
UTAH LABOR COMMISSION

RYAN NICHOLS,

Petitioner,

vs.

**WASATCH COURIER, INC. and
WORKERS COMPENSATION FUND,**

Respondents

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 06-0826

Ryan Nichols asks the Utah Labor Commissioner to review Administrative Law Judge La Jeunesse's denial of benefits to Mr. Nichols 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. Nichols claims workers compensation benefits (recommended medical care) from Wasatch Courier, Inc. and its insurance carrier, Workers Compensation Fund, (referred to jointly as "Wasatch") for a work accident that occurred on May 22, 1993, resulting in quadriplegia. Wasatch has previously accepted liability for Mr. Nichols' work injury, including paying reasonable costs for the medical care necessary to treat the work injury; however, Wasatch disputes the medical necessity of the equipment Mr. Nichols seeks in his current claim. After holding an evidentiary hearing, Judge La Jeunesse awarded the recommended medical care of physical therapy, but found that Mr. Nichols' request for a power wheel chair with standing capacity and reciprocating gait orthosis ("RGO Walker") were not medically necessary and denied those claims.

In his motion for review, Mr. Nichols requests the opportunity to submit medical evidence to support his claim that a power wheel chair with standing capacity and an RGO Walker are medically necessary to care for his injury.

FINDINGS OF FACT

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

Mr. Nichols was injured when he was involved in an auto accident in 1993, while working for Wasatch. At the hearing, Mr. Nichols testified regarding his need for physical therapy, a power

**ORDER AFFIRMING ALJ'S DECISION
RYAN NICHOLS
PAGE 2 OF 3**

wheel chair with standing capacity, and an RGO Walker to treat his condition. Wasatch provided medical evidence from its medical consultant, Dr. Marble, disputing the necessity for the equipment, but confirmed that further physical therapy was necessary. Mr. Nichols provided no medical support for his claim and his own doctor, Dr. Stoney, indicated in his medical notes dated November 20, 2006, that an RGO walker is not clinically indicated at this time.

DISCUSSION AND CONCLUSION OF LAW

Mr. Nichols does not dispute Judge La Jeunesse's findings that he failed to prove the medical necessity of the requested equipment. The only issue before the Commissioner is whether there is good cause for reopening the evidentiary record and permitting Mr. Nichols to submit the necessary medical documents to support his claim.

According to the Commission's Rule R602-2-1.H, "[p]arties are expected to be prepared to present their evidence on the date the hearing is scheduled . . . Subject to the continuing jurisdiction of the Labor Commission, the evidentiary record shall be deemed closed at the conclusion of the hearing, and no additional evidence will be accepted without leave of the administrative law judge."

Mr. Nichols has not provided any explanation for why he could not present the necessary supporting medical evidence by the time of the hearing. The medical opinion that Mr. Nichols contends was a surprise to him at the hearing, was mentioned in Wasatch's original answer to the application for benefits and was also available in the medical records exhibit. Mr. Nichols had an obligation to be prepared with supporting evidence at the time of hearing, which he failed to do. Therefore, for no good cause shown, the Commissioner declines to reopen the evidentiary record to submit medical evidence that should have been obtained and submitted before the evidentiary hearing and denies Mr. Nichols' request in his motion for review.

The Commission notes that, under its continuing jurisdiction, Mr. Nichols may file a new claim for recommended medical care if circumstances have changed since the time of hearing and he has medical evidence supportive of his claim for the recommended medical care.

ORDER

The Commissioner affirms Judge La Jeunesse's decision. It is so ordered.

Dated this 31st day of March, 2009.

Sherrie Hayashi
Utah Labor Commissioner

IMPORTANT! NOTICE OF APPEALS RIGHTS FOLLOWS ON NEXT PAGE.

**ORDER AFFIRMING ALJ'S DECISION
RYAN NICHOLS
PAGE 3 OF 3**

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.