U.S. Department of Labor

Benefits Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001

BRB No. 19-0011

PAUL MATTINGLY	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
JEFFBOAT, INCORPORATED	)	
	)	DATE ISSUED: 07/30/2019
and	)	
	)	
SIGNAL MUTUAL INDEMNITY ASSOCIATION, LIMITED	)	
	)	
Employer/Carrier-Petitioners	)	DECISION and ORDER

Appeal of the Decision and Order - Awarding Benefits of Peter B. Silvain, Jr., Administrative Law Judge, United States Department of Labor.

Melissa Riley (Embry & Neusner), Groton, Connecticut, for claimant.

Francis M. Womack, III (Law Office of Francis M. Womack, LLC), Iselin, New Jersey, for employer/carrier.

Before: BOGGS, Chief Administrative Appeals Judge, BUZZARD and GILLIGAN, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Decision and Order - Awarding Benefits (2016-LHC-01769) of Administrative Law Judge Peter B. Silvain, Jr., rendered on a claim filed pursuant to the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq*. (the Act). We must affirm the administrative law judge's findings of fact and conclusions of law if they are rational, supported by substantial evidence, and in accordance with law.

33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

In February 2013, claimant was diagnosed with pulmonary fibrosis, which he alleged was due to his work exposures as a welder for employer from January 1990 through August 2008. As a result of this pulmonary condition, claimant stopped working in December 2013 and underwent a double lung transplant in May 2015. He filed a claim under the Act, which employer controverted on the ground that claimant's pulmonary condition is not related to the welding he performed for employer.

The administrative law judge found claimant entitled to the Section 20(a) presumption, 33 U.S.C. §920(a), that his pulmonary fibrosis is related to his work exposures with employer, that employer established rebuttal thereof, and that claimant, based on the record as a whole, established that his pulmonary fibrosis is work-related and the double lung transplant was a necessary treatment for that condition. The administrative law judge awarded claimant ongoing permanent total disability benefits from December 24, 2013. 33 U.S.C. §908(a). He also ordered that, "Employer/Carrier is liable for all past, present, and future reasonable and necessary medical treatment related to claimant's injury" pursuant to 33 U.S.C. §907(a). Decision and Order at 51.

On appeal, employer contends the administrative law judge's award of medical benefits cannot be read as holding it "automatically" liable to reimburse "another carrier or provider" for medical benefits payments they made on claimant's behalf. Emp. Br. at 3. Claimant responds, urging dismissal of employer's appeal because the issue it raises is not ripe. Claimant contends employer is alleging "that it may or may not have an obligation to pay for medical care and treatment that may be presented at some future time." Cl. Resp. Br. at 2-3.

Employer does not contest the administrative law judge's findings that claimant is entitled to medical benefits for his work-related injury and that it is liable for those benefits. The administrative law judge's award of medical benefits payable by employer is therefore affirmed. *Scalio v. Ceres Marine Terminals, Inc.*, 41 BRBS 57 (2007). Moreover, employer has not identified any reviewable error in the administrative law judge's decision. *See generally Parker v. Ingalls Shipbuilding, Inc.*, 28 BRBS 339 (1994); *Collins v. Oceanic Butler, Inc.*, 23 BRBS 227 (1990). Accordingly, we grant claimant's request and dismiss employer's appeal of the administrative law judge's decision. 20 C.F.R. §802.401.

Nonetheless, we explain the law that governs an employer's liability for medical benefits paid by third parties. Section 7(a) of the Act, 33 U.S.C. §907(a), states that "[t]he employer shall furnish such medical, surgical and other attendance or treatment . . . medicine, crutches, and apparatus, for such period as the nature of the injury or the process

of recovery may require." Section 7(d)(3) of the Act provides that "[t]he Secretary may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee." 33 U.S.C. §907(d) (3). Thus, Section 7(d)(3) grants a party-in-interest standing to seek reimbursement from employer where employer's liability for medical benefits has been established. *Hunt v. Director, OWCP*, 999 F.2d 419, 27 BRBS 84(CRT) (9th Cir. 1993); *Aetna Life Ins. Co. v. Harris*, 578 F.2d 52 (3d Cir. 1978); *R.H. [Harvey] v. Baton Rouge Marine Contractors, Inc.*, 43 BRBS 63 (2009), *aff'd sub nom. Louisiana Ins. Guar. Ass'n v. Director, OWCP,* 614 F.3d 179, 44 BRBS 53(CRT) (5th Cir. 2010); *Quintana v. Crescent Wharf & Warehouse Co.*, 19 BRBS 52 (1986), *modifying on recon.*, 18 BRBS 254 (1986).

If any "other carriers or medical providers" seek payment of or reimbursement for medical bills for treatment of claimant's work-related injury pursuant to Section 7(d)(3), such claim should be presented to the district director. *See Billman v. Huntington Ingalls Indus., Inc.*, 51 BRBS 23 (2017); *see* 20 C.F.R. §702.407. If employer disputes the charges, *see Bath Iron Works Corp. v. Preston*, 380 F.3d 597, 38 BRBS 60(CRT) (1st Cir. 2004) (general award of medical benefits does not prevent employer from contesting specific items), the party-in-interest can ask the district director to investigate the unpaid charges. 20 C.F.R. §§702.407, 702.413, 702.414(a); *see generally Newport News Shipbuilding & Dry Dock Co. v. Loxley*, 934 F.2d 511, 24 BRBS 175(CRT) (4th Cir. 1991), *cert. denied*, 504 U.S. 910 (1992). If any party disputes the district director's specific findings and proposed action, the regulations provide that a formal hearing may be requested before an administrative law judge on the disputed claim; such a claim is to be adjudicated pursuant to 33 U.S.C. §919(d) and 20 C.F.R. §702 Part C. 20 C.F.R. §§702.415-417; *see generally Watson v. Huntington Ingalls Indus., Inc.*, 51 BRBS 17 (2017) (administrative law judge has the authority under Section 19(a) of the Act to address a medical provider's claim for reimbursement at the prevailing market rate).

Accordingly, employer's appeal is dismissed and the administrative law judge's Decision and Order Awarding Benefits is affirmed.

SO ORDERED.

JUDITH S. BOGGS, Chief
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge

RYAN GILLIGAN
Administrative Appeals Judge