

Daryl Youngblood vs. Barr Lumbar Company, Cypress Ins. .

Decision issued: 8/04/10

Issues:

Labor Code Section 4600: Reasonableness and necessity of medical treatment services provided to disputed body part for services provided by Access Health Medical Group; Pain Relief Acupuncture; and One Stop Multi-Specialty Medical Clinic.

Findings:

Case involved an admitted right leg injury and denied injury to low back. CFC expert witness testified to the ICD-9 CM Codes (diagnosis code) outlined for the above providers. CFC expert witness pointed out that the diagnosis codes only related to treatment services to the low back. Based on this testimony The Judge disallowed the above mentioned liens in their entirety.

STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

RECEIVED
AUG 09 2010
CMK BREA

Case No. ADJ6408059

DARRYL YOUNGBLOOD,
Applicant

vs.

BARR LUMBAR COMPANY; CYPRESS
INSURANCE, Administered by BERKSHIRE
HATHAWAY HOMESTATE COMPANIES,
Defendants.

FINDINGS AND ORDER

DATE RECEIVED

AUG 06 2010

LAW OFFICES OF
RMW LLP

The above-entitled matter having been heard and regularly submitted, Melanie L. Schodde; Workers' Compensation Administrative Law Judge, now makes her decision as follows:

FINDINGS OF FACT

1. Darryl Youngblood, born September 28, 1977, while employed on May 7, 2007, as a Yard Employee, by Barr Lumbar Company, insured by Cypress Insurance, administered by Berkshire Hathaway Homestate Companies, did not sustain injury arising out of and in the course of employment to his back and left leg but did sustain injury to the left shin.
2. It is found that the admitted body part in this case was the left shin with abrasion/swelling in calf pursuant to the Defendant's Exhibit A, a Doctor's First Report of Work Injury by Roger Fox, M.D., dated May 7, 2007.
3. It is found that the following liens for treatment to the low back are all disallowed: Physical Rehab Services, Inc.; Access Health Medical Group, Inc.; Pain Relief Acupuncture Group; and ACC One Stop Multi-Specialty Medical Group.
4. It is found that the lien of Western Pacific Psychological Network, Inc. is disallowed in its entirety since no report was provided to support medical-legal charges.

② 108

ORDER

IT IS ORDERED that all liens that were the subject of this trial are disallowed per Findings of Fact No. 3 and 4.

DATE: 08/04/2010



Melanie L. Schodde

WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

MLS:kh

Dated: 8/4/2010 By: K. Hall

SERVICE:

ACC ONE STOP MULTI SPECIALTY MED, US Mail
ACCESS HEALTH MEDICAL GROUP, US Mail
AG WORK COMP RECOVERY FONTANA, US Mail
PAIN RELIEF ACUPUNCTURE, US Mail
PHYSICAL REHABILITATION SERVICES INC, US Mail
RICHARD WIDOM LOS ANGELES, US Mail
WESTERN PACIFIC PSYCHOLOGICAL, US Mail
BERKSHIRE HATHAWAY, SAN DIEGO, US Mail

(Enclosure: Service List)

STATE OF CALIFORNIA
WORKER'S COMPENSATION APPEALS BOARD
CASE NO. ADJ6408059

DARRYL YOUNGBLOOD

vs.

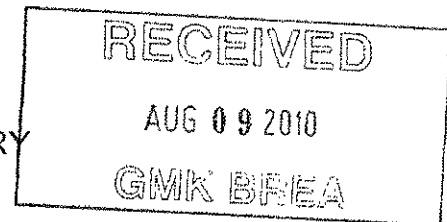
BARR LUMBAR COMPANY;
CYPRESS INSURANCE,
Administered by BERKSHIRE
HATHAWAY HOMESTATE
COMPANIES

WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE:

MELANIE L. SCHODDE

DATE: JULY 30, 2010

FOR LIEN CLAIMANTS
AG WORK COMP RECOVERY
By: Anthony Gillespie,
Hearing Representative



LAW OFFICES OF RICHARD WIDOM, LLP
By: Jesse A. Bernal,
Hearing Representative for Defendants

**OPINION ON DECISION
(LABOR CODE SECTION 5313)**

Darryl Youngblood, born September 28, 1977, while employed on May 7, 2007, as a Yard Employee, by Barr Lumbar Company, claims to have sustained injury arising out of and in the course of employment to his back and left leg.

At the time of injury the employer's workers' compensation carrier was Cypress Insurance, administered by Berkshire Hathaway Homestate Companies.

The employer has furnished some medical treatment; the parties stipulated that the primary treating physician was John C. Larson. The case in chief was resolved by an Order Approving Compromise & Release dated February 2, 2009.

This case was tried on the issue of the liens of Physical Rehabilitation Services, Inc.,

Access Health Medical Group, Inc., Pain Relief Acupuncture Group, Western Pacific Psychological Network, Inc., and Acc One Stop Multi-Specialty Medical Group, Inc.. The admitted body part, in this case was the left shin with abrasion/swelling in calf pursuant to the Defendant's Exhibit A, a Doctor's First Report of Work Injury by Roger Fox, M.D., dated May 7, 2007, the actual date of injury. Injury to the back and the left leg was denied except for the actual description of injury in defendant's A. A thorough review of all of the exhibits presented on behalf of any lien claimants shows all treatment was to the spine and none to the left leg, especially the abrasion and swelling of the left calf and injury to the left shin. The initial narrative report by the PTP signed by Justin Long, D.C., and dated March 27, 2008 (lien claimant's Exhibit 15), specifically states at page 2 under history of present illness "He states that he has now developed back pain as well." This statement is made over 10 months after the date of injury. The report is signed by Justin Long, D.C., who by stipulation of the parties is not the PTP. However, even assuming that Dr. Long is the treating doctor, Dr. Long states that the applicant sustained injury to his back without giving any basis for that conclusion. Further, the doctor states that he has no medical reports or records to review. So even assuming that Dr. Long meets the requirements as the PTP in this matter, which he does not, his report is totally without foundation, based upon unsubstantiated assumptions and incorrect medical history and, therefore, is not substantial medical evidence.

From that invalid assumption that the back is an admitted part of the body as a result of the industrial injury flows all of the medical treatment in question in this matter. No testimony by the applicant was provided by lien claimants to support injury to any body parts other than the shin and calf area of the left lower leg. None of the medical reports provided even commented on the causation of the complaints to the low back except to make the assumption that it was an admitted body part. On April 21, 2008, defendant denied liability for any claimed injury to the back (defendant's exhibit D).

Therefore, the liens for treatment to the low back: Physical Rehab Services, Inc. in the amount of \$1890.00; Access Health Medical Group, Inc. in the amount of \$10,806.00; Pain Relief Acupuncture Group in the amount of \$4,282.50; and ACC One Stop Multi-Specialty Medical Group in the amount of \$1,963.13, are all disallowed as being treatment for the non-industrial back complaints. Having denied that the defendant owes any bills for the treatment of the low back, the parties' claims for payment pursuant to the Official Medical Fee Schedule, and lien claimants' claims for penalties and interest pursuant to Labor Code Section 4603(b) are moot. For the same reason, the failure of defendants to utilize UR is irrelevant.

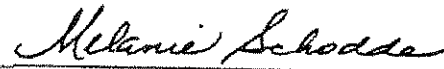
Lien claimants further assert that they are entitled to payment for treatment up to \$10,000.00 pursuant to Labor Code Section 5402(c), up to \$10,000.00 to the date of denial of the injury. That code section is not applicable as the injury was admitted to the left shin consisting of abrasion and swelling. Medical treatment was provided on the date of injury, May 7, 2007, and continuing until the applicant was released from medical care. The bills in question that were the subject of this trial were for treatment to the low back

commencing March 27, 2008. The defendants denied injury to the low back, as a result of the injury on May 7, 2007, on April 21, 2008 (defendant's exhibit D).

The only remaining lien is that of Western Pacific Psychological Network, Inc. for a lien filed September 21, 2009 in the amount of \$2843.50, for "Reasonable expenses incurred by or on behalf of the injured employee for medical-legal expenses. (Labor Code Section 4903(b))". No report was provided to support the allegation that this lien is for medical-legal expenses. Labor Code Section 4620 (3)(c) specifically notes that "Costs of medical evaluations, diagnostic tests, and interpreters incidental to the production of a medical report do not constitute medical-legal expenses unless the medical report is capable of proving or disproving a disputed medical fact...." Since no report was provided, the minimum requirements in order to collect for medical-legal expenses has not been proven, and the lien of Western Pacific Psychological Network, Inc. is disallowed in its entirety.

Therefore, all liens that were the subject of this trial are disallowed in total.

DATE: 08/04/2010



Melanie L. Schodde

WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

MLS:KH

DATED: 8/4/2010 BY: K. HALL

SERVICE:

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