

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1998 MTWCC 34

WCC No. 9712-7883

TOBY C. McADAM

Petitioner

vs.

NATIONAL UNION FIRE INSURANCE

COMPANY OF PITTSBURGH

Respondent/Insurer for

SYSCO FOOD SERVICE OF MONTANA

Employer.

ORDER DENYING REQUEST FOR REHEARING

Summary: After filing of WCC decision, pro se claimant requested a rehearing on the ground judgment "is in contradiction of facts this court found." He later submitted to the Court an MRI report referencing a large focal disc herniation.

Held: Request for rehearing denied. WCC reviewed findings of fact and conclusions of law and finds them consistent. To the extent claimant's request is based on the MRI, that request is untimely, but claimant is not precluded from filing a new petition based on the MRI results and any new information.

Topics:

Procedure: Post-Trial Proceedings: Motion for Reconsideration. Where pro se claimant requested rehearing because Court's judgment was "in contradiction of facts this court found," WCC reviewed findings of fact and conclusions of law and found them consistent. The fact that claimant also forwarded an MRI report after the initial motion, which was received after the deadline for moving for a rehearing, does not require a new hearing. Claimant is not, however, precluded from filing a new petition on the basis of the MRI or other alleged new medical information.

Procedure: Post-Trial Proceedings: New Trial: Generally. Where pro se claimant requested rehearing because Court's judgment was "in contradiction of facts this

court found," WCC reviewed findings of fact and conclusions of law and found them consistent. The fact that claimant also forwarded an MRI report after the initial motion, which was received after the deadline for moving for a rehearing, does not require a new hearing. Claimant is not, however, precluded from filing a new petition on the basis of the MRI or other alleged new medical information.

¶1 This Court issued its Findings of Fact, Conclusions of Law and Judgment on March 23, 1998. On March 31, 1998, petitioner filed a request for rehearing in which he urged that the judgment entered by the Court "is in contradiction to facts that this court found." Thereafter, on April 23, 1998, petitioner forwarded the Court a copy of an MRI report of April 22, 1998, stating that petitioner has "a large focal disc herniation at the T7-%8 level with some eccentricity to the left."

¶2 The only ground set forth in the March 31, 1998 request for rehearing is petitioner's allegation that the judgment is inconsistent with the findings of the fact. I have reviewed the decision and concluded that they are consistent. The motion is therefore **denied**.

¶3 The April 23, 1998 MRI report constitutes new information not available to the Court at the time of its decision. However, that information was not the basis for the motion for rehearing and insofar as it might be construed as an additional request for rehearing, it is untimely and must be denied. A request for amendment of the Court's decision or for a new trial must be made within 20 days. RULE 24.5.344.

¶4 This ruling does not preclude petitioner from filing a new petition based on the MRI results and any other new medical information. The Court makes no determination as to either the appropriateness or merits of any new petition.

¶5 SO ORDERED.

DATED in Helena, Montana, this 29th day of April, 1998.

(SEAL)

\s\ Mike McCarter
JUDGE

c: Mr. Toby C. McAdam - Certified Mail
Mr. Kelly M. Wills