

October 5, 2021

Wayne Frankman
[REDACTED]

LETTER DECISION AND ORDER

Shane Eden
Davenport, Evans, Hurwitz & Smith, LLP
P.O. Box 1030
Sioux Falls, SD 57101

RE: HF 36, 2018/19– Wayne Frankman v. Sioux International and Western National Insurance

Dear Mr. Frankman and Mr. Eden:

The Department of Labor & Regulation (Department) received Employer and Insurer's Motion to Compel Medical Authorization and Supporting Brief on June 1, 2021. Claimant was given the opportunity to respond to the Motion but did not do so. The Department will now consider the Motion without benefit of a response.

Employer and Insurer have asserted that they have been unable to obtain and review medical records directly for Claimant's providers. Claimant had provided an authorization, but he later revoked it on May 13, 2021. Employer and Insurer argue they cannot evaluate whether they have an obligation related to Claimant's treatment in 2020 and 2021 without the records, and therefore, an order compelling Claimant to provide Employer and Insurer with an executed medical release is appropriate.

The Department agrees with Employer and Insurer. SDCL 62-4-1.3 provides,

Upon the request of an employer, an employee subject to this title shall supply a signed medical release to allow copying of any medical record and report relevant to the employee's claim for workers' compensation. If the employee objects to the relevance of any medical record or report, an administrative law judge within the department shall, upon a showing of good cause for the release of such record or report, approve the release of the medical record or report relevant to the employee's claim, to the employer. The employer shall, upon request, provide a copy of all medical records and reports received, to the employee, without cost to the employee.

Claimant was given the opportunity to object to the relevance of any medical records pursuant to SDCL 62-4-1.3 but did not do so. Employer and Insurer have provided the Department with a copy of the release, and it meets the minimum requirements for approval under the law. Therefore, Employer and Insurer's Motion to Compel Medical Authorization is GRANTED. Claimant is hereby ORDERED to return the executed medical release to Employer and Insurer.

Sincerely,



Michelle M. Faw
Administrative Law Judge