STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
ORLANDO DISTRICT OFFICE

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EMPLOYER:
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Post Office Box 538135
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OJCC CASE NUMBER: 06-022263WJC

DATE OF ACCIDENT: 05/17/2006

FINAL COMPENSATION ORDER

After proper notice to all parties, a hearing was held and concluded on this claim in Orlando, Orange County, Florida on the afternoon of Wednesday, April 02, 2008. Present at the hearing was the claimant, Randy Lee Vess, and his attorney, Steven P. Pyle. The employer/servicing agent, hereinafter referred to as the E/SA, was represented by Attorney Alan D. Kalinoski. In court testimony was received from the claimant only. Also in attendance at the hearing were the claims adjuster, Camille Williams, her assistant, Amanda Bass, and claimant's wife, Margaret Vess.

This order addresses the Petition for Benefits that were filed with DOAH on 7/21/06 and

4/19/07.

The claimant, a forty-five-year-old police officer, seeks the payment of indemnity and medical benefits for a heart condition he maintains was sustained within the course and scope of his employment. He pursues the compensability of his claim under the Florida Heart and Lung Bill.

The issues to be determined were as follows:

1. Whether the claimant is entitled to a finding of compensability for his coronary artery disease?
2. Whether the claimant is entitled to the payment of temporary total disability benefits from 6/06/06 through 8/04/06?
3. Whether the claimant is entitled to the authorization a cardiac physician or Dr. Valkali for treatment of his coronary artery disease?
4. Whether the claimant is entitled to the reimbursement of costs charged through ACS Recovery for billings of $102,602.74 and charges to Mr. Vess in the amount of $44,181.14?
5. Whether the claimant is entitled to the payment of penalties, interest, costs and attorney fees at the expense of the E/SA?

The E/SA defended the claim on the following grounds:

1. That there was no accident occurring within the course and scope of employment.
2. That there is no medical verification of disability as a result of any work-related accident, therefore no temporary total or temporary partial disability benefits are due.
3. That the claimant does not meet the requirements of Section 112.18, Florida Statutes.
4. That the claimant has not complied with the requirements of Section 440.192, Florida Statutes.
5. That the claimant's employment is not the major contributing cause of his condition.

6. That no penalties, interest, costs or attorney fees are due.

STIPULATIONS OF THE PARTIES

1. That the Judge of Compensation Claims has jurisdiction over the parties and the subject matter.
2. That venue properly lies in Seminole County.
3. That there was an employer/employee relationship at the time of the alleged 5/17/06 accident.
4. That worker's compensation insurance coverage was in effect on the date of the alleged accident.
5. That the employee gave timely notice of the alleged accident.
6. That there was timely notice of the pretrial conference and the final hearing.

JUDGE'S EXHIBITS

1. The pre-trial stipulation and pre-trial compliance questionnaire with attachments approved by order entered on 12/12/06 and any amendments thereto.
2. The order granting the E/SA's motion to dismiss a portion of the Petition for Benefits filed on 4/19/07. Said order was entered on 5/31/07.
3. A composite exhibit consisting of the claimant's trial memorandum dated 3/27/08 and the E/SA's trial memorandum dated 3/28/08 along with any attached case opinions. The composite items were considered for argument purposes only.

JOINT EXHIBIT

The 3/18/08 deposition transcript of Dr. Hal Whitworth.

CLAIMANT'S EXHIBITS

1. The 9/07/07 deposition transcript of Dr. Patrick F. Mathias and attachments.
2. The 4/02/07 deposition transcript of claims adjuster Camilla Williams and attachments.
3. The 6/01/07 deposition transcript of claims adjuster Camilla Williams and attachments.
4. The 6/07/07 deposition transcript of Martin Burdick and attachments.

E/C EXHIBIT

The 1/08/07 deposition transcript of Dr. Hal Whitworth and attachments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In making my findings of fact and conclusions of law in this claim, I have carefully considered and weighed all of the evidence presented. I have observed and assessed the candor and demeanor of the witness that testified live before me, and I have resolved all of the conflicts in the live testimony, deposition testimony and documentary evidence. Although I may not have commented on or summated each and every piece of evidence that was admitted into evidence it does not mean that I have not carefully considered it. Based on the foregoing, the evidence, and applicable law, I make the following determinations:

1. I find that I have jurisdiction over the parties and the subject matter.
2. I accept as true those matters for which the parties have stipulated.
3. I find that Mr. Vess is a member of the protected class addressed by section 112.18 and that

he is entitled to the presumption there under.

4. I find from the evidence before me that he underwent a pre-employment physical that revealed no evidence of heart disease at the time he was hired with the City of Casselberry in December 1986. He passed the physical and his EKG testing was reported as normal.
5. In regard to Mr. Vess's blood pressure reading of 132/80 on the pre-employment physical I find that said reading was within normal range accepting the testimony of Dr. Mathias over that of Dr. Whitworth. I also accept Dr. Mathias' testimony that even by todays standard a reading of 132/80 would not be considered hypertensive mildly or otherwise. Rather a systolic reading between 120 and 140 would be considered pre-hypertensive and suggest monitoring (Dr. Mathias' deposition at pgs 27-28). However such a reading would not be indicative of the existence of the disease.
6. The evidence is unrefuted that Mr. Vess developed heart disease during the term of his employ with the City of Casselberry, to wit coronary artery disease. He was disabled as a result of said condition following heart catheterization and by-pass surgery from 6/06/06 through 8/04/06 (Dr. Whitworth's 3/18/08 at pg 8). Mr. Vess's hospitalization and treatment for his condition was reasonable and medically necessary (Dr. Mathias' 9/07/07 deposition transcript at pg 20).
7. In light of the above findings, I conclude that Mr. Vess has established a prima facie showing of a compensable injury under the Florida Heart and Lung Bill. The principal question is whether the E/SA produced evidence that to my mind satisfactorily rebuts that presumption?
8. First the case law is conflicting as to the appropriate standard for overcoming the presumption. The E/SA cites to section 112.18 and the case of *City of Tarpon Springs v Vaporis, 953 So.2d 597(Fla. 1st DCA 2007)* to argue that the standard is **"competent evidence."** In other words, the E/SA insists that all that is required to overcome the presumption is competent substantial evidence that convinces the JCC that the disease was caused by some non-work related factor.
9. Relying upon the testimony of Dr. Hal Whitworth, the E/SA argues that the major

contributing cause of Mr. Vess's development of coronary artery disease was his long-standing history of tobacco use since age fifteen and his strong family history of cardiac disease (Dr. Whitworth's 1/08/07 deposition transcript at pgs 10-11). Based on Mr. Vess's in hearing testimony and the medical records Mr. Vess's father died of a heart attack at age 42. One of Mr. Vess's brothers had a stroke at the age of 46 and the twin sister of that brother, now deceased, had a defibrillator because of cardiac problems. Mr. Vess's surviving sister also has heart problems but his other brother has no known heart problems.

10. The E/SA also relies upon the testimony of Dr. Whitworth that to his knowledge Mr. Vess's coronary artery disease was neither caused nor aggravated by his employment as a police officer (Dr. Whitworth's 1/08/07 deposition transcript at pg 7).
11. Mr. Vess maintains that the proper standard for determining whether the presumption is overcome is that set forth in the Florida Supreme Court opinion *of Caldwell v Division of Retirement, Florida Department of Administration, 372 So.2d 438 (Fla. 1979).* In *Caldwell,* it was determined that if there is evidence supporting the presumption the employer can overcome the presumption only by **"clear and convincing evidence."**
12. Notwithstanding the *Vaporis* case cited by the E/SA in support of the competent evidence standard, a more recent case, *Butler v City of Jacksonville, 33 Fla. L. Weekly D 384 (Fla. 1st DCA 2008)* again refers to the *Caldwell* standard of *clear and convincing evidence* required to rebut the presumption. I would further note that the *Caldwell* decision interpreted the language from the 1975 version of Section 112.18(1). That language was substantially the same as the current statute stating that resulting disability from the disease is presumed to have been suffered in the line of duty unless the contrary is shown by competent evidence. Notwithstanding that statutory language, the court in *Caldwell* found that the evidence necessary to rebut the section 112.18 presumption must be clear and convincing.
13. The court in *Caldwell* explained that the presumption contained in section 112.18(1) affects the burden of persuasion. The legislature disposed of the need to introduce proof that the enumerated diseases were occupational hazards for the designated class of

employee. The statutory presumption is the expression of a strong public policy that the court said does not vanish when the opposing party submits evidence. **"Where the evidence is conflicting, the quantum of proof is balanced and the presumption should prevail."** The employer can overcome the presumption only by clear and convincing evidence. In the absence of cogent proof to the contrary the court said that the public policy in favor of job relatedness must be given effect.

14. The *Caldwell* case is still good law and as it is a Florida Supreme Court case, I find it to be controlling, thereby concluding that the E/SA must rebut the presumption of the compensable character of Mr. Vess's coronary artery disease by clear and convincing evidence.
15. I do not find that the E/SA to my satisfaction rebutted the presumption. The only doctors whose opinions are before this court on the subject of causation acknowledges that there is no known cause for coronary artery disease. Although there are known risk factors, individuals can have many of the risks factors and still not develop heart disease. There are also individuals who can have heart disease but not present with any of the known risk factors. No particular risk factor over the other can be directly pinpointed as a cause of the disease.
16. At best there is simply a conflict between the two doctors as to whether the risk factors Mr. Vess does have singularly or in combination are the probable cause of his coronary disease. This conflict in the two medical providers' opinions does not standing alone override the presumption of compensability. Furthermore I accept the opinion of Dr. Mathias that it is impossible to scientifically assign a hierarchy to the risk factors in a given patient or individual (Dr. Mathias' 9/07/07 deposition at pgs 16 & 31).
17. The parties had an opportunity to seek the opinion of an Expert Medical Advisor on this causation question but elected not to do so. I have in light of the parties' resting their respective cases determined not to appoint an EMA on my own authority. It has been appellately determined that such a decision does not constitute fundamental error. See *Palm Beach County Sheriff's Office v Bair, 965 So.2d 1210 (Fla. 1st DCA 2007)* and

U.S. Agri-Chemicals Corp v Camacho, 33 Fla. L. Weekly D 710 (Fla. 1st DCA March 10, 2008).

18. Based on the evidence before me, even if the standard of proof for overcoming the presumption of compensability is as maintained under the *Vaporis* opinion, I am still not convinced that Mr. Vess's coronary artery disease was specifically caused by a non-work related factor. For the foregoing reasons ***I find his claim for the compensability of his coronary artery disease meritorious and unsuccessfully rebutted.***
19. I accept the parties' stipulation as to the period Mr. Vess was disabled due to his coronary artery disease and find that he is entitled to the payment of temporary total disability benefits during that disability period.
20. In regard to the request for the reimbursement of medical cost charged through ACS Recovery on the behalf of CIGNA Healthcare, I find that I do not have the jurisdiction to decide the issue for the following two reasons:
    a. The claimant voluntarily withdrew or dismissed that portion of his 4/19/07 Petition for Benefits seeking reimbursement to CIGNA Healthcare for payments made as a result of his occupational disease. See order referred to in Judges Exhibit #2 referenced above.
    b. For those reasons as articulated in the case opinion of *The Avalon Center v Hardaway, 967 So.2d 268 (Fla. 1st DCA 2007).*
21. I accept the parties' decision to handle the determination of the appropriate average weekly wage and compensation rate administratively.

WHEREFORE it is hereby **ORDERED** and **ADJUDGED** that:

1. The request for the finding of compensability of claimant's coronary artery disease is granted.
2. The request for the payment of temporary total disability benefits from 6/06/06 through 8/04/06 at the proper rate with interest and penalties is granted.

3. The request for the authorization of a cardiac physician for the treatment of the claimant's coronary artery disease as the nature of the injury and process of recovery requires is granted.
4. The request for the reimbursement of costs charged through ACS Recovery is denied for the reasons expressed above.
5. The request for the payment of the claimant's reasonable attorney fees and costs at the expense of the E/SA is granted. Jurisdiction is reserved to determine the amount of said fees and costs.
6. All benefits ripe at the time of trial not otherwise reserved by stipulation of the parties or prior ruling of this court are hereby waived.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida.

W. James Condry, II
Judge of Compensation Claims
400 West Robinson Street, Suite 608-North
Orlando, Florida 32801-1701

I HEREBY CERTIFY that the foregoing Compensation Order was entered and a true and accurate copy has been furnished by U.S. mail delivery this 11th day of April 2008, to the parties listed above:

Susan Berman
Assistant to Judge of Compensation Claims

Westlaw

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967 So.2d 268, 32 Fla. L. Weekly D2274
(Cite as: 967 So.2d 268)

H

Avalon Center v. Hardaway
Fla.App. 1 Dist.,2007.

District Court of Appeal of Florida,First District.
The AVALON CENTER and Unisource Administrators, Appellants,
v.
Jane HARDAWAY, Appellee.
No. 1D06-2698.

Sept. 21, 2007.
Rehearing Denied Oct. 26, 2007.

Background: Employer and its insurer appealed from decision of the Judge of Compensation Claims, David W. Langham, ordering payment of $1,891.00 in medical bills to workers' compensation claimant's authorized treating psychiatrist.

Holdings: The District Court of Appeal, Polston, J., held that:
(1) dispute between claimant's psychiatrist and claimant's employer regarding payment for claimant's treatment fell within the definition of a "reimbursement dispute," and as such, it was within exclusive jurisdiction of the Agency for Healthcare Administration (AHCA), and the Judge of Compensation Claims lacked jurisdiction, and
(2) absent any real financial liability, claimant was without standing to pursue reimbursement dispute on psychiatrist's behalf.

Reversed.

West Headnotes

[1] Appeal and Error 30 ⇐893(1)

30 Appeal and Error
30XVI Review
30XVI(F) Trial De Novo
30k892 Trial De Novo
30k893 Cases Triable in Appellate Court
30k893(1) k. In General. Most Cited Cases
De novo review was appropriate where appeal raised a pure question of law and statutory construction.

[2] Workers' Compensation 413 ⇐65

413 Workers' Compensation
413I Nature and Grounds of Master's Liability
413k54 Retroactive Operation of Statutes
413k65 k. Procedure in General. Most Cited Cases
While the substantive rights of the parties in a workers' compensation case are determined by the law in effect at the time of the claimant's injury, this rule does not apply to procedural enactments.

[3] Workers' Compensation 413 ⇐997

413 Workers' Compensation
413IX Amount and Period of Compensation
413IX(E) Medical or Other Expenses
413IX(E)2 Proceedings for Allowance or Recovery
413k997 k. Pleading. Most Cited Cases
Workers' compensation statute providing that the Office of the Judges of Compensation Claims (JCC) shall review each petition and shall dismiss each petition or any portion of such a petition that does not on its face specifically identify or itemize all of the medical charges alleged unpaid does not expressly grant the JCC jurisdiction, but, rather, provides only the basic procedural criteria required to present a facially sufficient petition for benefits. West's F.S.A. § 440 192(2)(h).

[4] Workers' Compensation 413 ⇐993

413 Workers' Compensation
413IX Amount and Period of Compensation
413IX(E) Medical or Other Expenses
413IX(E)2 Proceedings for Allowance or Recovery

413k992 Nature and Form of Remedy, and Jurisdiction and Venue
413k993 k. In General. Most Cited Cases
Workers' compensation statute specifically provides exclusive jurisdiction to Agency for Healthcare Administration (AHCA) to decide matters concerning reimbursement, to resolve any overutilization dispute, and to decide any question concerning overutilization, and accordingly, Judge of Compensation Claims (JCC) is without jurisdiction to resolve these listed issues. West's F.S.A. § 440.13(11)(c).

[5] Workers' Compensation 413 ⇐993

413 Workers' Compensation
413IX Amount and Period of Compensation
413IX(E) Medical or Other Expenses
413IX(E)2 Proceedings for Allowance or Recovery
413k992 Nature and Form of Remedy, and Jurisdiction and Venue
413k993 k. In General. Most Cited Cases
Dispute between workers' compensation claimant's authorized treating psychiatrist and claimant's employer regarding payment for claimant's treatment fell within the definition of a "reimbursement dispute," and as such, it was within the exclusive jurisdiction of the Agency for Healthcare Administration (AHCA), and the Judge of Compensation Claims (JCC) lacked jurisdiction. West's F.S.A. § 440.13(1)(r), (11)(c).

[6] Workers' Compensation 413 ⇐974

413 Workers' Compensation
413IX Amount and Period of Compensation
413IX(E) Medical or Other Expenses
413IX(E)1 In General
413k973 Enforcement or Preservation of Right to Expenses
413k974 k. In General. Most Cited Cases
Under workers' compensation law, claimant is shielded from liability in any dispute between claimant's employer and claimant's health care provider regarding reimbursement for claimant's authorized medical or psychological treatment. West's F.S.A. § 440.13(3)(g), (14)(a).

[7] Workers' Compensation 413 ⇐996

413 Workers' Compensation
413IX Amount and Period of Compensation
413IX(E) Medical or Other Expenses
413IX(E)2 Proceedings for Allowance or Recovery
413k996 k. Persons Entitled to Institute Proceedings and Parties. Most Cited Cases
Under workers' compensation law, claimant was shielded from liability in any dispute between claimant's employer and claimant's treating psychiatrist regarding reimbursement for claimant's authorized psychological treatment, and absent any real financial liability, claimant was without standing to pursue the reimbursement dispute on psychiatrist's behalf. West's F.S.A. § 440.13(3)(g), (14)(a).

*270 Mark S. Spangler, of The Law Offices of Mark S. Spangler, P.A., Maitland, and Stephen Hogan, of McConnaughhay, Duffy, Coonrod, Pope & Weaver, P.A., Tallahassee, for Appellants.
T. Rhett Smith and Teresa E. Liles, of T. Rhett Smith, P.A., Pensacola, for Appellee.
POLSTON, J.
In this workers' compensation appeal, appellants The Avalon Center and Unisource Administrators, the employer and insurance carrier respectively (E/C), appeal a final compensation order, wherein the Judge of Compensation Claims (JCC) ordered payment of $1,891.00 in medical bills to claimant's authorized treating psychiatrist. The JCC also awarded claimant entitlement to attorney's fees and costs. Because we agree with the E/C's alternative arguments that the Agency for Healthcare Administration (AHCA) has exclusive jurisdiction over these disputes between the E/C and psychiatrist, and that the claimant lacks standing, we reverse the final compensation order.

I. BACKGROUND

On December 11, 1991, appellee/claimant Jane Hardaway was employed by The Avalon Center as a child therapist, when she was attacked by one of her patients, a seven year-old boy Claimant suffered injuries, primarily cuts and bruises, to her face, neck, and arms. Accordingly, the E/C authorized and provided claimant treatment for her resulting physical and mental injuries.

In November 1995, claimant began treatment with Dr. Paul Neal, a clinical psychologist with the Christian Psychological Center. The E/C has continually authorized Dr. Neal's treatment of claimant. From his initial interview with the claimant in 1995, through the present date, Dr. Neal has diagnosed Ms. Hardaway as suffering severe depression, post-traumatic stress disorder, and suicidal ideation, causally related to her accident in 1991.

The E/C alleges that, since beginning treatment in 1995, Dr. Neal has billed the carrier more than $37,000 for claimant's psychotherapy. Accordingly, Ms. Allison Tomme, a senior claims representative for Unisource Administrators, testified by deposition that after several years of ongoing treatment, she submitted Dr. Neal's charges to the E/C's attorney, appellate counsel Mark S. Spangler, for a utilization review pursuant to section 440.13(6), Florida Statutes (2006). That statute requires that workers' compensation insurance carriers review all bills submitted for payment by authorized health care providers, in order to "identify overutilization and billing errors." *See* § 440.13(6), Fla. Stat. (2006). If the carrier indeed finds that the provider has over utilized the medical services provided, or otherwise discovers a violation of the parameters for treatment set forth in the Workers' Compensation Act, the carrier "must disallow or adjust payment for such services." *Id.*

Dr. Neal testified in his deposition that he received the utilization review Advisement Letter and Notices of Disallowance from the carrier, and that he understood from the letters that certain bills for claimant's treatment were disallowed. He further testified that he was aware claimant was not responsible for payment of the disallowed bills. Indeed, Dr. Neal testified that, from the carrier's letters, he knew he could challenge the carrier's disallowance *271 by filing a petition with AHCA. Nonetheless, Dr. Neal conceded he did not file a petition, at the claimant's urging, but rather decided to allow the claimant to pursue the dispute through proceedings before the JCC.

Claimant filed a petition for benefits on October 24, 2005, seeking reimbursement, on Dr. Neal's behalf, for the dates of service disallowed by the carrier. The E/C subsequently filed a motion to dismiss the petition for lack of subject matter jurisdiction, arguing that AHCA has exclusive jurisdiction to resolve reimbursement disputes between an insurance carrier and a health care provider. The JCC reserved ruling on the motion until the final order.

Thereafter, on August 24, 2006, the JCC held a compensation hearing on the petition. Relevant to this appeal, claimant's counsel objected during the hearing to the admission into evidence of the E/C's Advisement Letter and the Notices of Disallowance relating to the disallowed medical charges. Claimant argued that the correspondence was inadmissible hearsay. She also asserted that the letters could not be authenticated, because the E/C's attorney had drafted the letter, but was not presented as a witness. The JCC again reserved ruling on claimant's objection until the final order.

On April 28, 2006, the JCC entered the instant final compensation order. The JCC ruled that the Letter of Advisement and the Notices of Disallowance were excluded from evidence, on grounds that the documents were both unauthenticated and hearsay, subject to no exceptions. Regarding the E/C's motion to dismiss for lack of jurisdiction, the JCC found that, pursuant to Florida Statutes, a claimant may bring a petition for benefits seeking payment of past medical bills and that it had jurisdiction to resolve petitions for past medical bills. While the JCC noted that AHCA has jurisdiction over utiliza-

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tion reviews, the JCC found there was no admissible evidence of a utilization review in this case. Accordingly, the JCC ruled it had subject matter jurisdiction to resolve claimant's petition. Ultimately, the court awarded claimant $1,891.00 in medical benefits owed to Dr. Neal, as well as attorney's fees and costs. The E/C presently appeals the order

II. JURISDICTION

[1] The E/C assert that the JCC erred in asserting jurisdiction over the disputes between the insurance carrier and authorized psychiatric care provider, Dr. Neal, and alternatively, that the claimant is without standing to petition the JCC for reimbursement of the disallowed bills on Dr. Neal's behalf. Because this appeal raises a pure question of law and statutory construction, we review the JCC's order de novo. *See Mylock v Champion Int'l,* 906 So.2d 363 (Fla. 1st DCA 2005).

[2] Initially, although claimant was injured in 1991, this court should apply the current workers' compensation law. "While the substantive rights of the parties in a workers' compensation case are determined by the law in effect at the time of the claimant's injury, this rule does not apply to procedural enactments." *See City of Clermont v Rumph,* 450 So.2d 573, 575 (Fla. 1st DCA 1984). In *Terners of Miami Corp. v. Freshwater,* 599 So.2d 674 (Fla. 1st DCA 1992) (en banc), this court held that the provisions of section 440.13 which grant jurisdiction in a reimbursement dispute, then section 440.13(2)(i)(1), are procedural in nature. Indeed, the court noted, "[i]n our opinion, section 440.13(2)(i)(1) does nothing more than specify the forum in which claims such as that which is the subject of this appeal shall be heard. Accordingly, it has no *272 effect on substantive rights and, therefore, is merely procedural." *Id.* at 675.

Turning to the jurisdictional merits, the E/C contend that the JCC too broadly described the court's jurisdiction under Chapter 440, Florida Statutes. We agree. The JCC stated that it has *general* jurisdiction over the payment of medical bills to an injured worker. However, this court has previously held that the Courts of Compensation Claims are not courts of general jurisdiction, and therefore do not have "general" jurisdiction over any subject matter beyond that specifically conferred by statute. *See Travelers Ins. Co. v. Sitko,* 496 So.2d 920, 921-922 (Fla. 1st DCA 1986) ("We begin our analysis with the premise that workers' compensation is purely a creature of statute. All rights and liabilities under the system are created by chapter 440, Florida Statutes, as is the deputy's power to hear and determine issues in a workers' compensation case").

[3] In this case, the JCC relied on section 440.192(2)(h), Florida Statutes, as support for its position that Judges of Compensation Claims have jurisdiction to order payment of medical bills associated with a claimant's treatment. That section provides, in relevant part:

> Upon receipt, the Office of the Judges of Compensation Claims shall review each petition and shall dismiss each petition or any portion of such a petition that does not on its face specifically identity or itemize the following:
>
> * * *
>
> (h) Specific listing of all medical charges alleged unpaid, including the name and address of the medical provider, the amounts due, and the specific dates of treatment.

§ 440.192(2)(h), Fla. Stat. (2006). We agree with the E/C that section 440.192(2)(h) does not expressly grant the JCC jurisdiction, but rather provides only the basic procedural criteria required to present a facially sufficient petition for benefits.

[4] Moreover, section 440.13(11)(c), Florida Statutes (2006), specifically provides exclusive jurisdiction to AHCA:

> The [Agency for Healthcare Administration] has

> *exclusive jurisdiction* to decide matters concerning reimbursement, to resolve any overutilization dispute under subsection (7), and to decide any question concerning overutilization under subsection (8), which question or dispute arises after January 1, 1994.

(emphasis added). Accordingly, pursuant to the plain language of the statute, the JCC is without jurisdiction to resolve those listed issues.

In this case, the JCC limited the application of section 440.13(11)(c) by finding that the JCC retains jurisdiction over all claims for medical bills except those resulting from a utilization review, and further, that an insurance carrier may resist the jurisdiction of the JCC *only* if it can prove that it conducted a proper utilization review in accord with the controlling authority. However, the JCC's strict interpretation ignores the plain wording of the statute itself. As noted above, section 440.13(11)(c) provides that AHCA has exclusive jurisdiction over reimbursement disputes *and* utilization reviews.

[5] A "reimbursement dispute" is defined as "any disagreement between a health care provider or health care facility and carrier concerning payment for medical treatment." § 440.13(1)(r), Fla. Stat. (2006). Because the existing dispute between Dr. Neal and the E/C falls within the definition of a reimbursement dispute, it is within the exclusive jurisdiction of the AHCA. We need not reach the evidentiary rulings by the JCC because, without *273 considering the excluded documents, the record before us clearly indicates reimbursement and overutilization disputes between Dr Neal and the E/C. The claimant is not seeking additional medical treatment from Dr. Neal. The claimant is not seeking reimbursement for medical charges she has paid or is obligated to pay Dr. Neal. *See Williams v. Triple J Enters.*, 650 So.2d 1114 (Fla. 1st DCA 1995) (holding that the JCC had jurisdiction where a claimant was seeking recoupment of monies personally expended for medical care) The record indicates that claimant sought, on behalf of Dr. Neal, additional amounts to be paid Dr. Neal for his medical services previously rendered.

In *Furtick v. William Shults Contractor,* 664 So.2d 288 (Fla. 1st DCA 1995), this court noted that the claimant had no legal interest in the dispute between the health care provider and E/C, and ruled that petitions for benefits which involve claims or matters within the scope of the utilization review process are beyond the jurisdiction of the Judges of Compensation Claims:

> [U]tilization review ... pertains only in connection with care which has been authorized, as when the employer/carrier has paid or incurred an obligation to pay for the doctor's services. *Because section 440.13(3), Florida Statutes (1993), insulates the claimant from liability in such circumstances, the health care provider (or facility) and the employer/carrier are the parties with the legal interest affected by utilization review. See Long Grove Builders v. Haun,* 508 So.2d 476 (Fla. 1st DCA 1987) [holding that the claimant was without standing to bring dispute over amount owing to authorized treating physician]. Reimbursement disputes within the scope of utilization review must thus be pursued as between the provider (or facility) and the employer/carrier in the administrative forum, and such matters may not be pursued before the judge of compensation claims.

Id. at 290 (emphasis added).

In *Furtick,* the physician remained authorized, "but payment was disallowed on certain billings for care which had been provided." *Id.* at 290. This reimbursement dispute between Dr. Neal and the E/C was within the scope of utilization review, as in *Furtick.*

The court in *Furtick* noted that "[t]his does not permit the employer to interject issues such as compensability, causal relation, etc., into the utilization review process, as these matters do not avoid a payment obligation for care which has been authorized." *Id.* The claimant, in this case, makes no argu-

ment that any of these items have been interjected by the E/C. Further, claimant makes no claim for medical care not received. *See Tiznado v. Orlando Reg'l Healthcare Sys*, 773 So.2d 584, 585 (Fla. 1st DCA 2000) (noting that the JCC "remains empowered to resolve disputes regarding the claimant's need for medical care, apart from any utilization or reimbursement issue which may arise between the employer and the health care provider")

Accordingly, the JCC lacks jurisdiction as in *Furtick,Terners*, 599 So.2d 674 (holding that the JCC lacked jurisdiction over the disputed amount the claimant's physician claimed was due from the E/C), *Carswell v Broderick Constr*, 583 So.2d 803 (Fla. 1st DCA 1991) (holding that the JCC lacked jurisdiction over the determination of unjustified treatment, hospitalization or office visits and excessive charges for medical care), and *Atlantic Found. v Gurlacz*, 582 So.2d 10 (Fla. 1st DCA 1991) (holding that the JCC lacked jurisdiction over a dispute between the E/C and the claimant's authorized physician over the *274 carrier's decision to pay the physician less than the amount billed).

III. STANDING

As to the standing issue, the E/C also assert that the Workers' Compensation Act specifically and expressly insulates the claimant from financially liability in a reimbursement dispute between the E/C and health care provider, and thereby deprives the claimant of standing to pursue a reimbursement dispute before the JCC. Section 440.13(3)(g), Florida Statutes (2006), states that "[t]he employee is not liable for payment for medical treatment or services provided pursuant to this section except as otherwise provided in this section."

Additionally, section 440.13(14)(a), Florida Statutes (2006), providing for payment of medical fees and bills, notes,

> A health care provider may not collect or receive a fee from an injured employee within this state, except as otherwise provided in this chapter. *Such providers have recourse against the employer or carrier* for payment of services rendered in accordance with this chapter.

(emphasis added).

[6] In accord with these statutes, claimant is shielded from liability in any dispute between the E/C and health care provider regarding reimbursement for claimant's authorized medical or psychological treatment. *Cf. S. Bakeries v Cooper*, 659 So.2d 339 (Fla. 1st DCA 1995) (discussing the source of payment for an independent medical examination, and noting "section 440.13(3)(g), Florida Statutes (Supp.1994), indicates that in the absence of an express statutory provision the claimant is not obligated to pay for medical services under this section").

[7] Absent any real financial liability, claimant is without standing to pursue the reimbursement dispute on Dr. Neal's behalf. *See Long Grove Builders, Inc. v. Haun*, 508 So.2d 476 (Fla. 1st DCA 1987) (holding that the claimant was without standing to bring dispute over amount owing to authorized treating physician); *Wiccan Religious Coop. of Florida, Inc. v. Zingale*, 898 So.2d 134 (Fla. 1st DCA 2005) (holding that appellant did not have the adverse interest necessary for standing to assert its challenge).

Conclusion

Therefore, because we hold that AHCA has exclusive jurisdiction over these disputes between the E/C and psychiatrist, and that claimant lacks standing to seek additional payments on behalf of her psychiatrist, we reverse the final compensation order.

REVERSED.

DAVIS, J. and LAWRENCE, JR., L. ARTHUR, Senior Judge, concur.
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