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**UTAH LABOR COMMISSION**

**RHEA WILSON,**

**Petitioner,**

vs.

**CACHE COUNTY SCHOOLS and  
WORKERS COMPENSATION FUND,**

**Respondents.**

**ORDER AFFIRMING  
ALJ'S DECISION FOR  
BENEFITS**

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**MODIFYING ORDER FOR  
MEDICAL EXPENSES**

**Case No. 05-0423**

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Cache County Schools and its insurance carrier, Workers Compensation Fund, (hereafter referred to jointly as "Cache County") ask the Utah Labor Commissioner to review Administrative Law Judge Lima's award of benefits to Ms. Wilson under the Utah Occupational Disease Act, Title 34A, Chapter 3, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to § 63G-4-301 of the Utah Administrative Procedures Act and § 34A-2-801(3) of the Utah Workers' Compensation Act.

**BACKGROUND AND ISSUE PRESENTED**

Ms. Wilson claims occupational disease benefits for left carpal tunnel syndrome that she alleges developed from 16 years of working for Cache County. Judge Lima conducted an evidentiary hearing and then, due to conflicting medical opinions on apportionment, referred the medical issues to a medical panel. After reviewing the panel's report, Judge Lima awarded benefits, including permanent partial disability compensation, subject to apportionment, and medical expenses without apportionment.

In its motion for review, Cache County contends that, based on the medical panel's opinion of no medical causation, Ms. Wilson's claim for benefits should be denied. In the alternative, Cache County argues that Ms. Wilson's award for medical expenses is subject to apportionment.

**FINDINGS OF FACT**

The Commissioner adopts Judge Lima's findings of fact. The facts relevant to the motion for review can be summarized as follows:

Ms. Wilson worked for Cache County as a bus driver for 16 years. She was diagnosed with left hand carpal tunnel syndrome that her doctor, Dr. Nelson, found was entirely caused by her years of driving a bus. Cache County's medical consultant, Dr. Chung agreed that there was an industrial component to Ms. Wilson's carpal tunnel syndrome; however, he also believed Ms. Wilson's weight

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and insulin-dependent diabetic condition increased her risk for developing the condition. He issued a 3% whole person impairment for the left wrist condition, of which 5% he apportioned as work-related and 95% to non-work related factors.

At the hearing, the parties agreed that the primary issue to be resolved was apportionment of Ms. Wilson's permanent impairment rating for her wrist condition, if any. During opening statements, Cache County conceded that the main issue was apportionment for both compensation and medical expenses, and that based on their medical consultant's opinion, they agreed that medical causation was shown.

Due to the conflicting medical opinions of Drs. Nelson and Chung as to apportionment, a medical panel was appointed. The medical panel examined Ms. Wilson and reviewed the medical records. The panel was asked whether the sole cause of Ms. Wilson's left carpal tunnel syndrome was her work activities at Cache County schools or whether there were other causes that may have aggravated, prolonged, accelerated, or in any way contributed to Ms. Wilson's medical condition. The panel answered that the work activities were not the sole cause of Ms. Wilson's condition, finding, instead, that no portion of Ms. Wilson's carpal tunnel syndrome should be attributed to work activities.

**DISCUSSION AND CONCLUSION OF LAW**

In its motion for review, Cache County argues that because the panel found that there was no medical causation between the work activities and Ms. Wilson's wrist condition, then all benefits should be denied on that basis. The Commission disagrees. After reviewing the evidence, including the hearing record, the Commission finds that Cache County waived the issue of medical causation and agreed medical causation was shown. The only thing to be resolved was apportionment. Regardless of whether such a waiver occurred, the medical evidence, including the opinions of Drs. Nelson and Chung, support a finding of medical causation. The Commission concurs with Judge Lima's decision of medical causation.

According to the medical evidence, Judge Lima awarded Ms. Wilson a 3% permanent partial disability impairment rating, with 5% apportioned for work-related factors. In accordance with case law relevant at the time of her decision, Judge Lima awarded medical expenses without apportionment. In light of the Utah Supreme Court's recent decision in Dale T. Smith & Sons v. Utah Labor Commission, 627 Utah Adv. Rep. (SC, 4/9/09), which held that medical expenses are included as "compensation" under the Act and therefore subject to apportionment, the Commissioner modifies Judge Lima's order for medical expenses. Ms. Wilson is hereby entitled to payment of her medical expenses at the apportioned rate of 5% work-related and 95% non-work related.

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**ORDER**

The Commission hereby affirms Judge Lima's award of benefits with modification to the award for medical expenses as outlined above. It is so ordered.

Dated this 27<sup>th</sup> day of May, 2009.

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Sherrie Hayashi  
Utah Labor Commissioner

**NOTICE OF APPEAL RIGHTS**

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.