



2 of 8 DOCUMENTS

LYNN ALEXANDER, Employee/Claimant,
v.
ABBEVILLE COUNTY MEMORIAL HOSPITAL, Employer, and PALMETTO HOS-
PITAL TRUST SERVICES, Carrier, Defendants

WCC FILE NO: 0525476

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

2007 SC Wrk. Comp. LEXIS 417

January 11, 2007, Decided

January 11, 2007, Filed

CORE TERMS: claimant, ankle, dancing, dance, medical treatment, ballet, peroneal, danced, pain, conversation, carrier, brace, toes, ballet dancing, videotape, surgery, synovectomy, swelling, symptoms, tendon, emergency room, full

5. The Claimant seeks benefits under the South Carolina Workers' Compensation Act based upon an originally admitted accidental injury occurring on July 5, 2005. Therefore, the South Carolina Workers' Compensation Commission has jurisdiction of the case.

EVIDENTIARY SUBMISSIONS

Under the Administrative Procedures Act, the following records were submitted into evidence by the parties:

Claimant's Submissions

1. Records of Abbeville County Memorial Hospital dated July 5, 2005 through August 7, 2006 consisting of 32 pages;
2. Records of Oakwood Orthopaedic Specialists dated June 21, 2006 [*2] consisting of 2 pages;
3. Records of Caroline Bone and Joint Specialists dated March 14, 2006 through August 7, 2006 consisting of 10 pages;

Exhibits

Claimant's Exhibits:

- (a) Claimant's left ankle corset brace
- (b) Photograph of Claimant

Pursuant to a supplemental Form 58 and APA submission dated December 1, 2006, Claimant submitted the deposition testimony of Steven T. Carawan, M.D., taken on November 21, 2006

Defendant's Submissions

1. Claimant's deposition taken September 27, 2006

It is the Claimant's position that she sustained an originally admitted injury to her left ankle on July 5, 2005 that became worse and ultimately required additional treatment in early 2006. Claimant contends that the authorized treating physician, Dr. Steven Carawan, knew of her extra-curricular dancing activities and opined that continued dancing on the left ankle did not contribute to Claimant's ultimate need for surgery. Claimant seeks payment of all causally related medical treatment and an award of compensation for temporary total disability benefits from May 24, 2006 to the present and continuing. Claimant also seeks additional medical treatment.

The Defendants contend that Claimant's extra-curricular ballet dancing, particularly her activities after April 4, 2006, served as an intervening cause which contributed to her need for surgery. The Defendants further contend that Claimant was dishonest in June 2006 when the carrier questioned her regarding her dancing activities. Defendants contend that Claimant's lack of credibility is significant in that it also skews Dr. Carawan's opinion, which was largely based on the history provided by the Claimant. Defendants [*5] contend that the Claimant should be denied any additional benefits under the Act.

EVIDENCE OF THE CASE

Live Testimony

The Claimant, Lynn Alexander, appeared and testified that she was formerly employed at Abbeville County Memorial Hospital and that on July 5, 2005 she stepped in a pothole and twisted her left ankle while walking across the campus of Abbeville County Memorial Hospital. Claimant testified that she initially treated in the emergency room where her left ankle was x-rayed. Claimant returned to work that same day but was in significant pain. Claimant testified that, initially, she did not miss any time from work. Claimant testified that in November of 2005, she was required to work longer hours, which she contends contributed to increased pain and swelling in her left ankle.

The Claimant testified that she informed Dr. Carawan of her ballet dancing and Pilates activities and that Dr. Carawan gave her a brace to wear while engaging in these activities. Claimant explained that ballet and Pilates has been a

do fast movements with her left foot/ankle. Ms. Girvin testified that Claimant could not do running and jumping. Ms. Girvin stated that Claimant did perform in the May 16, 2006 performance at Lander University, but danced in a modified role. On cross examination, Ms. Girvin testified that during the May 16, 2006 performance at Lander University,

Claimant did primarily floor work, upper body movement and moved around the floor. Ms. Girvin admitted that Claimant was present for every rehearsal, which was every other Saturday from 9:00 a.m. until 1:00 p.m. from January until May 2006. Ms. Girvin verified that Claimant did rehearse at Studio One after April 4, 2006.

Lynfield Tolar, of Palmetto Hospital Trust Services, appeared at the hearing and testified on behalf of the Defendants. [*9] Mr. Tolar testified that he was the adjuster responsible for handling Ms. Alexander's July 5, 2005 workers' compensation claim. Mr. Tolar explained that Ms. Alexander's claim was originally treated as a medical-only claim and

need for surgery. On June 21, 2006, [*13] Dr. Anderson confirmed that a peroneal procedure on Claimant's left ankle

FINDINGS OF FACT

1. After viewing the videotape of Claimant's May 16, 2006 ballet performance at Lander University.

For related research and practice materials, see the following legal topics:

Workers' Compensation & SSDI Administrative Proceedings Evidence Witnesses Workers' Compensation & SSDI Benefit Determinations General Overview Workers' Compensation & SSDI Compensability Injuries Accidental Injuries