

FINAL AWARD ALLOWING COMPENSATION
(Affirming Award and Decision of Administrative Law Judge
with Supplemental Opinion)

Injury No.: 10-067514

Employee: Joel Adams
Employer: City of Kansas City, Missouri
Insurer: City of Kansas City, Missouri

This workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 287.480 RSMo. Having reviewed the evidence and considered the whole record, we find that the award of the administrative law judge allowing compensation is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Law. Pursuant to § 286.090 RSMo, we affirm the award and decision of the administrative law judge with this supplemental opinion.

Discussion

Future medical care

In his award, the administrative law judge states that the parties did not identify future medical care as an issue prior to the hearing. The administrative law judge did, however, enter an award of future medical care because, in his view, the evidence compelled this result. Employer appeals.

Notably, employer's application for review challenges only the evidentiary basis for the award of future medical care, and does not argue that the administrative law judge went beyond the scope of the issues identified for hearing.

Turning to the transcript of the hearing before the administrative law judge, we note the following exchange, just before the record was closed:

THE COURT: So you're not asking for any future medical, past medical, anything like that?

MR. WICKERSHAM: Well, he's under a doctor's care for the condition, so I suppose it's an issue.

Transcript, page 55.

As seen above, counsel for employee suggested that future medical care may have been an appropriate issue for the administrative law judge's determination. Counsel for the employer did not make any objection to the suggestion from employee's counsel in this regard.

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We would be remiss if we did not caution that a precise, unequivocal, and complete identification of the parties' stipulations and disputed issues should be undertaken, on the record, at the outset of every hearing before an administrative law judge. This helps to ensure the "simple, informal, and summary" proceeding guaranteed the parties pursuant to § 287.550 RSMo, and prevents the considerable confusion and multiplication of proceedings that may result when appeals are taken following hearings where the issues and stipulations are not clearly and precisely identified on the record. See, e.g., *Hutson v. Treasurer of Mo.*, 365 S.W.3d 269 (Mo. App. 2012).

Here, given that employer now makes no argument that the administrative law judge went beyond the scope of the issues identified for trial, but rather suggests the issue is properly before us for review, we decline to consider whether the administrative law judge erred in reaching the issue. We further conclude that the issue is properly before us on appeal.

Turning to employer's substantive argument, we note that employer states, in its application for review, that employee did not present any evidence at the hearing indicating he required additional medical care. We disagree. In fact, employee testified at the hearing that he remains in near-constant, severe abdominal pain, and that he takes pain-relieving, muscle-relaxing, and anti-depressant medications, including Tizanidine, Lyrica, Cymbalta, Meloxicam, Flexeril, and Trazadone, which his treating physicians have prescribed for his work injury and its sequelae.

There is no evidence on this record to suggest (let alone prove) that the use of analgesics or other pain-control medications is contra-indicated for the medical conditions shown to have resulted from the work injury, and it appears to be within the realm of lay understanding (and we so find) that where a compensable work injury is shown to result in symptoms of continual, severe pain, the ongoing use of pain-relieving medications to help alleviate such symptoms is reasonable and necessary for purposes of § 287.140 RSMo.

Employee's testimony is not the only evidence demonstrating a reasonable probability that he has an ongoing need for future medical care that flows from the effects of the work injury. The authorized treating physician, Dr. Eden Wheeler, suggested in her note of August 25, 2011, that future treatment in the form of more aggressive pain management, including additional surgery, may be appropriate to address employee's symptoms referable to the work injury. See *Transcript*, page 531. We acknowledge that Dr. Wheeler backed away from that opinion, somewhat, in her letter to employer's counsel of September 27, 2014, wherein she cited the considerable risk of further complications or worsening of symptoms should employee undergo additional surgery. Dr. Wheeler did not, however, suggest in that letter that employee should not continue to receive prescription medications to relieve his symptoms; instead, her opinions appear to be rendered in the context of whether employee's condition could be permanently improved or cured by additional procedures. In this regard, no less

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authority than the Supreme Court of Missouri has declared that the fact an employee has reached maximum medical improvement in no way precludes an award of future treatment:

Future care to relieve [the employee's] pain should not be denied simply because she may have achieved maximum medical improvement. The statute entitles her to medical treatment as may be reasonably required "to cure and relieve from the effects of the injury." *Section 287.140.1*. "This means treatment that gives comfort or relieves even though restoration to soundness [a cure] is beyond avail." *Sullivan v. Masters Jackson Paving Co.* 35 S.W.3d 879, 888 (Mo. App. 2001)(brackets in original). Therefore, the finding that [the employee] has reached maximum medical improvement ... is not inconsistent with a need for future medical treatment.

Landman v. Ice Cream Specialties, Inc., 107 S.W.3d 240, 249 (Mo. 2003).

By the same token, this employee's reasonable decision to forego more aggressive treatments in order to avoid possible risks and complications should in no way preclude his access to additional modalities that may be identified or become available in the future. As the administrative law judge correctly observed, "an employer has an absolute and unqualified statutory duty to provide an employee with treatment that gives comfort or relief from pain, even though a cure is not possible." *Martin v. Town & Country Supermarkets*, 220 S.W.3d 836, 847 (Mo. App. 2007).

For the foregoing reasons, and because employer has not provided us with any briefing or additional argument to expand upon the suggestion of error indicated in its application for review, we are not persuaded to disturb, in any fashion, the administrative law judge's award of future medical care.

Correction

We note that on page 2 of the administrative law judge's award, in the paragraph numbered 14, the administrative law judge states as follows: "Nature and extent of any permanent disability: Permanent partial disability as to the employer." We hereby correct this obvious typographical error as follows: "Nature and extent of any permanent disability: Permanent total disability as to the employer."

Conclusion

We affirm and adopt the award of the administrative law judge as supplemented herein.

The award and decision of Administrative Law Judge Lawrence Rebman, issued February 17, 2017, is attached and incorporated herein to the extent not inconsistent with this supplemental decision.

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We approve and affirm the administrative law judge's allowance of attorney's fee herein as being fair and reasonable.

Any past due compensation shall bear interest as provided by law.

Given at Jefferson City, State of Missouri, this 15th day of August 2017.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

John J. Larsen, Jr., Chairman

VACANT
Member

Curtis E. Chick, Jr., Member

Attest:

Secretary

FINAL AWARD

Employee: Joel Adams

Injury No: 10-067514

Dependents: N/A

Employer: City of Kansas City, Missouri

Insurer: City of Kansas City, Missouri

Additional Party: N/A

Hearing Date: November 22, 2016

Checked by: LGR/pd

FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? Yes
2. Was the injury or occupational disease compensable under Chapter 287? Yes
3. Was there an accident or incident of occupational disease under the Law? Yes
4. Date of Accident or onset of occupational disease: July 28, 2010
5. State location where accident occurred or occupational disease was contracted: Kansas City, Jackson County, Missouri
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? Yes
7. Did employer receive proper notice? Yes
8. Did accident or occupational disease arise out of and in the course of the employment? Yes
9. Was claim for compensation filed within time required by Law? Yes
10. Was employer insured by above insurer? Yes
11. Describe work employee was doing and how accident occurred or occupational disease contracted: Employee was working within the scope and course of his employment when he attempted to turn a line valve. He felt a pull in his groin while turning the valve.
12. Did accident or occupational disease cause death? No Date of Death? N/A

13. Part(s) of body injured by accident or occupational disease: Groin
14. Nature and extent of any permanent disability: Permanent partial disability as to the employer.
15. Compensation paid to-date for temporary disability: \$25,974.92
16. Value necessary medical aid paid to date by employer/insurer? \$25,953.16
17. Value necessary medical aid not furnished by employer/insurer? None
18. Employee's average weekly wages: \$1,134.00
19. Weekly compensation rate: \$756.00/\$418.58
20. Method Wages computation: Stipulation of parties.

COMPENSATION PAYABLE

21. Amount of compensation payable from the Employer:
Employer is ordered to pay of \$756.00 per week for the life of the claimant or until he is no longer permanently and totally disabled.
22. Second Injury Fund Liability: N/A
23. Future Medical Care: Employer is liable for any future medical care or treatment to cure and relieve the effects of his medical conditions arising from the July 28, 2010 injury.

The compensation awarded to the Claimant shall be subject to a lien in the amount of 25 percent of all payments here under in favor of Mr. Steven K. Wickersham for necessary legal services rendered to the Claimant

FINAL AWARD

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Injury No: 10-067514

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FINDINGS OF FACT AND RULINGS of LAW

On November 22, 2016, the Employee and Employer appeared for hearing. The Division has jurisdiction to hear this case pursuant to §287.110. The employee, Joel Adams, appeared in person with counsel, Steven K. Wickersham. The employer appeared through counsel, Anthony G. Bush.

STIPULATIONS

Prior to the hearing, the parties stipulated to the following issues:

1. That the Employer, City of Kansas City, Missouri, was an employer operating under and subject to the provisions of the Missouri Workers' Compensation Law on July 28, 2010;
2. That Employer's liability was fully insured through self insurance;
3. That Joel Adams was its employee;
4. That Joel Adams was working subject to the law in Kansas City, Jackson County, Missouri on July 28, 2010;
5. That Joel Adams sustained an accident arising out of and in the course of his employment;
6. That Employee notified the Employer of his injuries as required by law and his claim was filed within the time allowed by law;
7. That Employee's average weekly wage was \$1,134.00, resulting in a compensation rate of \$756.00 for temporary total disability benefits

and permanent total disability benefits, and \$418.58 for permanent partial benefits;

8. That the Employer has paid temporary total disability compensation in the amount of \$25,974.92 and medical care expenses in the amount of \$25,953.16.

ISSUES

The parties have requested the Division to determine the following issues:

1. The nature and extent of the Employee's disability.

EVIDENCE

The Employee, Joel Adams, testified on his behalf and offered the following exhibits, all of which were admitted into evidence without objection:

Claimant's Exhibits:

- A Shawnee Mission Medical Center
- B North Kansas City Hospital
- C Joseph Petelin, M.D.
- D Eden Wheeler, M.D.
- E Pain Care
- F Body in Motion
- G Paul Torres, M.D.
- H William F. Joyce, D.O.
- I Patrick McGregor, M.D.
- J Truman Medical Center Behavior Health
- K May Titterington, M.S.
- L Allen Parmet, M.D.

The Employer offered no witnesses but offered the following exhibits, all of which were admitted into evidence without objection:

Employer's Exhibits:

- 1 C.V. Eden Wheeler, M.D.
- 2 Rating Report, Eden Wheeler, M.D.
- 2 Dr. Eden Wheeler Letter of 9/27/17
- 4 Outpatient Progress Note, Dr. Eden Wheeler 7/20/11
- 5 Outpatient Progress Note, Dr. Eden Wheeler, 8/25/11
- 6 Chart Note 11/15/11
- 7 Dr. Paul Torres, M.D. 8/10/11
- 8 Dr. William F. Joyce 11/12/11
- 9 Michelle Sprecker Vocational Report
- 10 Joseph Petelin, M.D.
- 11 Employee Retirement System Form

12 Dr. Joseph B. Petelin, M.D., Return to Work Form, 5/10/11

FINDINGS OF FACT

Joel Adams was an employee of the City of Kansas City, Missouri as a water services worker for twenty-two (22) years. He graduated from Lincoln Academy in 1980 and attended some junior college. Mr. Adams had extensive hernia repairs as a small child as well as one in high school.

On July 28, 2010, Mr. Adams was working within the scope and course of his employment with the Water Services Department on Red Bridge Road. He was attempting to turn off a rusted valve at a water main break. As he twisted the valve, he felt a sudden jerk and a pinch in his left groin.

He completed his work on this day but noticed he felt a pain in his groin. The next day his groin area was in more pain. He reported the injury and was referred to the Occupational Medicine Clinic in North Kansas City. He was diagnosed with a hernia by Dr. Patrick McGregor, M.D. He was then referred to the office of Dr. Joseph B. Petelin, M.D.

Dr. Petelin confirmed the diagnosis of a hernia and scheduled Mr. Adams for surgery. Mr. Adams underwent a surgical repair on September 20, 2010 with a mesh implantation. Mr. Adams returned to work approximately two weeks following the surgery. He continued to have pain in his groin area. He advised the groin pain interfered with his sleep. He returned to Dr. Petelin and was informed after an evaluation that the hernia was intact and was referred to Dr. Eden Wheeler, M.D. for a pain evaluation.

Dr. Wheeler evaluated Mr. Adams and prescribed medications for his pain. Mr. Adams was referred to Dr. Kimber Eubanks, M.D for trigger point injections. These provided several hours of relief from his pain. He also was prescribed Gabapentin which records show he is still taking. Mr. Adams was then directed to Dr. Gonzales for an additional evaluation.

Dr. Eden Wheeler advised Mr. Adams that his pain symptoms were likely a result of nerve entrapment issues which had been previously identified by pain management. Dr. Wheeler recommended pelvic therapy with the possibility that pelvic instability could be contributing to his groin symptoms.

The therapy was to include a TENS unit trial as well to the inguinal area. Topical Voltaren gel was recommended for potential benefit with interim modified duty. Dr. Wheeler did not advise Mr. Adams to return to pain management in light of his report of non-response to prior procedures. Mr. Adams had attended only three (3) sessions of physical therapy. The therapist questioned whether continued treatment would be of benefit with no gross abnormalities identified on her lumbar and pelvic screens. Mr. Adams noted no improvement with either the therapy or the Voltaren gel. Neurontin was initiated at this time for a possible neuropathic component. He was prescribed a TENS unit trial again and also discussed a second surgical opinion.

On August 25, 2011, Mr. Adams had completed a second opinion that diagnosed that his symptoms were likely from impingement of the ilioinguinal nerve from a permanent tacker. The surgeon recommended a more permanent block of the nerve. Mr. Adam reported no benefit with the use of the TENS unit. He believed the Neurontin medication allowed improved sleep but without impact on his pain. Mr. Adams advised the medical provider he was interested in returning to pain management for additional injections and was referred to maximize his injection treatment options.

On September 27, 2011, Mr. Adams had two additional injections by Dr. Eubanks with up to one week of improved pain. He continued to identify improvement with Neurontin for sleep rather than pain. He declined light duty therapy, as he felt he was experiencing too much pain. He reported medical complications in the interim time frame of uncontrolled diabetes, as well as poor blood pressure control, but with noted history of medication non-compliance. His treatment options were completed for his complaints of pain and he was directed to work conditioning.

Mr. Adams attended only six (6) sessions of physical therapy with five cancellations and two no-shows. He could lift up to fifty-five (55) pounds. The records indicate that Mr. Adams did not want to participate in physical therapy due to the pain it caused. His poor attendance with therapy was discussed and he was advised for a trial return to work. Mr. Adams resigned from his position with the Water Services Department on November 1, 2011. Mr. Adams was scheduled for an appointment on November 15, 2011 with Dr. Wheeler. He did not go to the appointment, nor was a cancellation call received. Mr. Adams was released without permanent restrictions and no long-term medical treatment was recommended despite the ongoing complaint of pain.

The Employee was evaluated by Dr. Allen J. Parmet, M.D. His initial evaluation was completed on July 19, 2013. Dr. Parmet performed a physical examination of Joel Adams and diagnosed him with recurrent left inguinal hernia, surgically repaired, left ilioinguinal nerve entrapment with post-herniorrhaphy pain syndrome, and diabetes mellitus type 2. Dr. Parmet advised Mr. Adams to consider the use of a spinal cord stimulator. In addition, Dr. Parmet advised Mr. Adams to reconsider the nerve ablation procedure despite the risk of significant side effects including impotence and incontinence.

In his second report dated June 23, 2016, Dr. Parmet determined Mr. Adams was severely depressed and even suicidal. He had poorly controlled diabetes and continued to experience debilitating pain from his ilioinguinal nerve entrapment syndrome after his left hernia repair. He opined that he had reviewed the testing and report of Mary Titterington and concluded that Mr. Joel Adams was permanently and totally disabled.

The Employer, City of Kansas City, Missouri, submitted medical evaluations of the employee, Joel Adams, from Dr. Paul Torres, M.D., Dr. William Joyce, M.D. and Dr. Joseph Petelin, M.D.

Dr. Torres reported that Mr. Adams had a laparoscopic left inguinal hernia repair in September of 2010. It had improved somewhat on Gabapentin which was begun on July 21, 2010. Nerve blocks provided marked symptomatic relief but only lasted a brief time. The pain is

aggravated with physical activity. It is worse with bending. It is also uncomfortable while sitting for prolonged periods of time. It is clearly improved with rest.

Dr. Torres advised Joel Adams of his suspicion that his pain was related to nerve impingement from one of the tacks, particularly as he achieved marked symptomatic relief from the nerve block. He further advised Mr. Adams that he should not undergo any additional surgery. He suggested a more permanent block of the ilioinguinal nerve via a pain management specialist. Dr. Torres recommendation was not provided despite numerous indications in the record that Mr. Adams was interested in the procedure.

Dr. Joseph B. Petelin, M.D., performed the hernia repair. He advised Mr. Adams after the surgery and an evaluation that there was no evidence of a recurrent hernia. In addition, he advised Mr. Adams he was capable of returning to unrestricted duty at his position with the Water Services Department.

Mr. Adams received a rating report from Dr. Eden Wheeler, M.D. Dr. Wheeler provided significant pain management care for Mr. Adams after he had undergone surgery to repair his hernia. Dr. Wheeler advised Mr. Adams he had achieved maximum medical improvement and assigned three (3%) percent disability of the body as a whole at the four hundred (400) week level. She also released Mr. Adams from all medical care without any permanent restrictions.

Mr. Joel Adams received vocational evaluations from Ms. Michelle Sprecker and Ms. Mary Titterington. The Employer directed Mr. Adams to Ms. Sprecker for a vocational assessment. Ms. Sprecker's report dated February 2, 2016 opined (after a review of Employee's job history and the pertinent medical reports) that the employee was capable of performing work for hire in the metropolitan labor market and he was not permanently and totally disabled.

Mary Titterington provided a vocational assessment for the employee dated October 4, 2014. Ms. Titterington performed an evaluation of Joel Adams on September 25, 2014. The evaluation consisted of a second review and the review of standardized vocational rehabilitation. In addition, Ms. Titterington performed a review of the medical treatment and medical records. Ms. Titterington concluded that no specific work restrictions had been set for Mr. Joel Adams. Because Mr. Adams missed his appointment with Dr. Wheeler on November 15, 2011, he was released by Dr. Wheeler without permanent restrictions. With this assessment, Mr. Adams would be able to return to any of his past jobs, as well as unskilled work in the open labor market.

Dr. Parmet did not set restrictions but determined that Mr. Adams' pain was too severe as to allow him to participate in any work in the open labor market. Ms. Titterington opined that Mr. Adams did not possess any transferable work skills from his past work. He is an unskilled worker with limited academic skills. With his current functioning level, which includes the need to rest in a recliner a great deal of the day to help relieve the pain from his hernia, Mr. Adams would be unemployable. She believed there was no expectation that any employer would be willing to have him for work as it is customarily performed in the open labor market.

RULINGS OF LAW

After considering all of the evidence including the medical reports of Dr. Wheeler, Dr. Parmet, Dr. Torres, and Dr. Petelin, the other medical reports and records, the vocational reports of Ms. Sprecker and Ms. Titterington, Claimant's testimony and observing his appearance and demeanor, I find that the Claimant is permanently totally disabled as a result of the July 28, 2010 accident.

Claimant has the burden of proving all material elements of his claim. Fischer v. Arch Diocese of St. Louis – Cardinal Richter Inst., 703 S.W.2d 196 (Mo. App. E.D. 1990): overruled on other grounds by Hampton v. Big Boy Steel Erections, 121 S.W.3d 220 (Mo. Banc 2003); Griggs v. A.B. Chance Company, 503 S.W.2d 917 (Mo. App. S.D. 1997) overruled on other grounds by Hampton.

PERMANENT TOTAL DISABILITY

Total disability is defined by statute as an inability to return to any employment and not merely inability to return to the employment in which the employee was engaged in at the time of the accident. See §287.020(6); Fletcher v. Second Injury Fund, 922 S.W.2d 402 (Mo. App. 1995); Kowalski v. M-G Metals and Sales, Inc., 631 W.W.2d 919 (Mo. App. 1982); Crums v. Sachs Electric, 768 S.W.2d 131 (Mo. App. 1989).

The evidence clearly shows Claimant was permanently disabled as a result of the accident he sustained on July 28, 2010. Claimant testified he experienced pain after his injury to his groin. Claimant testified that he experienced pain after the surgical repair of his hernia. He indicated the pain interferes with his sleep. Claimant requires pain medication to alleviate the pain from the hernia and the surgery related to the hernia repair.

Dr. Eden Wheeler, Dr. Paul R. Torres and Dr. Joseph B. Petelin provided medical and/or surgery and pain management to Claimant after his hernia surgery from July 2010 until November 2011. Dr. Wheeler's July 3, 2012 report indicates that despite the objective evidence that Mr. Adams' symptoms were likely from impingement of the ilioinguinal nerve from a permanent tacker. There was no follow-up regarding any medical care that could alleviate his pain complaints. Dr. Wheeler notes that Mr. Adams did not attend his physical therapy sessions due to pain complaints. Dr. Wheeler notes that: I did opine at that time that prognosis was poor for functional tolerance in light of his subjective complaints, with minimal objective findings and from poor attendance at his work conditioning. Because Mr. Adams missed his appointment with Dr. Wheeler on November 15, 2011, he was released by Dr. Wheeler without permanent restrictions. In light of the medical records, reports from Dr. Torres, as well as the contradictory statements in Dr. Wheeler's report, I do not find Dr. Wheeler's report to be credible.

Michelle Sprecker, Employer's vocational expert, noted that based upon the lack of restrictions by Dr. Petelin in March 2011 and Dr. Wheeler, therefore, Mr. Adams would be able to return to previous job experience. Mrs. Sprecker's reliance of Dr. Petelin's rating and restrictions prior to the subsequent medical care which objectively identified entrapment of the ilioinguinal nerve is not credible. Furthermore, Mrs. Sprecker's reliance upon Dr. Wheeler's lack of restrictions is not appropriate. Mrs. Sprecker clearly acknowledges that Dr. Wheeler

summarily released Mr. Adams for failing to show at an appointment. Dr. Wheeler's report is not evidence that Mr. Adams does not need restrictions. The evidence is that Mr. Adams was struggling with uncontrolled diabetes, severe pain and depression and did not have a driver's license due to April 2011 DUI conviction. Accordingly, I do not find Mrs. Sprecker's determinations to be based upon creditable opinions.

The Employee was evaluated by Dr. Allen J. Parmet, M.D. on July 19, 2013. Dr. Parmet performed a physical examination of Joel Adams and diagnosed him with recurrent left inguinal hernia, surgically repaired, left ilioinguinal nerve entrapment with post-herniorrhaphy pain syndrome, and diabetes mellitus type 2. Dr. Parmet advised Mr. Adams to consider the use of a spinal cord stimulator. In addition, Dr. Parmet advised Mr. Adams to reconsider the nerve ablation procedure despite the risk of significant side effects including impotence and incontinence. None of these procedures or the procedures identified in Dr. Wheeler's report were provided to Mr. Adams.

In his second report dated June 23, 2016, Dr. Parmet determined Mr. Adams was severely depressed and even suicidal. He had poorly controlled diabetes and continued to experience debilitating pain from his ilioinguinal nerve entrapment syndrome after his left hernia repair. He opined that he had reviewed the testing and report of Mary Titterington, Claimant's vocational expert, and opined that Claimant's combination of low functioning, depression and pain would prevent any employer from hiring him for work as it is customarily performed in the open labor market. I find the reports and opinions of Dr. Parmet and Mrs. Titterington to be credible and adopt them in finding that Mr. Adams is permanently and totally disabled as a result of the July 28, 2010 injury.

Future Medical Care

Although the parties did not identify future medical care as an issue prior to the trial, the evidence presented indicates that Mr. Adams is receiving and is in need of future medical care as a result of the July 28, 2010 accident. The Missouri courts have long instructed that "[a]n employer's duty to provide statutorily-required medical aid to an employee is absolute and unqualified." *Martin v. Town & Country Supermarkets*, 220 S.W.3d 836, 844 (Mo. App. 2007). Under the Missouri Workers' Compensation Law, a claimant must show that the need for medical treatment by reason of a compensable accident is a reasonable probability. *Bowers v. Hiland Dairy Co.*, 132 S.W.3d 260 (Mo. App. S.D. 2004). "Conclusive evidence is not necessary to support a claim for future medical benefits, but rather, it is sufficient to show the need is founded on reason and experience which inclines the mind to believe but leaves room for the doubt." *Sullivan v. Masters Jackson Paving Co.*, 35 S.W. 3d 879 (Mo. App. S.D. 2001). "Once it is determined that there has been a compensable accident, a claimant need only prove that the need for treatment and medication flow from the work injury...The clear and unambiguous terms of Section 287.140.1 require nothing more than a demonstration that certain medical care and treatment is reasonably required to cure and relieve the effects of the injury." *Tillotson v. St. Joseph Med. Ctr.*, 347 S.W.3d 511 (Mo. App. W.D. 2011). A claimant need not show that the work accident is the prevailing factor in necessitating the recommended medical treatment. *Id.*

There is no dispute that Mr. Adams has severe pain from the entrapment of the ilioinguinal nerve. Mr. Adams was been provided pain management and that was ceased when

he failed to attend an appointment with Dr. Wheeler. Dr. Wheeler summarily discharged Mr. Adams. There is no allegation or evidence that Mr. Adams has unreasonably refused medical care. In fact, Dr. Wheeler's report states that Mr. Adams was not offered medical care he desired for his pain. Dr. Parmet also identifies that Mr. Adams could benefit from additional medical care. Accordingly, the Employer shall provide necessary medical care to relieve and cure him of the effects of the injury and subsequent treatment for the injury.

RULINGS

Based on the evidence offered, I find that Claimant is permanently totally disabled as a result of his work accident of July 28, 2010. Claimant's Employer is ordered to pay of \$756.00 per week beginning November 15, 2011 and payable for the life of the claimant or until he is no longer permanently and totally disabled.

The compensation awarded to the claimant shall be subject to a lien in the amount of 25% in favor of Steve Wickersham for necessary legal services rendered to the claimant.

Made by: _____
Lawrence Rebman
Administrative Law Judge
Division of Workers' Compensation