

AWARD AFTER MANDATE

Injury No.: 03-062880

Employee: Taylor Poole
Employer: City of St. Louis
Insurer: Self-insured c/o CCMSI
Additional Party: Treasurer of Missouri as Custodian
of Second Injury Fund

On October 5, 2010, the Missouri Court of Appeals, Eastern District (Court), issued an opinion (No. ED 94052) that affirmed the November 23, 2009, Final Award of the Labor and Industrial Relations Commission (Commission) in the above-referenced case in all respects except future medical expenses. *Poole v. City of St. Louis*, 328 S.W.3d 277 (Mo. App. E.D. 2010). Concerning the issue of future medical expenses, the Court reversed and remanded the matter to the Commission for findings on employee's request for future expenses for pain management due to his compensable injuries.

By Mandate certified January 28, 2011, the Court confirmed its opinion that affirmed in all respects except future medical expenses and, with respect to that issue, reversed and remanded this matter to the Commission for findings on future medical expenses in accordance with its opinion.

Pursuant to that Mandate, we issue the following award (solely concerning the issue of future medical care).

The Court stated as follows:

The Worker's Compensation Act [section 287.140.1] permits the allowance for the cost of future medical treatment in a PPD award. The claimant is not required to present evidence on the specific medical treatment which will be necessary in the future in order to receive an award of future medical care. However, where future medical benefits are awarded, the medical care must flow from the accident before the employer is to be held responsible. It is not the claimant's burden to produce conclusive testimony or evidence to support his claim for future medical benefits. It is sufficient to award future medical benefits if the claimant shows by reasonable probability that he is in need of additional medical treatment by reason of his work-related accident.

Future care to relieve Claimant's pain should not be denied simply because he may have achieved MMI. The statute entitles him to medical treatment as may be reasonably required "to cure and relieve from the effects of the injury." "This means treatment that gives comfort or relieves even though restoration to soundness [a cure] is beyond avail." Therefore, the finding

Employee: Taylor Poole

- 2 -

that Claimant has reached maximum medical improvement is not inconsistent with a need for future medical treatment.

(Internal citations omitted.)

In his deposition, Dr. David T. Volarich discussed the issue of future medical treatment for employee in connection with his June 2003 injury. Dr. Volarich referenced long and short-term medications, physical therapy, and nerve block injections. The doctor approved of past pain management treatments and indicated that employee would continue to need such additional medical treatments for his low back. Dr. Volarich also testified that on-going, regular visits to employee's personal physician would be needed to monitor and prescribe the future course of medical care. In his written report dated September 11, 2006, Dr. Volarich advised employee to "follow up with his personal physician [Dr. W. Stephen Knapp] for any additional medical care required in the future."

In keeping with those recommendations, the Commission finds that employee is entitled to and employer shall provide such future medical benefits as may be necessary to cure, treat, and relieve employee's medical condition related to his June 2003 injury. The additional medical treatment shall include, but is not limited to, the types of pain management procedures and on-going visits discussed above and as may be recommended by Dr. Knapp.

Given at Jefferson City, State of Missouri, this 9th day of March 2011.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

William F. Ringer, Chairman

Alice A. Bartlett, Member

John J. Hickey, Member

Attest:

Secretary