
UTAH LABOR COMMISSION

DALE B. WATNES,

Petitioner,

vs.

WHEELER MACHINERY,

Respondent.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 05-0447

Wheeler Machinery asks the Utah Labor Commission to review Administrative Law Judge Luke's award of benefits to Dale B. Watnes under the Utah Workers' Compensation Act, Title 34A, Chapter 2, 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

Mr. Watnes claims workers' compensation benefits from Wheeler Machinery ("Wheeler") for a work accident that occurred on June 22, 2004. The parties waived their right to an evidentiary hearing and stipulated to facts and a direct referral of the medical issues to a medical panel. After reviewing the panel's opinion, Judge Luke's awarded benefits, including future medical expenses.

In its motion for review, Wheeler Machinery asks the Commission to clarify Judge Luke's order for future recommended medical care according to the panel's recommendation.

FINDINGS OF FACT

The Commission adopts Judge Luke's findings of fact, which incorporated the parties' stipulated facts. The facts relevant to the issue in the motion for review can be summarized as follows:

Prior to his work injury, Mr. Watnes previously complained of and was treated for back pain. On June 22, 2004, Mr. Watnes was taking off an exhaust system from a semi-truck when he hurt his back. Lumbar x-rays revealed no acute fractures or dislocations and Mr. Watnes was treated conservatively with medication and physical therapy. Mr. Watnes continued to complain of pain and by December 2004, an MRI was performed, which revealed no definite lumbar disc herniation or significant stenosis.

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Over the course of the next several months, Mr. Watnes was evaluated by several physicians and received various recommendations for further medical treatment ranging from diagnostic facet injections followed by radio frequency to no further treatment at all. Because of the conflict, the parties agreed to submit the medical issues to a medical panel, particularly the issue of what past and future medical care was necessary to treat Mr. Watnes's work injury, if any.

The medical panel found the June 2004 work accident caused persistent low back strain. The panel found past medical treatment that had been necessary to treat Mr. Watnes's work injury included anti-inflammatory medication and physical therapy with low back support along with the attempted nerve and/or facet blocks with radio frequency. The panel stated such treatment would be indicated for three months. For future medical care, the panel recommended ongoing use of anti-inflammatory medication and that further nerve blocks could be indicated in the future, although it was uncertain as to whether that would relate to the work injury.

DISCUSSION AND CONCLUSION OF LAW

Section 34A-2-418 of the Utah Workers' Compensation Act provides that in addition to compensation, the employer or insurance carrier shall pay **reasonable sums** for medical expenses **necessary to treat** the injured employee. In its motion for review, Wheeler argues that based on the panel's recommendation, Judge Luke's order should specifically limit Mr. Watnes's future medical care to anti-inflammatory medication only.

The Commission disagrees that such limiting language is necessary under the facts of this case. A review of the panel's opinion shows the speculative nature of recommending future medical care for Mr. Watnes's back injury at this point in time. The Commission notes that under its continuing jurisdiction, if a dispute arises in the future as to the medical treatment necessary to treat Mr. Watnes's work injury then the party can submit this issue to the Commission based on the facts and medical evidence available at that time. For the foregoing reasons, the Commission affirms Judge Luke's order that Wheeler is liable for further medical expenses necessary to treat Mr. Watnes's work injury.

ORDER

The Commission affirms Judge Luke's decision. It is so ordered.

Dated this 28th day of May, 2009.

Sherrie Hayashi
Utah Labor Commissioner

IMPORTANT! NOTICE OF APPEAL RIGHTS FOLLOWS ON NEXT PAGE.

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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.