

FINAL AWARD ALLOWING COMPENSATION
(Modifying the Award and Decision of Associate Administrative Law Judge)

Injury No.: 01-154605

Employee: Elbert Hicks
Employer: Wire Rope Corporation of America
Insurer: Missouri Private Sector Individual
Self-Insurers Guaranty Corporation
Date of Accident: December 10, 2001
Place and County of Accident: Kansas City, Missouri

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by §287.480 RSMo. We have reviewed the evidence, read the briefs of the parties, and considered the entire record. Pursuant to §286.090 RSMo, the Commission modifies the award and decision of the administrative law judge dated January 31, 2008.

I. Preliminary Matters

The Commission affirms all findings and conclusions of law made by the administrative law judge, but for the determination concerning the issue of past medical expenses. As to the liability of the employer/insurer, the administrative law judge awarded unpaid medical expenses of \$35,789.24. The Commission modifies that determination, by concluding employee is entitled to reimbursement for medical expenses in the sum of \$32,697.58.

II. Past Medical Expenses

We disagree with the administrative law judge's determination as to unpaid medical expenses. A sufficient factual basis to award past medical expenses exists when employee identifies all of the medical bills as being related to and the product of his work related injury and the medical bills are shown to relate to the professional services rendered by medical records in evidence. *Martin v. Mid-America Farm Lines, Inc.*, 769 S.W.2d 105 (Mo.banc 1989). When employee "presents testimony and evidence relating medical bills to an injury and places in evidence the accompanying medical bills and records, the burden of going forward with the evidence shifts to the employer or insurance carrier to prove that such medical bills were unreasonable and unfair." *Esquivel v. Day's Inn*, 959 S.W.2d 486, 489 (Mo.App S.D. 1998).

Employee satisfied his burden of proof with regard to the past medical expenses for treatment received from Dr. MacMillan, including the L5-S1 lumbar interbody fusion performed on June 3, 2005, as he properly offered into evidence medical bills pertaining to such treatment and testified that the medical bills and treatment were related to and the product of his work-related injury. Employer/Insurer failed to produce any evidence or testimony to establish that those medical bills were not reasonable and fair.

We agree with the unpaid medical expenses awarded by the administrative law judge from Doctors Hospital

totaling \$32,327.58. However, we disagree with the administrative law judge's finding that employee is entitled to expenses from: Dr. Anthony Lasalle (\$386.54); Cushing Medical (\$2,108.27 and \$28.23); Midwest Radiology (\$111.64); and Research Medical CE (\$826.98). None of these medical records are in evidence and therefore an award of medical expenses for these amounts is not supported. The total of the unsupported medical expenses is \$5,956.47.

Employee has demonstrated that medical bills, excluded by the administrative law judge, were medically causally related to an effort to cure and relieve the employee from the effects of the work-related injury as required by §287.140 RSMo. We find that the medical record supports a causal relationship between the work injury and medical bills for treatment received from Dr. MacMillan from October 21, 2004 through February 15, 2005 (\$370), excluding the L-S x-rays (\$110.00) taken on October 21, 2004 as those medical records are not in evidence. The total amount employee is entitled to for past medical expenses is \$32,697.58.

III. Conclusion

Based on the above modification, we find employer/insurer is liable to employee for past medical expenses in the amount of \$32,697.58.

The award and decision of Administrative Law Judge Lisa Meiners issued January 31, 2008, as modified, is attached and incorporated by this reference.

The Commission further approves and affirms 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 12th day of June 2008.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

NOT SITTING
Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary