
UTAH LABOR COMMISSION

ADA LUANN SITTRE,

Petitioner,

vs.

**ACCUTEK SOLUTIONS and
UNINSURED EMPLOYERS FUND,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 06-1128

Ada Luann Sittre asks the Utah Labor Commission to review Administrative Law Judge Luke's denial of Mrs. Sittre's claim for benefits 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

Mrs. Sittre seeks workers' compensation benefits from Accutek and the Uninsured Employers Fund ("UEF")¹ for complex regional pain syndrome ("CRPS"). Mrs. Sittre alleges she suffers from CRPS as a consequence of an ankle sprain that occurred as she worked for Accutek on October 5, 2005. In response, Accutek and the UEF contend that Mrs. Sittre is not entitled to benefits because her current medical problems are not work-related.

Judge Luke held an evidentiary hearing in this matter and then referred the medical aspects of Mrs. Sittre's claim to a panel of medical experts. The panel concluded that Mrs. Sittre does not suffer from CRPS but, instead, is properly diagnosed with a somatoform disorder unrelated to her relatively minor ankle injury. Judge Luke accepted the panel's opinion and denied Mrs. Sittre's claim for benefits.

Mrs. Sittre now asks the Labor Commission to review Judge Luke's decision. Mrs. Sittre raises several ancillary issues, but the central question before the Commission is whether Mrs. Sittre's current problems are work-related.

¹ The Uninsured Employers Fund was added as a respondent to Mrs. Sittre's claim because Accutek did not maintain workers' compensation coverage at the time of Mrs. Sittre's accident.

ORDER AFFIRMING ALJ'S DECISION
ADA LUANN SITTRE
PAGE 2 OF 5

FINDINGS OF FACT

In 1988, nearly 20 years before her work accident at Accutek, Mrs. Sittre began complaining of extreme pain in her neck, arm, back, shoulder and legs. The preponderance of contemporary medical opinion establishes that her complaints were out of proportion to any anatomic pathology and suggested significant psychological factors.

On Thursday, October 5, 2007, Mrs. Sittre was employed by Accutek in a clerical position. As she was walking through the office, she tripped and lurched forward. Her right ankle "rolled" and her hands touched the floor, but she was able to catch herself before she fell completely to the floor. She worked the remainder of Thursday and all day Friday without any substantial difficulty. However, on Friday night she allegedly experienced significant pain in her right ankle. She sought emergency medical care and underwent radiological studies that revealed no articular, bony or soft tissue abnormalities and only minor soft tissue swelling of the right ankle.

Thereafter, Mrs. Sittre complained of increasing pain which she described as moving from her right ankle to her right leg, across her hips and then back down her left leg. In early November 2007, Mrs. Sittre began treatment with Dr. Van Gils, a podiatrist. Dr. Van Gils diagnosed Mrs. Sittre with CRPS triggered by her ankle injury at work on October 5, 2007. Mrs. Sittre also began receiving treatment from Dr. Frieden at a local pain clinic. Over time, this treatment included Methadone, Oxycontin, Percocet, sympathetic nerve blocks, and implantation of a spinal cord stimulator. Despite the foregoing treatments, Ms. Sittre describes severe pain in her legs continuing to the present time.

As already noted, Mrs. Sittre's treating physicians believe that the sprained ankle Mrs. Sittre suffered while working at Accutek caused her to develop CRPS. It does not appear that these treating physicians were fully aware of Mrs. Sittre's prior medical history at the time they arrived at their diagnosis. On the other hand, Dr. Chung, Accutek's medical consultant, reviewed Mrs. Sittre's complete medical history and personally examined Mrs. Sittre before concluding that she does not suffer from CRPS and, instead, exhibits a somatoform disorder that is unrelated to her ankle sprain at Accutek. But the most persuasive opinion regarding the cause and nature of Mrs. Sittre's current problems is that of the panel of medical experts appointed by Judge Luke.

The medical panelists are specialists with many years experience in orthopedics and neurology. The panelists have no ties to any of the parties. They had the opportunity to review all of Mrs. Sittre's medical records and the opinions of other medical providers who had examined and treated her over many years. The panel's report is thorough and well-reasoned; it is also consistent with other persuasive opinion in the record. For these reasons, the Commission accepts the panel's conclusion that the problems for which Mrs. Sittre is currently seeking workers' compensation benefits are attributable to Mrs. Sittre's somatoform disorder, which is not medically caused by Mrs. Sittre's work-related ankle sprain.

DISCUSSION AND CONCLUSION OF LAW

As already noted in this decision, the central question before the Commission is whether Mrs. Sittre's current problems are work-related. However, Mrs. Sittre raises several ancillary issues which the Commission will address before discussing the underlying merits of Mrs. Sittre's claim.

Issues related to the medical panel. Mrs. Sittre complains that the Commission has failed to promulgate rules requiring medical panelists to be specialists in the medical fields appropriate to the worker's injury or illness. While Commission rules do not contain such a requirement, § 34A-2-601(1)(c) of the Utah Workers' Compensation Act does. The panelists in this case are experienced and well-respected specialists in orthopedics and neurology. Such qualifications satisfy the statute's requirement of specialization. The Commission does not agree with Mrs. Sittre's additional argument that medical panelists must specialize in the precise injury or illness alleged by the injured worker. Such a narrow focus could prevent the medical panelists from providing the broader, more seasoned medical evaluation that is required to resolve the complex issues of diagnosis and treatment that frequently arise in workers' compensation cases.

Mrs. Sittre asserts that Dr. Wirthlin, chair of the medical panel, may have a business relationship with Dr. Moress, another physician who also examined Mrs. Sittre many years ago. Mrs. Sittre speculates that such a relationship might constitute a conflict of interest or engender a bias against Mrs. Sittre. The Commission rejects this line of argument for several reasons. First, Mrs. Sittre has not verified the actual existence or extent of the purported business relationship between Dr. Wirthlin and Dr. Moress. But even if some business relationship does exist, Mrs. Sittre has not explained any plausible reason to believe that such a relationship would affect Dr. Wirthlin's impartiality in this case—particularly where Dr. Moress's involvement with Mrs. Sittre was minimal and occurred many years ago. Furthermore, the panel's report is the joint opinion of both Dr. Wirthlin and Dr. Momberger. There is no suggestion of any bias on the part of Dr. Momberger, who fully joined in the panel's conclusions. Finally, the panel's report is fully supported by the medical record and opinions of other medical experts.

Mrs. Sittre also argues that she had a statutory and constitutional right to a hearing on her objections to the medical panel's report. This argument overlooks the plain language of § 34A-2-601((2)(f)(i) of the Act: "If an objection to a report is filed . . . the administrative law judge **may** set the case for hearing . . ." (Emphasis added.) The argument also ignores the Utah Court of Appeals' decision in *Lander v. Industrial Commission*, 894 P.2d 552, 555 (Utah App. 1995). There, the Court of Appeals considered whether an injured worker had a constitutional right to a hearing on objections to medical panel reports by applying the three-pronged balancing test established by the United States Supreme Court in *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). The Utah Court of Appeals concluded as follows:

ORDER AFFIRMING ALJ'S DECISION
ADA LUANN SITTRE
PAGE 4 OF 5

By deferring to the sound judgment and discretion of the Commission regarding when such a hearing is actually helpful to the Commission in fulfilling its responsibility as a finder of fact, the legislature has expressed its intent that this particular balance be tilted in favor of the preservation of resources for better and more beneficial uses. We cannot disagree that the balance with regard to this element of the *Mathews* test weighs in favor of the current statutory scheme.

When all three elements of *Mathews* are considered, the procedure described in section 35-1-77 passes constitutional muster.

Mrs. Sittre's other ancillary arguments. Mrs. Sittre complains about a purported lack of training, qualifications and standards for the Labor Commission's administrative law judges. These complaints appear to be based on incorrect premises of fact and law. Furthermore, even if Mrs. Sittre's accusations were true in a general sense, she has not shown that they were true in the adjudication of her case. To the contrary, the Commission has carefully examined both the record in this proceeding and the ALJ's decision and finds no error.

Mrs. Sittre also contends that the Commission is obligated to "grant Petitioners an informal hearing" and to "codify its orders into rules." The Commission does not understand the Utah Administrative Rulemaking Act or the Utah Administrative Procedures Act to require such actions, but even if they were required, Mrs. Sittre has not shown how such matters would affect the resolution of her claim in this proceeding. In summary, the Commission finds no merit to these arguments.

The merits of Mrs. Sittre's claim for benefits. The Utah Workers' Compensation Act provides medical benefits and disability compensation to workers injured by accident "arising out of and in the course of" employment. Utah Code Ann. § 34A-2-401. To qualify for benefits under the foregoing standard, an injured worker must establish that his or her work was **both** the "medical cause" and the "legal cause" of the injury in question. See *Allen v. Industrial Commission*, 729 P.2d 15, 25 (Utah 1986). As observed in *Allen*, 729 P.2d 27 (internal quotation marks and citations omitted):

The purpose of the medical cause test is to ensure that there is a medically demonstrable causal link between the work-related exertions and the unexpected injuries that resulted from those strains. The medical causal requirement will prevent an employer from becoming a general insurer of his employees and discourage fraudulent claims. With the issue being one primarily of causation, the importance of the medical panel becomes manifest. It is through the expertise of the medical panel that the Commission should be able to make the determination of whether the injury sustained by a claimant is causally connected or contributed to by the claimant's employment. Under the medical cause test, the claimant must show by evidence, opinion, or otherwise that the stress, strain, or exertion required by his or her

ORDER AFFIRMING ALJ'S DECISION
ADA LUANN SITTRE
PAGE 5 OF 5

occupation led to the resulting injury or disability. In the event the claimant cannot show a medical causal connection, compensation should be denied.

The evidence presented in this case on the issue of medical causation has been discussed under the "Findings of Fact" section of this decision. In summary, Mrs. Sittre relied on opinions of treating physicians to support the theory that her ankle sprain at Accutek triggered CRPS, which in turn accounted for her on-going pain. That theory of medical causation was contradicted by the opinion of Dr. Chung, who concluded that Mrs. Sittre exhibited a somatoform disorder medically unrelated to her ankle injury. An impartial panel of medical experts reviewed all relevant medical evidence and reached the same ultimate conclusion as Dr. Chung—that Mrs. Sittre's current complaints are attributable to a somatoform disorder that was not medically caused by her minor ankle injury at Accutek.

The Commission finds the opinion of the medical panel persuasive and therefore concludes that Mrs. Sittre work accident is not the medical cause of her current problems. In light of Mrs. Sittre's failure to satisfy the requirement of medical causation, the Commission further concludes that Mrs. Sittre's current problems do not arise out of her employment at Accutek and are not compensable under the Utah Workers' Compensation Act. In light of this determination, it is unnecessary for the Commission to address the issue of legal causation.

ORDER

The Commission affirms Judge Luke's decision denying Mrs. Sittre's claim for workers' compensation benefits. It is so ordered.

Dated this 30th day of July, 2009.

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.