

KEITH L. MASON)
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 Claimant-Petitioner)
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 v.)
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 GULF BEST ELECTRIC COMPANY) DATE ISSUED: 11/30/2006
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 and)
)
 HIGHLANDS INSURANCE COMPANY)
)
 Employer/Carrier-)
 Respondents)
) DECISION and ORDER

Appeal of the Decision and Order of Clement J. Kennington, Jr.,
Administrative Law Judge, United States Department of Labor.

Christopher R. Schwartz, Metairie, Louisiana, for claimant.

Douglass M. Moragas, Harahan, Louisiana, for employer/carrier.

Before: SMITH, McGRANERY and BOGGS, Administrative Appeals
Judges.

PER CURIAM:

Claimant appeals the Decision and Order (2005-LHC-493) of Administrative Law Judge Clement J. Kennington, Jr., rendered on a claim filed pursuant to the provisions of 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 supported by substantial evidence, are rational, and are in accordance with law. 33 U.S.C. §921(b)(3); *O'Keefe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Claimant injured his back on December 6, 1989, during the course of his employment with employer. Throughout various periods during 1990, employer paid

claimant temporary total and temporary partial disability benefits. Employer also paid medical benefits. Claimant returned to work in his usual job, and in 1998, he became a supervisor. In 2004, claimant was laid off due to a reduction-in-force. Thereafter, claimant filed a claim for disability benefits. The administrative law judge determined that claimant satisfied the Act's coverage requirements, 33 U.S.C. §§902(3), 903(a). He invoked the Section 20(a), 33 U.S.C. §920(a), presumption with regard to both claimant's lumbar sprain and his degenerative back condition. The administrative law judge found that the sprain reached maximum medical improvement on February 13, 1991, and that the degenerative condition, which is the cause of claimant's current impairment, is not work-related. Decision and Order at 16-21. Because claimant continued to work for employer for approximately 15 years after his lumbar sprain, the administrative law judge found that claimant did not sustain a loss of wage-earning capacity as a result of that injury, that employer need not establish any other suitable alternate employment as a result of the layoff, and that even if it were necessary to do so, employer's vocational report established the availability of suitable alternate employment for claimant. *Id.* at 22. With regard to the requested medical benefits, the administrative law judge found that employer presented evidence establishing that the requested medical treatment is neither necessary nor reasonable.¹ *Id.* at 25. Accordingly, the administrative law judge denied claimant's claim for additional disability and medical benefits. Claimant appeals the administrative law judge's decision. Employer responds, urging affirmance of the denial of benefits and arguing that claimant's brief on appeal does not comply with the Board's regulation at 20 C.F.R. §802.211(a), (b).

Section 802.211(b) provides that each brief supporting a petition for review must state the issues to be considered by the Board and present an argument for each issue, making references to the transcript, evidence, other parts of the record, and any authorities on which the petitioner relies. Where a petitioner's brief fails to assert specific errors in the administrative law judge's decision, the petitioner has not met the requirements of the regulation and has not raised a substantial issue for the Board's review. *Shoemaker v. Schiavone & Sons, Inc.*, 20 BRBS 214 (1988); *Bonner v. Ryan-Walsh Stevedoring Co.*, 15 BRBS 321 (1983); *Shelton v. Washington Post Co.*, 7 BRBS 54 (1977). Mere assignment of error without specific arguments and citations is

¹The administrative law judge found that employer had paid for treatment by Dr. Ruel, that claimant began seeing Dr. Knight and obtaining medication without informing Dr. Ruel, that Dr. Ruel discharged claimant from his care upon discovering this, that Dr. Laborde stated that there was no objective need for claimant to continue treatment for his work injury, and that Dr. Bartholomew, the doctor with whom claimant currently wishes to treat, advised that claimant should not pursue surgical intervention at this time. Decision and Order at 24-26.

insufficient to invoke the Board's review. *Carnegie v. C&P Telephone Co.*, 19 BRBS 57 (1986). For example, the Board has held that when a petitioner filed a copy of his post-hearing brief with the Board without addressing the administrative law judge's decision or any alleged errors therein, the brief failed to meet the requirements of 20 C.F.R. §802.211(b), and the Board summarily affirmed the administrative law judge's decision. *Collins v. Oceanic Butler, Inc.*, 23 BRBS 227 (1990).

In this case, claimant is represented by counsel, and his petition for review arguably alleges two errors of law. He contends the administrative law judge erred in finding that employer is not responsible for disability benefits and in disapproving medical treatment with Dr. Bartholomew. Attached to the petition for review is a brief which summarizes the testimony and medical evidence and then "presents for discussion" boilerplate law on the issues of coverage, the nature and extent of injury, and the choice of physician. Employer argues that this brief is the same brief that was submitted to the administrative law judge after the formal hearing. Indeed, the brief itself professes "Dr. Bartholomew saw the patient on July 12 and a report will be supplemental to *this post trial brief* to support a need for ongoing treatment." Brief at 7 (emphasis added). Moreover, claimant's brief does not cite to the administrative law judge's decision or to any particular findings he made. Although claimant makes one reference to the administrative law judge's decision,² this is insufficient to invoke the Board's review. See *Plappert v. Marine Corps Exchange*, 31 BRBS 109 (1997), *aff'g on recon. en banc* 31 BRBS 13 (1997) (noting issue without addressing alleged errors is insufficient). Indeed, the only issues addressed in the administrative law judge's decision which would warrant review on claimant's behalf are whether claimant has a work-related disability and whether he requires medical treatment therefor. Beyond his one sentence reference to Dr. Bartholomew, claimant has not addressed these issues in his brief. *Carnegie*, 19 BRBS 57. Thus, he has raised no substantial issue with regard to the administrative law judge's decision, and we decline to disturb it. *Collins*, 23 BRBS 227.

²On page 11, claimant states: "The employer has not established any fact that he can work. No medical treatment has ever been authorized for claimants' (sic) doctor. Dr. Ruel will not see claimant. Dr. Bartholomew needs to treat claimant yet the judge denied treatment."

Accordingly, the administrative law judge's Decision and Order denying benefits is affirmed.

SO ORDERED.

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge