

SELF-INSURING EMPLOYERS EVALUATION BOARD

Karen L. Gillmor, Ph.D., *Chairman*
Carol A. Wilson, *Member*
Steven J. Hatton, *Member*

John R. Kasich, *Governor*

SELF-INSURING EMPLOYERS EVALUATION BOARD

IN THE MATTER OF:

Manor Care, Inc. (Employer), SI #20005245-0

and

[REDACTED]

Complaint No. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Plevin & Gallucci
2291 Scioto Harper Drive
Columbus, OH 43204

Manor Care, Inc.
P.O. Box 10086
Toledo, OH 43699

HCR Manorcare, Inc.
P.O. Box 10086
Toledo, OH 43699-0086

On November 16, 2016, [REDACTED] (Injured Worker) filed a self-insured complaint against Manor Care, Inc. (Employer) alleging that the Employer had failed to respond timely to the request of the vocational rehabilitation case manager and that the Employer had failed to provide a level of service equal to or greater than the level of service provided by the Bureau of Workers' Compensation ("BWC"). The complaint was assigned for investigation to an auditor in the Self-Insured Complaint Resolution Unit ("SI") of BWC.

On November 29, 2016, the Employer's representative responded to the November 16, 2016 self-insured complaint. The Employer's representative indicated: "Essentially there were multiple compensation and treatment issues going on at one time and in one moment the claimant [Injured Worker] was pursuing vocational rehabilitation (which would imply medical stability) meanwhile pursuing ongoing treatment and temporary total disability."

On December 14, 2016, the SI Auditor found, "The complexity of many issues going on at one time of treatment, compensation, voc rehabilitation, and hearings; BWC cannot define any rule or law the employer has violated." Therefore, the SI Auditor found the self-insured complaint was invalid.

In a letter dated December 19, 2016, the Injured Worker requested reconsideration of the finding of an invalid self-insured complaint. In a letter dated February 21, 2017, BWC's Central Service Office Manager issued a letter upholding the SI Department's decision after investigation of Complaint No. 18710, and found the Complaint to be invalid.

In a letter dated March 10, 2017, the Injured Worker requested referral to SIEEB. On March 13, 2016, 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 March 29, 2017.

Relevant History of the Complaint:

The Injured Worker, a Nurse Supervisor, was injured on January 23, 2014, when a resident attempted to light a cigarette, the Injured Worker attempted to remove the lighter, and the resident grabbed her wrist and twisted her arm and wrist.

The Injured Worker filed a self-insured complaint against the Employer alleging, "Failure to timely respond to the request of the vocational rehabilitation case manager and failure to provide services equal to or greater than those provided by BWC."

The initial allegation was that the Employer had not provided a level of service as provided by BWC, specifically regarding vocational rehabilitation. The issue was whether the Employer met the requirements of vocational rehabilitation services. The original request for vocational rehabilitation was submitted after the Injured Worker had been found to have reached maximum medical improvement ("MMI") by the Industrial Commission, resulting in the termination of the payment of temporary total disability compensation. Then, several requests for treatment were submitted, which the Employer approved. The requests for additional treatment and for payment of more temporary total disability compensation raised questions interfering with the processing of the vocational rehabilitation request. The level of service provided by the Employer was in compliance with BWC policy.

The Injured Worker's representative contended the feasibility assessment was not timely performed because it was outside the 45-day requirement in Chapter 4, "The Role of Vocational Rehabilitation in Ohio Workers' Compensation," Part K.

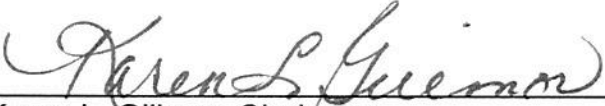
Under established BWC policy, when a claim has pending issues before the Industrial Commission that could affect vocational rehabilitation feasibility or eligibility, the Disability Management Coordinator shall not take action on the referral until such matters have been resolved. If the claim is still active when the Disability Management Coordinator is notified that all issues have been resolved, the Disability Management Coordinator shall process the referral.

The feasibility study was not completed immediately due to intervening treatment and a lack of permanent restrictions. The Employer's actions regarding the feasibility study were in compliance with BWC policy.

DETERMINATION:

Therefore, based on the investigation of the allegations in Complaint No. 18710 – “Failure to timely respond to the request of the vocational rehabilitation case manager and failure to provide services equal to or greater than those provided by BWC.” – the Self-Insuring Employers Evaluation Board hereby finds that there is no clear violation of a statutory provision, administrative rule, or BWC policy by the Employer (Manor Care, Inc.). Therefore, Complaint No. 18710, filed by the Injured Worker [REDACTED] on November 16, 2016, is invalid.

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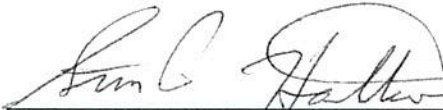
Karen L. Gillmor, Chairman

YES



Carol A. Wilson, Member

YES



Steven J. Hatton, Member

YES

DATE MAILED: 26th DAY OF September, 2017