

SELF-INSURING EMPLOYERS EVALUATION BOARD

Karen L. Gillmor, Ph.D., *Chairman*
Gary E. Lucas, *Member*
Christopher J. Royer, *Member*

John R. Kasich, *Governor*

IN THE MATTER OF:

EMH Regional Medical Center (Employer), Risk No. 3364-00

and

██████████ (Claimant), Claim No. ██████████

Complaint No. 17148



Shapiro, Shapiro & Shapiro Co., LPA
4469 Renaissance Pkwy
Warrensville Hts, OH 44128

EMH Regional Medical Center
630 E. River St.
Elyria, OH 44035

Careworks Consultants, Inc.
5500 Glendon Ct. Ste. 300
Dublin, OH 43016-3246

On November 22, 2010, ██████████ (Claimant) filed Complaint No. 17148 against EMH Regional Medical Center (Employer). On December 30, 2010, the Self-Insured Department of the Bureau of Workers' Compensation (BWC) found the complaint to be invalid. On January 6, 2011, Claimant filed a request for reconsideration. On February 18, 2011, BWC's Director of Business Development and Analysis upheld the finding of an invalid complaint.

On February 25, 2011, the Claimant filed an appeal of BWC's finding of an invalid complaint. On July 22, 2011, a "Notice of Presentation to the Self-Insuring Employers Evaluation Board" was sent to the parties. This matter then came before the Self-Insuring Employers Evaluation Board on October 4, 2011. The relevant history giving rise to the complaint is set forth below.

The Claimant originally filed an "Application for payment of Compensation and Medical Benefits" (C-50) on November 25, 1986, for an injury sustained in an accident on November 14, 1986. She had twisted her right knee when a patient was combative, and she and another nurse were putting the patient into a wheelchair. According to the C-50 form, Claimant's injury was a sprained right knee. The claim was allowed for a Sprain of Right Knee. Subsequently, additional conditions were allowed for Ileo Tibial Band Bursitis; Trochanteric Bursitis Right Hip; and Dysthymia.

On May 30, 2009, Claimant submitted a Motion (C-86) to order the Employer to approve and pay for treatment by Dr. Byong J. Ahn. The C-86 was received by BWC on June 2, 2009. Also filed with the C-86 was a "Physician's Report/Treatment Plan for Industrial Injury or Occupational Disease" (C-9) from Dr. Ahn that had been denied by the Employer on August 13, 2002. By a letter dated June 10, 2009, and received by BWC on June 12, 2009, the Employer, through its representative, stated: "We are in receipt of a C-86 motion requesting, (sic) approval and payments for treatments requested by Dr. Ahn." In its letter, the Employer, through its representative/Third Party Administrator (TPA), accepted the C-86 and indicated that a "Hearing on the motion was NOT necessary."

On November 22, 2010, Claimant submitted to BWC a "Filing of an Allegation Against a Self-Insured Employer" (SI-28 form). According to the SI-28 complaint, the Employer had not paid Dr. Ahn even though Employer's representative had accepted the C-86 motion on June 10, 2009. On December 7, 2010, BWC issued a notification letter to the Employer and its TPA and the Claimant and her representative.

On December 16, 2010, the Employer's new representative/TPA submitted a response to the SI-28 complaint. According to the letter, payments for the unallowed conditions were billed through insurance by Dr. Ahn and were paid by the insurance company. On December 30, 2010, the BWC Self-Insured Complaint Resolution Unit issued a letter to the Claimant and her representative and the Employer and its TPA, finding that the complaint is invalid.

On January 6, 2011, Claimant, through her representative, filed a letter requesting reconsideration of the December 30, 2010 dismissal. On January 7, 2011, the BWC Self-Insured Complaint Resolution Unit issued a "Notice of Request for Reconsideration" to the Claimant and her representative and the Employer and its TPA.

On February 18, 2011, the BWC Director of Business Development and Analysis issued a letter upholding the finding that the complaint is invalid. On February 25, 2011, the Claimant's representative filed a letter with BWC requesting that "the decision of February 18, 2011 be reviewed and overturned."

On July 22, 2011, a "Notice of Presentation to the Self-Insuring Employers Evaluation Board" was sent to the Claimant and her representative and the Employer and its representative. The letter advised that the complaint would be presented to the Self-Insuring Employers Evaluation Board at its next meeting. The next scheduled meeting of the Self-Insuring Employers Evaluation Board occurred on October 4, 2011. At that time, Complaint No. 17148 filed by Deborah Rhea was reviewed.

Claimant's representative stated in its February 25, 2011 letter: "The issue is not whether the self-insured employer has valid defenses to the non-payment of the medical bills. The issue is whether the self-insured employer waived the defenses when they (sic) agreed to pay the medical bills." Since the bills in question are for conditions that have not been allowed by BWC, the Self-Insuring Employers Evaluation Board does not have the authority under Ohio Revised Code § 4123.352 to order the Employer to pay these bills.

Therefore, based on the foregoing, the Self-Insuring Employers Evaluation Board hereby upholds BWC's finding of an invalid complaint, dismisses as invalid Complaint No. 17148 filed by Claimant [REDACTED] on December 3, 2010, and dismisses the appeal filed by Claimant on February 25, 2011.

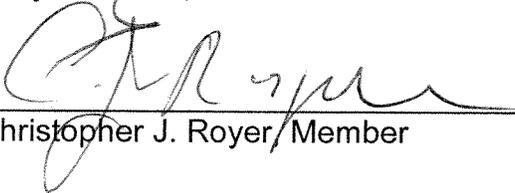
SELF-INSURING EMPLOYERS EVALUATION BOARD



Karen L. Gillmor, Ph.D., Chairman YES



Gary E. Lucas, Member YES



Christopher J. Royer, Member YES

DATE MAILED: 23rd DAY OF November, 2011