:____ / End:____	97535	
☐	ROM Measure and Report Start:____ / End:____	95851	
☐	Mechanical Traction Start:____ / End:____	97012	

NOTES

ICD-10 CODE:

S: LB + (D Lg's pain

O: Ab flow Rigid

A: Tol all fairly well.

P: Cont for bil ADL quadrupled mgt and

☐ Other / Supplies (99070) $____

Visit Number: 11 of 12

Staff: Kelli Anthony, PTA / Kelli Anthony, PTA

Therapist Signature:

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[PPT-F006-(01-19)]

Progressive Physical Therapy

Time In: 7:31

Time Out:

PATIENT ACCT NUMBER	VISIT DATE	VISIT ID	VISIT REASON
P.	02/19/2019	8343657	Follow up

PATIENT NAME: David Casey Jr DOB: DOB 1977

ADDRESS: 521 MEADOW GRASS

CITY: LEXINGTON STATE: SC ZIP: 29072

PATIENT PHONE: (803) 520-6158

INSURANCE: CIGNA

INSURANCE BALANCE	
ACCOUNT BALANCE	
CURRENT CHARGES	$184
AMOUNT PAID	
NEW BALANCE	

CASH	CHECK	M.O.	C.C.

	PROCEDURES	CPT	FEE
☐	PT Eval Low Complex 20 Min Start:____ / End:____	97161	
☐	PT Eval Mod Complex 30 Min Start:____ / End:____	97162	
☐	PT Eval High Complex 45 Min Start:____ / End:____	97163	
☐	PT Re-Eval	97164	
☐	OT Eval Low Complex 30 Min Start:____ / End:____	97165	
☐	OT Eval Mod Complex 45 Min Start:____ / End:____	97166	
☐	OT Eval High Complex 60 Min Start:____ / End:____	97167	
☐	OT Re-Eval	97168	
☐	Functional Capacity Evaluation	97750	
☐	Work Hardening, 2 hours	97545	
☐	Work Hardening, additional 1 hour	97546	
X	Therapeutic Exercise, 15 min Start: 7:31 / End: 8:25 (4)	97110	$184
☐	Functional Activities, 15 min Start:____ / End:____	97530	
☐	Electrical Stim., Unattended, 15 min Start:____ / End:____	97014	
☐	Electrical Stim., Unattended, 15 min, Medicare Start:____ / End:____	G0283	
☐	Ultrasound, 15 min Start:____ / End:____	97035	
☐	Gait Start:____ / End:____	97116	
☐	Manual Therapy Start:____ / End:____	97140	
☐	Neuromuscular Re-Educ., 15 min Start:____ / End:____	97112	
☐	Group Start:____ / End:____	97150	
☐	Self Care Training, 15 min Start:____ / End:____	97535	
☐	ROM Measure and Report Start:____ / End:____	95851	
☐	Mechanical Traction Start:____ / End:____	97012	

NOTES

ICD-10 CODE:

S: "Im feeling better." Reports "yesterday I was able to pick up my daughter and it didnt hurt." "considerably less pain."

O: Therex per flowsheet PT Reps c SLR/Abd. Declined CP today.

A: No problems c ↑ Reps today. No ↑ pain c therex today.

P: cont PT per POC.

☐ Other / Supplies (99070) $____

Visit Number: 10 of 12

Staff: Kelli J Anthony, PTA KJA PTA

Therapist Signature:

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[PPT-F038-(01-19)]

Progressive Physical Therapy

Time In: 9:00
Time Out: 10:05

PATIENT ACCT NUMBER	VISIT DATE	VISIT ID	VISIT REASON
P. ACCT #	02/15/2019	8342368	Follow up

PATIENT NAME: David Casey Jr DOB: DOB 1977
ADDRESS: 621 MEADOW GRASS
CITY: LEXINGTON STATE: SC ZIP: 29072

PATIENT PHONE: (803) 520-6158
INSURANCE: CIGNA

INSURANCE BALANCE	
ACCOUNT BALANCE	
CURRENT CHARGES	$194
AMOUNT PAID	
NEW BALANCE	

CASH	CHECK	M.O.	C.C.

	PROCEDURES	CPT	FEE
☐	PT Eval Low Complex 20 Min Start:_____ / End:_____	97161	
☐	PT Eval Mod Complex 30 Min Start:_____ / End:_____	97162	
☐	PT Eval High Complex 45 Min Start:_____ / End:_____	97163	
☐	PT Re-Eval	97164	
☐	OT Eval Low Complex 30 Min Start:_____ / End:_____	97165	
☐	OT Eval Mod Complex 45 Min Start:_____ / End:_____	97166	
☐	OT Eval High Complex 60 Min Start:_____ / End:_____	97167	
☐	OT Re-Eval	97168	
☐	Functional Capacity Evaluation	97750	
☐	Work Hardening, 2 hours	97545	
☐	Work Hardening, additional 1 hour	97546	
☐	Therapeutic Exercise, 15 min Start: 9:00 / End: 10:05 (4)	97110	$194
☐	Functional Activities, 15 min Start:_____ / End:_____	97530	
☐	Electrical Stim., Unattended, 15 min Start:_____ / End:_____	97014	
☐	Electrical Stim., Unattended, 15 min, Medicare Start:_____ / End:_____	G0283	
☐	Ultrasound, 15 min Start:_____ / End:_____	97035	
☐	Gait Start:_____ / End:_____	97116	
☐	Manual Therapy Start:_____ / End:_____	97140	
☐	Neuromuscular Re-Educ., 15 min Start:_____ / End:_____	97112	
☐	Group Start:_____ / End:_____	97150	
☐	Self Care Training, 15 min Start:_____ / End:_____	97535	
☐	ROM Measure and Report Start:_____ / End:_____	95851	
☐	Mechanical Traction Start:_____ / End:_____	97012	

NOTES

ICD-10 CODE:

S: Pt. states he spent most of his day yesterday at the ER with his wife.

O: Ther Ex per flow sheet x 65 mins

A: No significant difficulty c exercises.

P: Cont. per POC

☐ Other / Supplies (99070) $_____

Visit Number: 9 of 12
Staff: Beau Smith, PTA
Therapist Signature:_____

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[PPT-F088-(01-19)]

Progressive Physical Therapy

Time In: 8:00
Time Out: 8:55

PATIENT ACCT NUMBER	VISIT DATE	VISIT ID	VISIT REASON
P. ACCT #	02/13/2019	8341431	Follow up

PATIENT NAME: David Casey Jr DOB: DOB 1977
ADDRESS: 521 MEADOW GRASS
CITY: LEXINGTON STATE: SC ZIP: 29072
PATIENT PHONE: (803) 520-6158
INSURANCE: CIGNA

INSURANCE BALANCE	
ACCOUNT BALANCE	$184
CURRENT CHARGES	
AMOUNT PAID	
NEW BALANCE	

CASH	CHECK	M.O.	C.C.

	PROCEDURES	CPT	FEE
☐	PT Eval Low Complex 20 Min Start:_____ / End:_____	97161	
☐	PT Eval Mod Complex 30 Min Start:_____ / End:_____	97162	
☐	PT Eval High Complex 45 Min Start:_____ / End:_____	97163	
☐	PT Re-Eval	97164	
☐	OT Eval Low Complex 30 Min Start:_____ / End:_____	97165	
☐	OT Eval Mod Complex 45 Min Start:_____ / End:_____	97166	
☐	OT Eval High Complex 60 Min Start:_____ / End:_____	97167	
☐	OT Re-Eval	97168	
☐	Functional Capacity Evaluation	97750	
☐	Work Hardening, 2 hours	97545	
☐	Work Hardening, additional 1 hour	97546	
☐	Therapeutic Exercise, 15 min Start: 8:00 / End: 8:55 (4)	97110	$184
☐	Functional Activities, 15 min Start:_____ / End:_____	97530	
☐	Electrical Stim., Unattended, 15 min Start:_____ / End:_____	97014	
☐	Electrical Stim., Unattended, 15 min, Medicare Start:_____ / End:_____	G0283	
☐	Ultrasound, 15 min Start:_____ / End:_____	97035	
☐	Gait Start:_____ / End:_____	97116	
☐	Manual Therapy Start:_____ / End:_____	97140	
☐	Neuromuscular Re-Educ, 15 min Start:_____ / End:_____	97112	
☐	Group Start:_____ / End:_____	97150	
☐	Self Care Training, 15 min Start:_____ / End:_____	97535	
☐	ROM Measure and Report Start:_____ / End:_____	95851	
☐	Mechanical Traction Start:_____ / End:_____	97012	

NOTES

ICD-10 CODE:

S: "I was able to relax this past weekend & my back is feeling a lot better."

O: Ther Ex per flow sheet x 55 mins; Pt. declined modalities.

A: Exercises becoming easier for pt.

P: Cont. per POC

☐ Other / Supplies (99070) $_____

Visit Number: 8 of 12

Staff: Dean Smith, PTA

Therapist Signature:_____

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[PPT-F088-(01-19)]

Progressive Physical Therapy

Time In: 350
Time Out: 412

PATIENT ACCT NUMBER	VISIT DATE	VISIT ID	VISIT REASON
P. ACCT #	02/11/2019	8341406	Follow up

PATIENT NAME: David Casey Jr DOB: DOB/1977
ADDRESS: 521 MEADOW GRASS
CITY: LEXINGTON STATE: SC ZIP: 29072
PATIENT PHONE: (803) 520-6158
INSURANCE: CIGNA

INSURANCE BALANCE	
ACCOUNT BALANCE	$184
CURRENT CHARGES	
AMOUNT PAID	
NEW BALANCE	

CASH	CHECK	M.O.	C.C.

	PROCEDURES	CPT	FEE
☐	PT Eval Low Complex 20 Min Start:_____ / End:_____	97161	
☐	PT Eval Mod Complex 30 Min Start:_____ / End:_____	97162	
☐	PT Eval High Complex 45 Min Start:_____ / End:_____	97163	
☐	PT Re-Eval	97164	
☐	OT Eval Low Complex 30 Min Start:_____ / End:_____	97165	
☐	OT Eval Mod Complex 45 Min Start:_____ / End:_____	97166	
☐	OT Eval High Complex 60 Min Start:_____ / End:_____	97167	
☐	OT Re-Eval	97168	
☐	Functional Capacity Evaluation	97750	
☐	Work Hardening, 2 hours	97545	
☐	Work Hardening, additional 1 hour	97546	
☑	Therapeutic Exercise, 15 min Start: 350 / End: 400 (8)	97110	$184
☐	Functional Activities, 15 min Start:_____ / End:_____	97530	
☐	Electrical Stim., Unattended, 15 min Start:_____ / End:_____	97014	
☐	Electrical Stim., Unattended, 15 min, Medicare Start:_____ / End:_____	G0283	
☐	Ultrasound, 15 min Start:_____ / End:_____	97035	
☐	Gait Start:_____ / End:_____	97116	
☐	Manual Therapy Start:_____ / End:_____	97140	
☐	Neuromuscular Re-Educ., 15 min Start:_____ / End:_____	97112	
☐	Group Start:_____ / End:_____	97150	
☐	Self Care Training, 15 min Start:_____ / End:_____	97535	
☐	ROM Measure and Report Start:_____ / End:_____	95851	
☐	Mechanical Traction Start:_____ / End:_____	97012	

NOTES

ICD-10 CODE:

S: Feeling Ambetter c/o L hip pain pt with

O: See flowsheet

A: Tol well

P: benefits

☐ Other / Supplies (99070) $_____

Visit Number: 7 of 12

Staff:_____

Therapist Signature:_____

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(PPT-F088-(01-19))

Progressive Physical Therapy

Time In: 8:07
Time Out: 9:17

PATIENT ACCT NUMBER	VISIT DATE	VISIT ID	VISIT REASON
P. ACCT #	02/08/2019	8340195	Follow up

PATIENT NAME: David Casey Jr DOB: DOB 1977
ADDRESS: 521 MEADOW GRASS
CITY: LEXINGTON STATE: SC ZIP: 29072
PATIENT PHONE: (803) 520-6158
INSURANCE: CIGNA

INSURANCE BALANCE	
ACCOUNT BALANCE	$709
CURRENT CHARGES	
AMOUNT PAID	
NEW BALANCE	

CASH	CHECK	M.O.	C.C.

	PROCEDURES	CPT	FEE
☐	PT Eval Low Complex 20 Min Start:_____ / End:_____	97161	
☐	PT Eval Mod Complex 30 Min Start:_____ / End:_____	97162	
☐	PT Eval High Complex 45 Min Start:_____ / End:_____	97163	
☐	PT Re-Eval	97164	
☐	OT Eval Low Complex 30 Min Start:_____ / End:_____	97165	
☐	OT Eval Mod Complex 45 Min Start:_____ / End:_____	97166	
☐	OT Eval High Complex 60 Min Start:_____ / End:_____	97167	
☐	OT Re-Eval	97168	
☐	Functional Capacity Evaluation	97750	
☐	Work Hardening, 2 hours	97545	
☐	Work Hardening, additional 1 hour	97546	
☐	Therapeutic Exercise, 15 min Start: 8:07 / End: 9:07 (4)	97110	$184
☐	Functional Activities, 15 min Start:_____ / End:_____	97530	
☐	Electrical Stim., Unattended, 15 min Start: 9:07 / End: 9:17 (1)	97014	$75
☐	Electrical Stim., Unattended, 15 min, Medicare Start:_____ / End:_____	G0283	
☐	Ultrasound, 15 min Start:_____ / End:_____	97035	
☐	Gait Start:_____ / End:_____	97116	
☐	Manual Therapy Start:_____ / End:_____	97140	
☐	Neuromuscular Re-Educ, 15 min Start:_____ / End:_____	97112	
☐	Group Start:_____ / End:_____	97150	
☐	Self Care Training, 15 min Start:_____ / End:_____	97535	
☐	ROM Measure and Report Start:_____ / End:_____	95851	
☐	Mechanical Traction Start:_____ / End:_____	97012	

NOTES

ICD-10 CODE:

S: Pt. states he's feeling okay this a.m.

O: Ther Ex per flow sheet x 60 mins; CP to low back x 10 mins. IFC to thoracolumbar area x 15 mins

A: Pt. able to complete all tasks c min-mod difficulty -

P: Cont. per POC

☐ Other / Supplies (99070) $_____

Visit Number: 4 of 12

Staff: Beau Smith, PTA

Therapist Signature:_____

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(PPT-F088-(01-19))

Progressive Physical Therapy

Time In: 8:58
Time Out: 10:06

PATIENT ACCT NUMBER	VISIT DATE	VISIT ID	VISIT REASON
P. ACCT #	02/06/2019	8339361	Follow up

PATIENT NAME: David Casey Jr DOB: DOB/1977
ADDRESS: 521 MEADOW GRASS
CITY: LEXINGTON STATE: SC ZIP: 29072
PATIENT PHONE: (803) 520-8158
INSURANCE: CIGNA

INSURANCE BALANCE	
ACCOUNT BALANCE	
CURRENT CHARGES	$209
AMOUNT PAID	
NEW BALANCE	

CASH	CHECK	M.O.	C.C.

	PROCEDURES	CPT	FEE
☐	PT Eval Low Complex 20 Min Start:_____/ End:_____	97161	
☐	PT Eval Mod Complex 30 Min Start:_____/ End:_____	97162	
☐	PT Eval High Complex 45 Min Start:_____/ End:_____	97163	
☐	PT Re-Eval	97164	
☐	OT Eval Low Complex 30 Min Start:_____/ End:_____	97165	
☐	OT Eval Mod Complex 45 Min Start:_____/ End:_____	97166	
☐	OT Eval High Complex 60 Min Start:_____/ End:_____	97167	
☐	OT Re-Eval	97168	
☐	Functional Capacity Evaluation	97750	
☐	Work Hardening, 2 hours	97545	
☐	Work Hardening, additional 1 hour	97546	
☐	Therapeutic Exercise, 15 min Start: 8:58 / End: 9:58 (4)	97110	$184
☐	Functional Activities, 15 min Start:_____/ End:_____	97530	
☐	Electrical Stim., Unattended, 15 min Start: 9:58 / End: 10:08 (1)	97014	$25
☐	Electrical Stim., Unattended, 15 min, Medicare Start:_____/ End:_____	G0283	
☐	Ultrasound, 15 min Start:_____/ End:_____	97035	
☐	Gait Start:_____/ End:_____	97116	
☐	Manual Therapy Start:_____/ End:_____	97140	
☐	Neuromuscular Re-Educ., 15 min Start:_____/ End:_____	97112	
☐	Group Start:_____/ End:_____	97150	
☐	Self Care Training, 15 min Start:_____/ End:_____	97535	
☐	ROM Measure and Report Start:_____/ End:_____	95851	
☐	Mechanical Traction Start:_____/ End:_____	97012	

NOTES

ICD-10 CODE

S: Pt. states the meds have been helping his back pain.

O: Ther-Ex per flow sheet x 60 mins; IFC to Thoracolumbar area for pain relief x 10 mins- pt. prone.

A: Pt. challenged by supine SLR/Abd today. Pain worst in lumbar paraspinals.

P: Cont. per POC

☐ Other / Supplies (99070) $_____

Visit Number: 5 of 12
Staff: Dawn Smith, PTA
Therapist Signature:_____

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[PPT-F088-(01-19)]

Progressive Physical Therapy

Time In: 8:00
Time Out: 8:58

PATIENT ACCT NUMBER	VISIT DATE	VISIT ID	VISIT REASON
P. ACCT #	02/04/2019	8338540	Follow up

PATIENT NAME: David Casey Jr DOB: DOB 1977
ADDRESS: 521 MEADOW GRASS
CITY: LEXINGTON STATE: SC ZIP: 29072
PATIENT PHONE: (803) 520-6168
INSURANCE: CIGNA

INSURANCE BALANCE	
ACCOUNT BALANCE	$138
CURRENT CHARGES	
AMOUNT PAID	
NEW BALANCE	

CASH	CHECK	M.O.	C.C.

	PROCEDURES	CPT	FEE
☐	PT Eval Low Complex 20 Min Start:_____ / End:_____	97161	
☐	PT Eval Mod Complex 30 Min Start:_____ / End:_____	97162	
☐	PT Eval High Complex 45 Min Start:_____ / End:_____	97163	
☐	PT Re-Eval	97164	
☐	OT Eval Low Complex 30 Min Start:_____ / End:_____	97165	
☐	OT Eval Mod Complex 45 Min Start:_____ / End:_____	97166	
☐	OT Eval High Complex 60 Min Start:_____ / End:_____	97167	
☐	OT Re-Eval	97168	
☐	Functional Capacity Evaluation	97750	
☐	Work Hardening, 2 hours	97545	
☐	Work Hardening, additional 1 hour	97546	
X	Therapeutic Exercise, 15 min Start: 8:00 / End: 8:48 (3)	97110	$138
☐	Functional Activities, 15 min Start:_____ / End:_____	97530	
☐	Electrical Stim., Unattended, 15 min Start:_____ / End:_____	97014	
☐	Electrical Stim., Unattended, 15 min, Medicare Start:_____ / End:_____	G0283	
☐	Ultrasound, 15 min Start:_____ / End:_____	97035	
☐	Gait Start:_____ / End:_____	97116	
☐	Manual Therapy Start:_____ / End:_____	97140	
☐	Neuromuscular Re-Educ., 15 min Start:_____ / End:_____	97112	
☐	Group Start:_____ / End:_____	97150	
☐	Self Care Training, 15 min Start:_____ / End:_____	97535	
☐	ROM Measure and Report Start:_____ / End:_____	95851	
☐	Mechanical Traction Start:_____ / End:_____	97012	

NOTES

ICD-10 CODE:

S: No new c/o.

O: Therex per flow sheet @ add'l strengthening (see flow sheet) CP to LB - pt in supine x 10 min.

A: No c/o problems/ pain c therex today.

P: cont PT per POC.

☐ Other / Supplies (99070) $_____

Visit Number: 4 of 12

Staff: Kelli Anthony, PTA

Therapist Signature:_____

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[PPT-FORM-(01-19)]

Progressive Physical Therapy

Time In: 10:02
Time Out: 10:51

PATIENT ACCT NUMBER	VISIT DATE	VISIT ID	VISIT REASON
P. ACCT #	02/01/2019	8336581	Follow up

PATIENT NAME: David Casey Jr DOB: DOB 1977
ADDRESS: 521 MEADOW GRASS
CITY: LEXINGTON STATE: SC ZIP: 29072
PATIENT PHONE: (803) 520-8168
INSURANCE: CIGNA

INSURANCE BALANCE	
ACCOUNT BALANCE	
CURRENT CHARGES	$138
AMOUNT PAID	
NEW BALANCE	

CASH | CHECK | M.O. | C.C.

	PROCEDURES	CPT	FEE
☐	PT Eval Low Complex 20 Min Start:_____ / End:_____	97161	
☐	PT Eval Mod Complex 30 Min Start:_____ / End:_____	97162	
☐	PT Eval High Complex 45 Min Start:_____ / End:_____	97163	
☐	PT Re-Eval	97164	
☐	OT Eval Low Complex 30 Min Start:_____ / End:_____	97165	
☐	OT Eval Mod Complex 45 Min Start:_____ / End:_____	97166	
☐	OT Eval High Complex 60 Min Start:_____ / End:_____	97167	
☐	OT Re-Eval	97168	
☐	Functional Capacity Evaluation	97750	
☐	Work Hardening, 2 hours	97545	
☐	Work Hardening, additional 1 hour	97546	
☑	Therapeutic Exercise, 15 min Start: 10:02 / End: 10:41 (3)	97110	$138
☐	Functional Activities, 15 min Start:_____ / End:_____	97530	
☐	Electrical Stim., Unattended, 15 min Start:_____ / End:_____	97014	
☐	Electrical Stim., Unattended, 15 min, Medicare Start:_____ / End:_____	G0283	
☐	Ultrasound, 15 min Start:_____ / End:_____	97035	
☐	Gait Start:_____ / End:_____	97116	
☐	Manual Therapy Start:_____ / End:_____	97140	
☐	Neuromuscular Re-Educ, 15 min Start:_____ / End:_____	97112	
☐	Group Start:_____ / End:_____	97150	
☐	Self Care Training, 15 min Start:_____ / End:_____	97535	
☐	ROM Measure and Report Start:_____ / End:_____	95851	
☐	Mechanical Traction Start:_____ / End:_____	97012	

NOTES

ICD-10 CODE:

S: Pain "manageable as usual". Starting taking mm relaxer 2x day.

O: Ther Ex per flow sheet x 39 mins; CP to L/S area x 15 mins.

A: Pt. had a little discomfort when stretching toward (R) side on (R) side c quadratus (S).

P: Cont. per POC.

☐ Other / Supplies (99070) $_____

Visit Number: 3 of 12
Staff: Dawn Smith, PTA
Therapist Signature:_____

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[PPT-F008-(01-19)]

Progressive Physical Therapy

Time In: 9:59
Time Out: 9:45

PATIENT ACCT NUMBER	VISIT DATE	VISIT ID	VISIT REASON
P. ACCT #	01/30/2019	8336580	Follow up

PATIENT NAME: David Casey Jr DOB: DOB 1977
ADDRESS: 521 MEADOW GRASS
CITY: LEXINGTON STATE: SC ZIP: 29072
PATIENT PHONE: (803)
INSURANCE: CIGNA

INSURANCE BALANCE	
ACCOUNT BALANCE	
CURRENT CHARGES	$136
AMOUNT PAID	
NEW BALANCE	

CASH	CHECK	M.O.	C.C.

	PROCEDURES	CPT	FEE
☐	PT Eval Low Complex 20 Min Start:_____/ End:_____	97161	
☐	PT Eval Mod Complex 30 Min Start:_____/ End:_____	97162	
☐	PT Eval High Complex 45 Min Start:_____/ End:_____	97163	
☐	PT Re-Eval	97164	
☐	OT Eval Low Complex 30 Min Start:_____/ End:_____	97165	
☐	OT Eval Mod Complex 45 Min Start:_____/ End:_____	97166	
☐	OT Eval High Complex 60 Min Start:_____/ End:_____	97167	
☐	OT Re-Eval	97168	
☐	Functional Capacity Evaluation	97750	
☐	Work Hardening, 2 hours	97545	
☐	Work Hardening, additional 1 hour	97546	
☑	Therapeutic Exercise, 15 min Start: 9:59 / End: 9:45 (3)	97110	$136
☐	Functional Activities, 15 min Start:_____/ End:_____	97530	
☐	Electrical Stim., Unattended, 15 min Start:_____/ End:_____	97014	
☐	Electrical Stim., Unattended, 15 min, Medicare Start:_____/ End:_____	G0283	
☐	Ultrasound, 15 min Start:_____/ End:_____	97035	
☐	Gait Start:_____/ End:_____	97116	
☐	Manual Therapy Start:_____/ End:_____	97140	
☐	Neuromuscular Re-Educ., 15 min Start:_____/ End:_____	97112	
☐	Group Start:_____/ End:_____	97150	
☐	Self Care Training, 15 min Start:_____/ End:_____	97535	
☐	ROM Measure and Report Start:_____/ End:_____	995851	
☐	Other / Supplies	99070	
☐	Other / Supplies	99070	

NOTES

ICD-10 CODE:

S: Pt. state he feels his flexibility is good but he still has pain in his back.

O: Ther Ex per flow sheet x 46 mins

A: No adverse reactions to new exercises.

P: Cont. per POC

Visit Number: 2 of 12
Staff: Beau Smith PTA
Therapist Signature:_____

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[PPT-F088-(01-19)]

Time In: 900
Time Out: 1100

PATIENT ACCOUNT NUMBER	VISIT DATE	VISIT ID	VISIT REASON
P.	01/28/2019	8335693	New Patient

PATIENT NAME: David Casey Jr DOB: DOB 1977
ADDRESS: 521 MEADOW GRASS
CITY: LEXINGTON STATE: SC ZIP: 29072
PATIENT PHONE: (803) 520-6158
INSURANCE: CIGNA

INSURANCE BALANCE	
ACCOUNT BALANCE	$238
CURRENT CHARGES	
AMOUNT PAID	
NEW BALANCE	

CASH	CHECK	M.O.	C.C.

	PROCEDURES	CPT	FEE
☑	PT Eval Low Complex 20 Min Start: 1000 / End: 1020 (1)	97161	$100
☐	PT Eval Mod Complex 30 Min Start: ____ / End: ____	97162	
☐	PT Eval High Complex 45 Min Start: ____ / End: ____	97163	
☐	PT Re-Eval	97164	
☐	OT Eval Low Complex 30 Min Start: ____ / End: ____	97166	
☐	OT Eval Mod Complex 45 Min Start: ____ / End: ____	97166	
☐	OT Eval High Complex 60 Min Start: ____ / End: ____	97167	
☐	OT Re-Eval	97168	
☐	Functional Capacity Evaluation	97750	
☐	Work Hardening, 2 hours	97545	
☐	Work Hardening, addt. 1 hour	97546	
☑	Therapeutic Exercise, 15 mins Start: 1020 / End: 1100 (3)	97110	$135
☐	Functional Activities, 15 mins Start: ____ / End: ____	97530	
☐	Electrical Stim., Unattended, 15 mins Start: ____ / End: ____	97014	
☐	Electrical Stim., Unattended, 15 mins, Medicare Start: ____ / End: ____	G0283	
☐	Ultrasound, 15 mins Start: ____ / End: ____	97035	
☐	Massage, 15 mins Start: ____ / End: ____	97124	
☐	Manual Therapy Start: ____ / End: ____	97140	
☐	Mechanical Traction	97012	
☐	Neuromuscular Re-Educ., 15 mins Start: ____ / End: ____	97112	
☐	Self Care Training, 15 mins Start: ____ / End: ____	97535	
☐	ROM Measure and Report Start: ____ / End: ____	95851	
☐	Other / Supplies	99070	

NOTES

ICD-10 CODE:

S: Eval for Radial Shin Pain

O: See Eval/ Flow sheet

A: Pt will benefit from skilled PT to address impairments

P: Cont POC

Visit Number: 1 of 12

Staff: _____

Therapist's Signature: _____

RELEASE OF MEDICAL INFORMATION and ASSIGNMENT OF BENEFITS

I hereby authorize the release of medical information necessary to process this claim and authorize payment of medical benefits to PPT or their designee for services described above.

Patient or Authorized Person's Signature

Date

Progressive Physical Therapy

Lumbosacral Program

Patient Name: David Casey JR Next MD appt: _____

Subjective: _____

Assessment: _____

Plan: _____

		DATE	DATE	DATE	DATE	DATE	DATE
CARDIO		2-13-19	2/15/19	2-19-19	3-2019	2-22-19	
	Nustep	12m	12 mins	12min	12min		
	ET					6 min	
CORE STABILIZATION	PELVIC TILTS						
	MULTIFUDUS/TrA "drawing in" TA/Loop	10x10"	10x10"	10x10"	10x10"	10x10"	
	BRIDGING	10x10"	10x10"	10x10"	10x10"	10x10"	
	ABS						
	Lumbar Rotation	5x10"	5x10"	5x10"	5x10"	5x10"	
	TAYLOR SIT-ROWS						
	~~TAYLOR SIT-~~ T's	30/30#	30/30#	30# x30	30# x30	30# x30	
	~~TAYLOR SIT-~~ PULL DOWNS/LATS Rows	30/30#	30/30#	↓		↓	
	PRONE ON ELBOWS						
	PRONE PRESS UPS						
	PRONE ALT UE / LE "superman"						
	PRONE PLANKS						
	SIDE PLANKS						
	Airex: March, Abd, Ext	30x ea	30x ea	x3 ea	30x ea	30x ea	
	QUADRUPED UE/LE "birddog"						
	~~SEATED HIP ADD~~ SLR/Abd	20x	20x	x 3 sec	30x ea	30x ea	
	KNEEL-> ½ KNEEL						
	HIP – 4 PLANES						
	SWISS BALL WALLSLIDES						
	SWISS BALL TRUNK EXT.						
STRETCHES	IRONING			HS 4x30"	HS 4x30"	4x30"	
	PIRIFORMIS	4x30"	4x30"	4x30"	4x30"	4x30	
	GLUT	4x30"	4x30"	4x30"	4x30"	4x30"	
	~~HAMSTRING~~ Hip Flexor Standing	4x30"	4x30"				
FUNCTIONAL	~~BOX LIFTS FLOOR -> WAIST~~ DKTC	4x30"	4x30"	4x30"	4x30"	4x30"	
	BOX LIFTS WAIST -> SHOULDER						
	BOX LIFTS SHLDR -> OVERHEAD						
	BOX CARRIES X 25 FT						
	STOOPS/SQUATS						
	WRITTEN HEP ISSUED?						
	THERAPIST'S INITIALS	B.S.	B.S.	KM	KM	B.S.	

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Progressive Physical Therapy

Lumbosacral Program

Patient Name: David Casey JR Next MD appt: _____

Subjective: _____

Assessment: _____

Plan: _____

		DATE	DATE	DATE	DATE	DATE	DATE	
CARDIO		1-28-19	1/30/19	02/01/19	2/4/19	02/06/19	02/08/19	12-11-19
	Nustep	Bike	9 mins	10 mins	10 MIN	10 min	10 mins LW	12 min
CORE STABILIZATION	PELVIC TILTS							
	MULTIFUDUS/TrA "drawing in" AA/Legs	10 X 10	10X10"	10X10"	10X10"	10X10"	10X10"	10X10
	BRIDGING		10X10"	10X10"	10X10"	10X10"	10X10"	10X10
	ABS							
	Lumbar rotation					5X10"	5X10"	5X10
	~~TAYLOR SIT- ROWS~~							
	TAYLOR SIT- T's				30# X30	30# X30	30# X30	30# X30
	~~TAYLOR SIT- PULL DOWNS/LATS~~ - TS		30/30#	30/30#				
	Extension - TS		30	30/30#				
	PRONE ON ELBOWS							
	PRONE PRESS UPS							
	PRONE ALT UE / LE "superman"							
	PRONE PLANKS							
	SIDE PLANKS							
	Airex: March, abd				X30ea	x30ea	x30ea	
	QUADRUPED UE/LE "birddog"							
	STANDING T's, T's, Y's SLR/Abd					30 x ea	20x ea	
	KNEEL -> ½ KNEEL							
	HIP – 4 PLANES							
	SWISS BALL WALLSLIDES							
	SWISS BALL TRUNK EXT.							
STRETCHES	~~PRONES~~ Quadruped		4X10"	4X15"	4X15"	4X15"	4X15"	
	PIRIFORMIS	3 x 20	3X20"	4X30"	4X20"	4X20"	4X30"	4x30
	GLUT	3x30	3X30"	4X30"	4X30"	4X30"	4X30"	4x30
	HAMSTRING	N/T						
FUNCTIONAL	~~BOX LIFTS FLOOR -> WAIST~~ PKTC			4X20"	4X20"	4X20"	4X20"	
	~~BOX LIFTS WAIST -> SHOULDER~~ B/L Floor Standing						3X20"	
	BOX LIFTS SHLDR -> OVERHEAD							
	BOX CARRIES X 25 FT							
	STOOPS/SQUATS							
	WRITTEN HEP ISSUED?							
	THERAPIST'S INITIALS		B.S	B.S	K.K	B.S.	B.S.	

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Progressive Physical Therapy

Spine Progress Summary

Center Address: 815 HWY 378 WEST LEXINGTON, SC 29072 To M.D.: ☐ Faxed ☐ Mailed
Phone: 803-399-9448 Fax: 803-399-9978 ☐ Given to Patient ☐ Filed in DC Chart

Patient Name: David B. Casey Jr Dx/ICD-10: S39.1XXA Date: 02/22/19
DOB: DOB 1977 Date of Onset: Physician: Benjamin Askins
Claim #: Date of Surgery: Therapist: Kimberly Shull-Massey
Date of Initial evaluation: 1/28/19 Date of last treatment: 02/22/19 Total visits attended? 13 Missed? 0

Benefit of treatment perceived by the patient? ☒ Good ☐ Fair ☐ Poor
Compliance to PT HEP perceived by therapist? ☒ Good ☐ Fair ☐ Poor
Current Work status: ☒ N/A ☐ on regular duty ☐ on light duty ☐ off duty: Reason

SUMMARY OF TREATMENTS

☐ Cervicothoracic Rehab-ROM/ stabilization
☒ Lumbosacral Rehab- ROM/ core stabilization
☐ Work Rehab / Conditioning
☐ Back School
☐ Postural Education
☒ Home Exercise Program
☐ Manual Treatments
☐ Functional Training
☐ Physical Agents/ Modalities
☐ _____
☐ _____

SUBJECTIVE REPORT OF CURRENT STATUS

Pain: 2/10 @ present, /10 @ best, 4/10 @ worst Locations: Lower back
Quality: ☐ SHARP ☒ DULL ☐ ACHING ☐ THROBBING ☐ SHOOTING ☐ SORE ☐ OTHER
Neuro/ Radicular Complaints: N/A
Functional Limitations / Aggravating Factors:
Oswestry Score: EVAL = PN. =

SUMMARY OF OBJECTIVE FINDINGS

ROM: Lumbar Flexion - 85°, Extension - 25°, (L) Sidebending - 40° (R) Sidebending - 40°
Strength: LE strength WNL's all motions, Core stability strength WFL's
Functional Abilities Demonstrated:
Other Objective Findings:

REVIEW OF ESTABLISHED GOALS

Patient has met 3 out of 4 initial PT goals established at the initial evaluation.

☐ Independent with HEP ☐ partially met ☒ fully met ☐ not met
☐ Decrease symptoms ☒ partially met ☐ fully met ☐ not met
☐ Increase range of motion ☐ partially met ☒ fully met ☐ not met
☐ Increase strength ☐ partially met ☒ fully met ☐ not met
☐ Increase / Decrease joint mobility ☐ partially met ☐ fully met ☐ not met
☐ Improve quality of movement ☐ partially met ☐ fully met ☐ not met
☐ Increase functional capacity ☐ partially met ☐ fully met ☐ not met
☐ _____

RECOMMENDATIONS REQUESTED BY PT

☐ Continue Physical Therapy for ____ x per week for ____ weeks
☒ D/C to HEP as pt has met or nearly met all goals.
☐ _____
☐ _____

MD ORDERS BASED UPON REVIEW OF ABOVE PROGRESS SUMMARY

☐ Continue Physical Therapy ____ x per week for ____ weeks
☐ Hold Physical Therapy
☐ Discharge Physical Therapy
☐ Call physician concerning this patient
Follow up visit scheduled with MD: _____

Please sign and date the PT plan of care. Return to the therapist as soon as possible. Thank you for this referral!

X _____ 2/22/19
Physician / Nurse Practitioner / Physician's Asst. Date

Beam Smith, PTA 02/22/19
Physical Therapist Date

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[PPT-F053-(03-18)]

Progressive Physical Therapy

FAXED

Spinal Evaluation

To M.D.: ☐ Faxed ☐ Mailed ☐ Given to Patient ☐ Filed in DC Chart

Center Address: WEst Lexington

Phone: 803-399-9448 Fax:

Patient Name: David Casey Jr Dx/ICD-10: Date: 1-28-19

DOB: DOB-1977 Date of Onset: 12-10-18 Physician: Dr Benjamin Askins

Claim #: Date of Surgery: NA Therapist: Kimberly Shull-Massey, PT

History:

R sided LB can go to shoulder blade. MVA 12-10-18. Pinned between door and car.
Accident happened while on job. WC probable.
VA also looked lt MM spasms

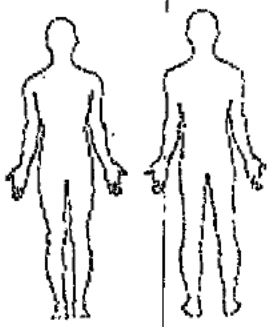
Diagnostic findings: MM spasms Meds: hydrocodone, mm relaxers

Past Medical History: PTSD, DM

Occupation: construction support- Explosive	When Worse: lifting, bending,
Physical Demands: moderate to heavy	When Better: rest, stretch, support to back
Work Status: ☐ full duty ☐ light duty ☑ off duty ☐ N/A	Pain: 5 /10 @ present, 5 /10 @ best, 10 /10 @ worst
Vitals: HR= ;BP=	Quality: ☐ sharp ☑ dull ☐ aching ☐ throbbing ☐ sore

Summary of Objective Findings: * denotes pain below with movements; T denotes increased tone palpated

	CERVICAL	THORACIC	LUMBAR
ACTION *Normal avg. values below*	ROM	ROM	ROM
FLEXION (CERV 0-45; TL 0-80)	WFL	WFL	
EXTENSION (CERV 0-45; TL 0-25)			
SIDEBEND RIGHT (CERV 0-45; TL 0-35)			
SIDEBEND LEFT (CERV 0-45; TL 0-35)			
ROTATE RIGHT (CERV 0-60; TL 0-45)			
ROTATE LEFT (CERV 0-60; TL 0-45)			
POSTURE	Cervical Lordosis ☐ ^ ☐ v ☐ WNL Lumbar Lordosis ☐ ^ ☐ v ☐ WNL Kyphosis ☐ ^ ☐ v ☐ WNL Scapulothoracic Asymmetry Leg length discrepancy ☐ R=L ☐ R>L ☐ L>R		
SPECIAL TESTS/ & NEURAL TENSION TESTING	☑ SLR R: L: ☐ SI gap ☐ Slump ☐ SI compression ☐ ☐ ☐		

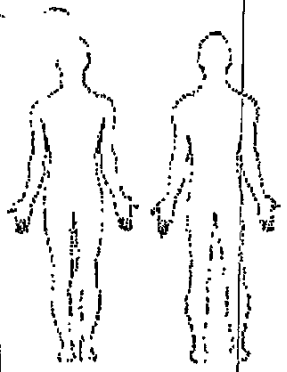


NOTES:

Sexual Dysfunctional due to MM spasms

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MYTOMES	R	L	MYTOMES	R	L
L2-L3 Hip Flex			C1 Cerv Rotation		
L3-4 Knee Ext			C4 Shldr. Shrug		
L4 Ankle DF			C5 Shldr. Abd		
L5 Gr. Toe Ext			C6 Wrist Ext/Elb. flex		
L5-S2 Toe Walk/ Ev.			C7 Wrist flex/Elb. Ext		
OSWESTRY SCORE			C8 Finger Flex		
			T1 Digital Add/Abd		
REFLEXES	☑ Intact ☐ Hypertonic ☐ Hypotonic ☐ NT				
DERMATOMES	☐ Intact bilaterally ☐ Impaired - see below				
RADICULAR SYMPTOMS	☐ tingling ☐ pain ☐ numbness ☐ _____ warm				
SEGMENTAL MOVEMENT & SOFT TISSUE PALPATION	Segmental mobility ☐ hypo ☐ hyper ☐ WNL ☑ pain with palpation to ☑ tone Thoracic/lumbar R PS				
WADDELL SIGNS (lumbar pts only)					
OTHER FINDINGS					



NOTES:

Warm sensation

Assessment: This patient presents with the above functional limitations, affecting ADL and work capacity. Signs and symptoms are consistent with a differential diagnosis of LB pain

▪ Rehab Potential: ☑ good ☐ fair ☐ poor ▪ Vocational readjustment services required? ☑ yes ☐ no

Goals: to be met in 4 weeks

1. Patient will report decreased pain to 3/10 at present and 6/10 at worst to allow greater functional mobility.
2. Patient will increase Spinal ROM and strength to WNL to improve bending, stooping, driving, and dressing ability.
3. Patient will be independent with a home exercise program to allow return to his/her previous functional status.
4. Patient will demonstrate proper body mechanics with the following activities to allow return to work at full duty or to allow return to previous functional capacity: reaching, lifting, pushing, pulling, stooping, walking, driving, sitting bending
5. _____

Plan of Care: Physical Therapy 2-3 x per week for 4 weeks with treatment including the following:

☑ **Therapeutic exercise** - Spinal rehab- ROM/ stabilization/ endurance/MCU/ HEP

☐ **Manual therapy** - myofascial release, dry needling, joint mobilization, STM

☑ **Patient education** - postural awareness/ body mechanics/ injury prevention

☑ **Functional activities** - lift, push, pull, stoop, walk

☑ **Modalities** - MENS/IFC/TENS, moist heat, ice, ultrasound, laser therapy, shockwave therapy, Ionto

☐ _____

☐ _____

Please sign and date the PT plan of care. Return to the therapist as soon as possible. Thank you for this referral!

X _____ Physician / Nurse Practitioner / Physician's Asst. Date

Kimberly Shull-Massey, PT 1-28-19

Physical Therapist Date

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[PPT-F052-(04-18)]

PPT0022

Progressive Physical Therapy

Oswestry Low Back Pain Questionnaire

Name: DAVID Date: 1/28/2019

This questionnaire is designed to enable us to understand how much your back pain has affected your ability to manage everyday activities. Please answer each section by selecting the ONE CHOICE that most applies to you. We realize that you may feel that more than one statement may relate to you, but **please circle the one choice which closely describes your problem *right now*.**

Section 1 - Pain Intensity

- ☐ A. I can tolerate the pain I have without having to use pain medication.
- ☐ B. The pain is bad, but I can manage without having to take pain medication.
- ☐ C. Pain medication provides me with complete relief from pain.
- ☒ D. Pain medication provides me with moderate relief from pain.
- ☐ E. Pain medication provides me with little relief from pain.
- ☐ F. Pain medication has no effect on my pain.

Section 2 - Personal Care

- ☐ A. I can take care of myself normally without causing increased pain.
- ☒ B. I can take care of myself normally, but it increases my pain.
- ☐ C. It is painful to take care of myself, and I am slow and careful.
- ☐ D. I need help, but I am able to manage most of my personal care.
- ☐ E. I need help every day in most aspects of my care.
- ☐ F. I do not get dressed, I wash with difficulty, and I stay in bed.

Section 3 - Lifting

- ☐ A. I can lift heavy weights without increased pain.
- ☒ B. I can lift heavy weights, but it causes increased pain.
- ☐ C. Pain prevents me from lifting heavy weights off the floor, but I can manage if the weights are conveniently positioned (e.g., on a table).
- ☐ D. Pain prevents me from lifting heavy weights, but I can manage light to medium weights if they are conveniently positioned.
- ☐ E. I can lift only very light weights.
- ☐ F. I cannot lift or carry anything at all.

Section 4 - Walking

- ☐ A. Pain does not prevent me from walking any distance.
- ☒ B. Pain prevents me from walking more than 1 mile.
- ☐ C. Pain prevents me from walking more than 1/2 mile.
- ☐ D. Pain prevents me from walking more than 1/4 mile.
- ☐ E. I can walk only with crutches or a cane.
- ☐ F. I am in bed most of the time and have to crawl to the toilet.

Section 5 - Sitting

- ☐ A. I can sit in any chair as long as I like.
- ☐ B. I can only sit in my favorite chair as long as I like.
- ☒ C. Pain prevents me from sitting for more than 1 hour.
- ☐ D. Pain prevents me from sitting for more than 1/2 hour.
- ☐ E. Pain prevents me from sitting for more than 10 minutes.
- ☐ F. Pain prevents me from sitting at all.

Section 6 - Standing

- ☐ A. I can stand as long as I want without increased pain.
- ☒ B. I can stand as long as I want, but it increases my pain.
- ☐ C. Pain prevents me from standing for more than 1 hour.
- ☐ D. Pain prevents me from standing for more than 1/2 hour.
- ☐ E. Pain prevents me from standing for more than 10 minutes.
- ☐ F. Pain prevents me from standing at all.

Section 7 - Sleeping

- ☐ A. Pain does not prevent me from sleeping well.
- ☐ B. I can sleep well only by using pain medication.
- ☒ C. Even when I take medication, I sleep less than 6 hours.
- ☐ D. Even when I take medication, I sleep less than 4 hours.
- ☐ E. Even when I take medication, I sleep less than 2 hours.
- ☐ F. Pain prevents me from sleeping at all.

Section 8 - Social Life

- ☐ A. My social life is normal and does not increase my pain.
- ☐ B. My social life is normal, but it increases my level of pain.
- ☒ C. Pain prevents me from participating in more energetic activities (e.g., sports, dancing).
- ☐ D. Pain prevents me form going out very often.
- ☐ E. Pain has restricted my social life to my home.
- ☐ F. I have hardly any social life because of my pain.

Section 9 - Traveling

- ☐ A. I can travel anywhere without increased pain.
- ☒ B. I can travel anywhere, but it increases my pain.
- ☐ C. My pain restricts my travel over 2 hours.
- ☐ D. My pain restricts my travel over 1 hour.
- ☐ E. My pain restricts my travel to short necessary journeys under 1/2 hour.
- ☐ F. My pain prevents all travel except for visits to the physician / therapist or hospital.

Section 10 - Employment/Homemaking

- ☐ A. My normal homemaking / job activities do not cause pain.
- ☒ B. My normal homemaking / job activities increase my pain, but I can still perform all that is required of me.
- ☐ C. I can perform most of my homemaking / job duties, but pain prevents me from performing more physically stressful activities (e.g., lifting, vacuuming).
- ☐ D. Pain prevents me from doing anything but light duties.
- ☐ E. Pain prevents me from doing even light duties.
- ☐ F. Pain prevents me from performing any job or homemaking chores.

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[PPT-F083-(11-16)]

Progressive Physical Therapy

Medical History

INJURY DETAILS

Type of Injury: LOW BACK Date of Onset:

How did the injury occur?

List any medications you are presently taking (if any):

Have you had x-rays taken for this injury? ☐ Yes ☐ No

PAIN DESCRIPTION

Which of the following best describes your pain? (check one) ☐ Sharp ☒ Dull ☒ Aching ☐ Shooting

Which of the following best describes the frequency of your pain? (check one) ☐ Constant ☒ Intermittent ☐ Occasional

What makes your pain feel worse? (check all that apply) ☐ Lifting ☒ Leaning ☐ Dressing ☐ Climbing
☐ Sitting ☒ Walking ☒ Standing ☐ Reaching
☐ Driving ☒ Bending ☒ Stooping ☒ Laying Down

What makes your pain feel better? HEAT AND MEDS

Please rate the level of pain you have experienced over the past 30 days:	NO PAIN 0	1	2	3	MODERATE PAIN 4	5	6	7	8	9	WORST PAIN 10
What number on the pain scale best describes your pain **right now?**						◉					
What number on the pain scale describes your **worst pain** over the past 30 days?											◉
What number on the pain scale describes your **least pain** over the past 30 days?					◉						

SYMPTOM DIAGRAM

Using the diagram at right, please indicate the location and type of symptoms you are experiencing.

(Use the symbols from the diagram key to indicate the location and type of symptom on the image.)

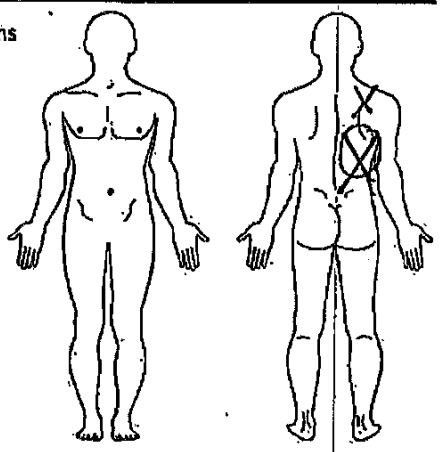


DIAGRAM KEY	
SYMBOL	SYMPTOM
X	pain
.....	numbness
~~	tingling

GENERAL MEDICAL HISTORY

Do you have a history of cancer? ☐ Yes ☒ No
Do you have a pacemaker? ☐ Yes ☒ No
Do you have hypertension? ☐ Yes ☒ No
Do you have bowel/bladder problems? ☐ Yes ☒ No
Are you diabetic? ☒ Yes ☐ No
Are you pregnant? ☐ Yes ☒ No

Please list any other relevant past medical or orthopedic history:

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[PPT-F075-(11-12)]

LEXINGTON FAMILY PRACTICE *Lake Murray*
A Lexington Medical Center Physician Practice

LFP - Lake Murray
2006 Augusta Hwy
Lexington SC 29072-2208
Phone: 803-785-4747
Fax: 803-785-4750

Patient:
David B Casey Jr.
521 MEADOW GRASS LANE
LEXINGTON SC 29072
Phone: 803-520-6158

MRN: M002084366
DOB: DOB 1977
SSN: SS#
Sex: M

Primary
CIGNA/CIGNA PPO

Secondary
- No Secondary Coverage -

Sub: CASEY,DAVID B JR.
Grp: 3340960
ID: U8427348001
Sub DOB: DOB 1977

Sub:
Grp:
ID:
Sub DOB:

Referral to PT for Eval and Treat
Diagnosis: Crushing injury of low back (S38.1XXA)
Questions: Medication use: May use Phonophoresis with topical hydrocortisone 10% cream and/or Iontophoresis with topical dexamethasone 4mg/mL solution for pain and inflammation control.
Additional Comments:

Referred To Information:

Referring/Authorizing Provider Information:
Askins, Benjamin Jerome, MD
2006 Augusta Highway
LEXINGTON SC 29072

Phone: 803-785-4747
Fax: 803-785-4750
NPI: 1679801330

Order Date: *Jan 22, 2019* **Order Time:** *11:57 AM*

Expected Date:

Authorized by: *Askins, Benjamin Jerome, MD*

This document serves as a request of services and does not constitute insurance authorization or approval of services. To determine eligibility, please contact the members insurance carrier to verify and review coverage.

Printed by KRUEE

ELLER TONNSEN BACH
Attorneys at Law

Daniel B. Eller
Licensed in South Carolina and North Carolina
deller@etblawfirm.com

1306 South Church Street
Greenville, SC 29605
Telephone (864) 236-5013
Facsimile (864) 312-4191

June 21, 2019

Commissioner Mike Campbell
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715

Re: David Casey v. APTIM Federal Services, LLC
WCC File Number: 1822255
Claim Number: 30181558672-0001
D.O.I.: 12/10/2018

Dear Commissioner Campbell:

Enclosed please find Defendants' **Supplemental** Notice of Witnesses and Written Medical Reports for filing in the above-captioned matter. By copy of this correspondence, I am notifying Claimant's attorney, Richard C. Alexander, of these submissions and am serving a copy of the same upon him by email.

Thank you for your attention to this matter.

With kind regards,

for DBE

Daniel B. Eller

DBE/wc
Enclosures

cc: Richard C. Alexander, Esquire (w/enclosures) (via email)

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1822255

David B. Casey, Jr., Employee, Claimant, vs. APTIM Federal Services, LLC, Employer, XL Specialty Insurance Company, Carrier, and Sedgwick Claims Management Services, Inc., Third-Party Administrator, Defendants.	**SUPPLEMENTAL NOTICE OF WITNESSES AND WRITTEN MEDICAL REPORTS TO BE INTRODUCED AS DIRECT EVIDENCE ON BEHALF OF DEFENDANT**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND RICHARD C. ALEXANDER, ESQUIRE:

YOU ARE NOTIFIED that the Defendants, pursuant to the provisions of the South Carolina Workers' Compensation Act and Section 1-23-330 of the South Carolina Code of Laws (Cum. Supp. 1988) submit the following medical records and other documents as evidence:

APA No.	NAME OF PROVIDER	DATES	PAGES
5	Bayview Urgent Care	12/11/2018	37-44
6	Midlands Orthopaedic	12/10/2018 – 3/14/2019	45-54
7	Palmetto Imaging	3/12/2019	55-56
8	Progressive Physical Therapy	1/28/2019 – 2/22/2019	57-78
9	**Virginia Department of Workmen's Compensation / Dr. Ann Cooper**	**12/11/2018**	**79-80**

YOU ARE FURTHER NOTIFIED that you have the right to cross-examine or otherwise oppose this evidence and, should you desire to exercise this right, you are to promptly schedule the deposition of any provider whose records are submitted, for the purposes of cross-examination, or otherwise promptly submit opposing medical records into evidence.

YOU ARE FURTHER NOTIFIED that these records, or photocopies of the same, will be provided to the South Carolina Workers' Compensation Commission for insertion in their file and for consideration as evidence on behalf of the Defendants.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Defendants: Claimant; any and all called by Claimant; and possibly employer representative.

for DBE

Daniel B. Eller, Esq.
ELLER TONNSEN BACH, LLC
1306 South Church Street
Greenville, SC 29605
Phone: (864) 236-5013
Fax: (864) 312-4191
Attorneys for the Employer/Carrier

June 21, 2019
Greenville, SC

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1822255

David B. Casey, Jr., Employee, Claimant, vs. APTIM Federal Services, LLC, Employer, XL Specialty Insurance Company, Carrier, and Sedgwick Claims Management Services, Inc., Third-Party Administrator, Defendants.	)	**DEFENDANTS' <u>SUPPLEMENTAL</u> APA SUBMISSIONS**

HEARING BEFORE THE HONORABLE R. MICHAEL CAMPBELL, II
June 25, 2019 at 02:00 PM

APA No.	Provider	Dates	Pages
5	Bayview Urgent Care	12/11/2018	37-44
6	Midlands Orthopaedic	12/20/2018 – 3/14/2019	45-54
7	Palmetto Imaging	3/12/2019	55-56
8	Progressive Physical Therapy	1/28/2019 – 2/22/2019	57-78
9	**Virginia Department of Workmen's Compensation / Dr. Ann Cooper**	**12/11/2018**	**79-80**

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1822255

David B. Casey, Jr., Employee, Claimant, vs. APTIM Federal Services, LLC, Employer, XL Specialty Insurance Company, Carrier, and Sedgwick Claims Management Services, Inc., Third-Party Administrator, Defendants.	)	**CERTIFICATE OF SERVICE**

The undersigned certifies that he has served, on the date set forth below, a copy of the document described below in the above-entitled action to the following persons, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of the same via electronic mail addressed to:

Richard C. Alexander
CHIP@LEEKELAW.COM
Shelly Leeke Law Firm, LLC
3614 Ashley Phosphate Road
North Charleston, SC 29418

DOCUMENT: Supplemental Notice of Witnesses and Written Medical Reports

DATE OF MAILING: June 21, 2019

William Childers, Attorney
ELLER TONNSEN BACH, LLC

APA #9

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF WORKMEN'S COMPENATION

INDUSTRIAL COMMISSION OF VIRGINIA
P.O. Box 1794 – RICHMOND, VIRGINIA 23214

Case No: ____
Case of ____

ATTENDING PHYSICIAN'S REPORT
All questions in the blanks should be answered and the report contains an account of all injuries, no matter how trivial. Fill out blank in ink using pen or typewriter and mail promptly to the employer or the Claim Office of the insurance carrier.

1. NAME OF INJURED EMPLOYEE (First, middle initial, last) DAVID CASEY		2. Date of Injury (Mo., date, yr.) December 11, 2018	
3. EMPLOYEE'S HOME ADDRESS (Number and street, city, state, zip code) 521 MEADOW GRASS LN LEXINGTON, SC 29072		4. DATE OF BIRTH (Mo., date, yr.) DOB 1977	5. SEX M
6. NAME OF EMPLOYER	7. EMPLOYER'S ADDRESS (Number and street, city, state, zip code)		
8. DATE OF FIRST VISIT (Mo., date, yr.) December 11, 2018	9. DATE DISCHARGED (Mo., date, yr.)	10. WHO AUTHORIZED TREATMENT?	
11. EMPLOYEE'S ACCOUNT OF HOW INJURY OR EXPOSURE TO OCCUPATIONAL DISEASE OCCURRED Pt was standing btw/ the open door of company truck and the body of the truck when another truck began moving in reverse thus pinning pt btw/ his truck door and body for a few seconds.			
12. FINDINGS UPON EXAMINATION (INCLUDE RESULTS OF X-RAYS, LABORATORY STUDIES, ETC. NOTE PRIOR INJURIES AND PRE-EXISTING CONDITIONS AND ANY REMARKS AND RECOMMENDATIONS ON THE REVERSE OF THIS FORM) Pt seen yesterday at CRMC where xrays of lumbar spine were negative. No prev h/o back injury			
13. DIAGNOSIS R lumbar contusion		14. IS DIAGNOSED CONDITION DUE TO OCCURRENCE DESCRIBED IN ITEM 11? ☑ Yes ☐ No IF "NO" EXPLAIN ON REVERSE SIDE OF FORM	
15. NATURE OF TREATMENT Muscle relaxant, light duty		16. DATE OF TREATMENT (Mo., date, yr.) December 11, 2018	
17. WAS EMPLOYEE HOSPITALIZED? ☐ Yes ☐ No (If "yes", give name and address of hospital in Item 19)		18. WERE X-RAYS TAKEN? ☐ Yes ☑ No (If "yes", give results in Item 12)	
19. GIVE (1) NAME AND (2) ADDRESSES AND (3) DATES OF TREATMENTS PROVIDED BY HOSPITALS OR OTHER DOCTORS FOR THIS INJURY.			
20. WAS THERE DISABILITY FOR WORK? (If "yes", answer 20-A, B, C) ☐ Yes ☑ No A. DATE OF DISABILITY (Mo., date, yr.) December 11, 2018 B. DATE ABLE TO RETURN TO LIGHT WORK (Mo., date, yr.) 12/11/18 C. DATE ABLE TO RETURN TO REGULAR WORK (Mo., date, yr.) 12/13/18			
21. WILL THERE BE PERMANENT DEFECT OR DISFIGUREMENT? ☐ Yes ☑ No (If "yes", describe nature and extent of same. Estimate loss of function in % terms)			
22. NAME OF ATTENDING PHYSICIAN Ann Cooper, MD	23. ADDRESS (Number and street, city, state, zip code) 7924 Chesapeake Blvd, Norfolk, VA 23518		
24. I CERTIFY THAT I PERSONNALLY EXAMINED AND TREATED THIS PATIENT Ann Cooper, MD Electronically Signed by Ann Cooper, MD on 12/11/2018 at 11:49:43 AM		25. DATE OF THIS REPORT December 11, 2018	

COMPLETE THIS REPORT IMMEDIATELY AFTER SEEING PATIENT FOR THE FIRST TIME

000080

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2020-001474

RECEIVED
Jun 09 2021
SC Court of Appeals

David Casey, Employee, Respondent,

v.

APTIM Federal Services, LLC, Employer, and XL Specialty Insurance Company, Carrier, Appellants.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

s/ William F. Childers, Jr.
Daniel B. Eller (#73275)
William F. Childers, Jr. (#100569)
ELLER TONNSEN BACH, LLC
1306 South Church Street
Greenville, SC 29605
Phone: (864) 236-5013
Fax: (864) 312-4191
deller@etblawfirm.com
wchilders@etblawfirm.com
Attorneys for Appellants

June 9, 2021
Greenville, SC