
UTAH LABOR COMMISSION

SUZANNE A. GALLEGOS,

Petitioner,

vs.

**UTAH DEPT. OF ALCOHOLIC
BEVERAGE CONTROL and
WORKERS COMPENSATION FUND,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 07-0806

Suzanne A. Gallegos asks the Utah Labor Commissioner to review Administrative Law Judge Hann's denial of Ms. Gallegos's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commissioner 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. Gallegos claims workers compensation benefits from the Utah Department of Alcoholic Beverage Control and its insurance carrier, Workers Compensation Fund, (referred to jointly as "UDABC" hereafter) for low-back problems allegedly caused by a work accident at UDABC on April 29, 2002. The parties waived their right to an evidentiary hearing in this matter and instead stipulated that an impartial medical panel should be appointed to consider the medical aspects of Ms. Gallegos's claim. Judge Hann accepted the parties' stipulation and referred the claim to a medical panel. Then, relying on the medical panel's report, Judge Hann denied Ms. Gallegos's claim on the grounds that the work accident is not the medical cause of Ms. Gallegos's low-back problems.

In requesting review of Judge Hann's decision, Ms. Gallegos challenges the medical panel's conclusions regarding the duration of her work-related injury and her need for ongoing medical care to treat that injury.

FINDINGS OF FACT

The Commission adopts Judge Hann's findings of facts. In summary, Ms. Gallegos injured her back in a lifting accident at UDABC on April 29, 2002, and received medical treatment over the next several months. Ms. Gallegos reached medical stability from her work injury by December 2, 2002 and was left with a permanent 5% whole person impairment from that injury.

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After December 2002, Ms. Gallegos received additional medical treatment for back pain. The preponderance of medical evidence, including the medical panel's comprehensive and persuasive report, establish that Ms. Gallegos's continuing back pain is caused by a degenerative spinal condition that is unrelated to her work accident.

DISCUSSION AND CONCLUSION OF LAW

The central issue regarding Ms. Gallegos's claim for workers' compensation benefits, and the issue raised by her motion for review, is whether her continuing medical problems are caused by her work accident at UDABC on April 29, 2002. The Commissioner agrees with Judge Hann that Ms. Gallegos's continuing medical problems are not work-related. Specifically, the Commissioner accepts the impartial medical panel's findings that these continuing problems are caused by Ms. Gallegos's degenerative spinal condition, rather than the work accident of April 29, 2002. Consequently, Ms. Gallegos is not entitled to additional workers' compensation benefits for her continuing problems.

ORDER

The Commissioner affirms Judge Hann's denial of Ms. Gallegos' claim. It is so ordered.

Dated this 30th day of March, 2009.

Sherrie Hayashi
Utah Labor Commissioner

NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commissioner to reconsider this Order. Any such request for reconsideration must be received by the Labor Commissioner 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.