

FILED

OCT - 6 1995

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT
OF THE STATE OF MONTANA

DEBBIE GALLUP
Petitioner,

vs.

STATE COMPENSATION INSURANCE
FUND,
Respondent/Insurer for

AMEX TAX AND DUTY FREE SHOPS,
Employer.

WCC NO. 9503-7257

PRE-TRIAL ORDER

A Pre-Trial conference was held in the above captioned matter on October 3, 1995 in Great Falls, Montana. Cameron Ferguson appeared on behalf of Petitioner and Ann E. Clark appeared on behalf of Respondent/Insurer before Patricia J. Kessner, Hearings Examiner.

1. STATEMENT OF JURISDICTION: The Court has jurisdiction in the above-entitled matter pursuant to Section 39-71-2905, M.C.A.

2. MOTIONS: Petitioner has objected to certain of Respondent's proposed exhibits as set forth in "Plaintiff's Objection to Certain Of Respondent's Proposed Exhibits" dated September 6, 1995. Respondent has objected to certain of Petitioner's exhibits as set forth in Respondent's list of exhibits.

3. STATEMENT OF UNCONTESTED FACTS:

1. On May 18, 1992, Petitioner developed a blister in her left groin while working as a sales and delivery person for Amex Tax and Duty Free Shops.

2. On May 18, 1992 the employer was enrolled under Compensation Plan No. III of the WC Act and its insurer was the State Compensation Insurance Fund.

3. The State Fund accepted liability for the blister the Petitioner developed on May 18, 1992 and paid medical and temporary total disability benefits.

4. STIPULATIONS BETWEEN THE PARTIES:

1. Petitioner intends to use a mannequin at trial for demonstration purposes and Respondent has no objection.

5. ISSUES OF FACT AND LAW TO BE DETERMINED BY THE COURT:

1. Whether the insurer is liable for any or all subsequent cysts which have developed in Petitioner's groin area.

2. Whether Petitioner is entitled to additional temporary total disability benefits, and if so for what dates.

6. PETITIONER'S CONTENTIONS:

1. Petitioner contends that her May 18, 1992 injury resulted in the formation of cysts in her groin area which have become infected and the continuing cysts and treatment therefore are compensable as related to the injury she sustained on May 18, 1992.

2. Petitioner contends that she is due further temporary total disability benefits as a result of such injury from and after November 2, 1992, the date of last payment of temporary total disability benefits, through the current time and continuing.

3. Respondent has paid Petitioner's temporary total disability benefits at the rate of \$146.67 from the date of injury through November 2, 1992. The amount of \$146.67 is Petitioner's temporary total and permanent partial disability rate.

7. RESPONDENT'S CONTENTIONS:

1. The State Fund is not liable for Petitioner's continuing skin problems or related conditions.

2. The Petitioner is not entitled to additional temporary total disability benefits.

8. PETITIONER'S AND RESPONDENT'S JOINT EXHIBITS:

1. Claim for Compensation dated 4/28/93;
2. Great Falls Tribune article dated May 19, 1992,

- "Bored at the Border";
3. Medical records from Dr. R. Stanchfield dated 6/16/92 through 7/19/95;
 4. Letter dated May 9, 1995 to Dennis Small, State Fund, from Dr. R. Stanchfield;
 5. Letter dated April 13, 1994 to Dr. Stanchfield from Cameron Ferguson, with Dr. Stanchfield's inserted replies;
 6. Letter dated July 7, 1994 to Dr. Stanchfield from Crawford and Company, with Dr. Stanchfield's insertions;
 7. Medical report from Dr. Richard S. Herdener dated November 8, 1994;
 8. Columbus Hospital pathology report dated 1/4/93;
 9. Toole County Hospital report dated 2/14/93;
 10. The pants, nylons and shoes petitioner was wearing at the time of the accident; (Note: Respondent objects to these on grounds of Relevance and Foundation)
 11. Medical Reports of Medical Consultants Northwest, Inc., Dr. Lantsberger;
 12. Field Report dated August 17, 1993 (Note: Petitioner has objected to these on the grounds as set forth in Plaintiff's Objection to Certain Of Respondent's Proposed Exhibits);
 13. Medical Records of Crawford & Crawford Healthcare Management; (Note: Petitioner has objected to these on the grounds as set forth in Plaintiff's Objection To Certain Of Respondent's Proposed Exhibits)
 14. Letter dated August 22, 1994 Elinda Gardner from David Baldrige;
 15. Letter dated June 13, 1995 to Dennis Small from David Baldrige;
 16. Letter dated June 1, 1995 to Elinda Gardner from Richard Herdener;
 17. Letter dated May 18, 1995 to Elinda Gardner from Paula Lantsberger;
 18. Job Analysis/Physician Review Form signed November 10, 1994;
 19. Prescriptions from Wells Drugs dated 1/6/92 through 2/8/93;
 20. Article on Hidradenitis Suppurativa.

9. PETITIONER'S WITNESSES:

The following is a list of individuals who are potential witnesses for Petitioner in the above captioned matter:

1. Debbie Gallup.
2. Fred Gallup

10. RESPONDENT'S WITNESSES:

The following is a list of individuals who are potential witnesses for Respondent in the above captioned matter:

1. Debbie Gallup
2. Linda Johnson, State Fund
3. Dennis Small, Claims Adjuster

11. PLACE AND TIME OF TRIAL: The trial in this matter will be held on _____ at _____:_____. in Great Falls, Montana at the Federal Building. The time of the trial is estimated to be two (2) hours.

DATED this 6th day of October, 1995.

Mark McCartney
JUDGE MCCARTNEY/McCartney

DATED: _____

Approved:

Cameron Ferguson
CAMERON FERGUSON
ATTORNEY FOR PETITIONER

Ann E. Clark
ANN E. CLARK, ATTORNEY FOR RESPONDENT/INSURER