

STATE OF WISCONSIN
LABOR AND INDUSTRY REVIEW COMMISSION
P O BOX 8126, MADISON, WI 53708-8126 (608/266-9850)

BARBARA AMES, Applicant
146 EAST ST
POTOSI WI 53820

WORKER'S COMPENSATION
DECISION

Claim No. 87067052
S. S. No. [REDACTED]

ADVANCE TRANSFORMER
PLATTEVILLE, Employer
1000 PHILIPS RD
PLATTEVILLE WI 53818

**SEE ENCLOSURE AS TO TIME
LIMIT AND PROCEDURES ON
FURTHER APPEAL**

TRAVELERS INS CO, Insurer
P O BOX 26985
MILWAUKEE WI 53226

An administrative law judge (ALJ) for the Worker's Compensation Division of the Department of Workforce Development (Department of Industry, Labor and Human Relations prior to July 1, 1996) issued a decision in this matter. A timely petition for review was filed.

The commission has considered the petition and the positions of the parties, and it has reviewed the evidence submitted to the ALJ. Based on its review, the commission agrees with the decision of the ALJ, and it adopts the findings and order in that decision as its own.

ORDER

The findings and order of the administrative law judge are affirmed.

Dated and mailed

APR 25 1997

amesba.wsd:175:8


Pamela I. Anderson, Chairman


David B. Falstad, Commissioner

MEMORANDUM OPINION

The applicant asserts in her petition for commission review that the administrative law judge erred in determining that the evidence was insufficient to establish that the applicant's right sided jaw problems were caused by the work injury of September 9, 1987. The applicant contends that the administrative law judge erred in determining that because she did not tell her other physicians about the chiropractic treatments with Dr. Otto, including treatments to her jaw, that the other physicians' opinions are invalid was in error. The applicant states that by the time Dr. Otto began the subject manipulations that the applicant had two surgical interventions in her right TMJ.

However, the evidence indicated that the applicant had a preexisting degenerative jaw condition prior to the work injury in September 1987. Dr. Teplin, who prepared a report on behalf of the employer, noted that the applicant had a history of left sided TMJ problems dating to 1981, and had two operations performed by Dr. DeLong to treat the problem. Dr. Teplin noted that the applicant complained of right sided pain prior to the incident in September 1987. Dr. Teplin opined that the applicant's need for treatment and degenerative condition on the left would lead to a long term imbalance in the applicant's jaw motion which would lead to right TMJ pain and subsequent pathology.

The medical notes from June 5, 1987, indicate that the applicant reported that the right joint was causing her more discomfort than the left. The evidence also indicated that in her injury of September 9, 1987, the applicant hit the left side of her jaw and it does not appear that the applicant complained about her right side until October 22, 1987, six weeks after the injury. Dr. Teplin noted that the applicant had a tomagram study on September 10, 1987, the day after the injury which noted extensive disease on the left side, and a normal appearing joint on the right side with normal motion. The evidence did not establish that there were any herniated discs at that time. Dr. Teplin opined that the applicant's right sided TMJ problems were caused by her preexisting degenerative condition. The commission credits Dr. Teplin's assessment and finds that the evidence was sufficient to raise a legitimate doubt that the applicant's right sided TMJ problems were caused by the work injury on September 9, 1987.

The applicant also contends that the administrative law judge erred in refusing to admit the report from Dr. DeLong, the applicant's oral surgeon. The applicant contends that under sec. 102.17 (1)(d), Stats., Dr. DeLong's report should have been accepted as a surgeon rather than denied admissibility as a doctor of dentistry. However, the commission agrees with the administrative law judge that Dr. DeLong's report was not admissible on the issue of causation pursuant to sec.

102.17 (1)(d), Stats. The administrative law judge appropriately noted that doctors of dentistry, who are licensed, are only competent to give opinions concerning the diagnosis and necessity for treatment for an injury, but are not competent to give opinions concerning causation and extent of disability under the statute. Dr. DeLong is a doctor of dental medicine not a medical physician. The fact that he is an oral surgeon does not change the fact that he is a doctor of dentistry. Under the provisions of sec. 102.17 (1)(d), Stats., Dr. DeLong's report was appropriately held to be inadmissible.

cc: ATTORNEY CRAIG R DAY
HASKINS KALNINS MCNAMARA
VANDEHEY & DAY
P O BOX 507
LANCASTER WI 53813

ATTORNEY CHARLES M SOULE
SCHOONE FORTUNE LEUCK
KELLEY & PITTS SC
P O BOX 97
RACINE WI 53401-0097