BRB No. 98-0490

EDWIN LACERNA	)	
	)	
Claimant-Petitioner	)	DATE ISSUED:
	)	
v.	)	
	)	
NEWPORT NEWS SHIPBUILDING AND DRY DOCK COMPANY	)	
	)	
Self-Insured Employer-Respondent	)	DECISION and ORDER

Appeal of the Decision and Order and Errata Order of Daniel A. Sarno, Jr., Administrative Law Judge, United States Department of Labor.

Gregory E. Camden, Norfolk, Virginia, for claimant.

Melissa R. Link (Mason & Mason, P.C.), Newport News, Virginia, for self-insured employer.

Before: HALL, Chief Administrative Appeals Judge, SMITH, Administrative Appeals Judge, and NELSON, Acting Administrative Appeals Judge.

PER CURIAM:

Claimant appeals the Decision and Order and Errata Order (96-LHC-1892) of Administrative Law Judge Daniel A. Sarno, 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. *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3).

Claimant sustained injuries to his back and right hip on January 25, 1995, during the course of his employment with employer as a cleaner. Employer voluntarily paid claimant temporary total disability benefits during various periods of time from the date of this incident until his return to work on September 10, 1995.

Since that date, claimant, despite allegations of continued problems with his right hip, has continued to work full time at his pre-injury position with extensive overtime.

In his decision, the administrative law judge found that claimant was entitled to medical benefits for the conditions arising as a result of the January 25, 1995, work incident, but that, because claimant's hip condition abated as of May 9, 1996, employer is not responsible for medical treatment rendered after that date.

On appeal, claimant contends that the administrative law judge erred in concluding that his hip condition had resolved and that, therefore, employer is not liable for medical treatment for this condition after May 9, 1996. Employer responds, urging affirmance.

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 . . . for such period as the nature of the injury or the process of recovery may require." *Brooks v. Newport News Shipbuilding & Dry Dock Co.*, 26 BRBS 1 (1992), *aff'd sub nom. Brooks v. Director, OWCP*, 2 F.3d 64, 27 BRBS 100 (CRT)(4th Cir. 1993). Section 7 does not require that an injury be economically disabling in order for a claimant to be entitled to medical expenses, but only that the injury be work-related. *See Ballesteros v. Willamette Western Corp.,* 20 BRBS 184 (1988). While it is employer's duty to provide medical services necessitated by an employee's work injuries, *see Kelley v. Bureau of National Affairs*, 20 BRBS 169 (1988), claimant must establish that the requested services are reasonable and necessary for the treatment of the work injury. *See Wheeler v. Interocean Stevedoring, Inc.*, 21 BRBS 33 (1988).

In challenging the administrative law judge's decision, claimant avers that the administrative law judge erred in relying upon the opinion of Dr. Gibson rather than the opinion of Dr. Siegel. We disagree. In the instant case, the administrative law judge determined that claimant's hip condition, specifically avascular necrosis, had been temporarily aggravated as a result of the January 25, 1995, work incident, but that this aggravation had fully resolved as of May 9, 1996. The administrative law judge based his findings regarding this issue upon the medical opinion of Dr. Gibson and his determination that claimant's complaints of pain and limping were not credible. Dr. Gibson opined that the aggravation of claimant's hip condition had fully resolved as of his examination on May 9, 1996, based upon his examination of claimant and the objective evidence. CX 9. Moreover, the administrative law judge acknowledged the testimony of claimant's supervisor, who stated that claimant never complained of pain nor was seen limping. Lastly, the administrative law judge found noteworthy the fact that claimant not only performs his pre-injury job but also

work extensive overtime. In contrast, Dr. Siegel, who, as claimant asserts, examined claimant several days after Dr. Gibson, opined that claimant's aggravation had not yet resolved; the record further reflects, however, that Dr. Siegel noted claimant had a normal sensory and neurologic examination, that claimant did not walk with a limp, that claimant made no complaints of hip pain and that any future treatment should be under the direction of Dr. Gibson. CX 1.

The administrative law judge may consider a variety of medical opinions and observations in assessing the extent of claimant's disability. *See Pimpinella v. Universal Maritime Service, Inc.*, 27 BRBS 154 (1993). Moreover, it is well established that the administrative law judge is entitled to weigh the evidence and draw his own inferences from it, *see Wheeler,* 21 BRBS at 33, and is not bound to accept the opinion or theory of any particular witness. *See Todd Shipyards v. Donovan*, 300 F.2d 741 (5th Cir. 1962). Inasmuch as it was within the administrative law judge's discretion to rely upon the opinion of Dr. Gibson, and to decline to rely upon claimant's testimony, we affirm his determination that claimant's work-related hip condition abated as of May 9, 1996, as that finding is rational and supported by substantial evidence, and his consequent determination that employer is not liable for treatment after May 9, 1996, as such treatment would not would be related to claimant's work injury. *See Brooks,* 26 BRBS at 1.

Accordingly, the administrative law judge's Decision and Order and Errata Order are affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

MALCOLM D. NELSON, Acting

Administrative Appeals Judge