

STATE OF CALIFORNIA
Division of Workers' Compensation
Workers' Compensation Appeals Board

Case No. ADJ17299509

CRISTINA ARREDONDO,

Applicant,

vs.

**MARISOL G SANDOVAL DBA CENTRAL
CITY LABOR; ILLINOIS MIDWEST
SPRINGFIELD;**

Defendants.

FINDINGS OF FACT AND ORDER

LAW OFFICES OF JOSEPH LOUNSBURY
BY: JOSEPH LOUNSBURY
Attorney for Applicant

LAW OFFICES OF BRADFORD & BARTHEL
BY: JULIANNA CRAWFORD
Attorney for Defendant

The above-entitled matter having been heard and regularly submitted on May 19, 2023, the Honorable Deborah Rothschilder, Workers' Compensation Judge, now decides as follows:

FINDINGS OF FACT AND ORDER

1. The parties stipulated that, Christina Arredondo born June 3, 1973 while employed on December 2, 2022, as a Farm Laborer, Occupational Group Number 491, at Santa Maria, California, by Marisol Garcia Sandoval dba Central City Labor, sustained injury arising out of and occurring in the course of employment to her left shoulder and claims to have sustained injury to her cervical spine, bilateral upper extremities, lumbar spine, left arm, left elbow, chest, left fingers, GERD, headaches, hypertension, heart, right arm and right shoulder.
2. At the time of injury, the employer's Workers' Compensation carrier was National Casualty Company administered by Illinois Midwest Insurance Agency.
3. Applicant has not established that Defendant has refused or neglected to provide medical treatment through its Medical Provider Network and Applicant is not entitled to treat outside the employers Medical Provider Network.

ORDER

1. Applicant's Exhibits 3, 4, & 6 are Ordered entered into evidence.
2. Applicants Exhibit 5 is Ordered excluded from evidence.
3. It is Ordered that Applicant is not entitled to treat outside the Medical Provider Network as provided in Finding of Fact # 3.

DATE: _____

05/31/2023



Deborah Rothschild

WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

BRADFORD BARTHEL VENTURA, Email
JOSEPH LOUNSBURY SANTA MARIA, Email

Served on above parties by method of service shown above at addresses shown on attached Proof of Service:

ON: 5/31/2023

BY: Rachel Bevier

PROOF OF SERVICE

FINDINGS OF FACT AND ORDERS

MAY 31, 2023

Case Number: ADJ17299509

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STATE OF CALIFORNIA
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CASE NUMBER: ADJ17299509

CRISTINA ARREDONDO

-vs.-

MARISOL G SANDOVAL
DBA CENTRAL CITY
LABOR; ILLINOIS
MIDWEST SPRINGFIELD;

Date(s) of Injury

December 2, 2022

Deborah Rothschilder

Workers' Compensation
Administrative Law Judge:

OPINION ON DECISION

STIPULATIONS

The Stipulations of the parties as set forth in the Minutes of Hearing are accepted as fact.

MPN ACCESS

The issue presented is whether, under the circumstances of this case, the MPN provided applicant with access to a sufficient number of orthopedic specialists within the appropriate geographical area who will assume the role of primary treating physician and if not whether the applicant is entitled to treat outside the MPN.

This issue was addressed in both *Soto v. Sambrailo Packaging*, 2016 Cal.Wrk.Comp P.D. LEXIS 26 and *Gomez v. Fastenal*, 2013 Cal.Wrk.Comp. P.D. LEXIS 47 (ADJ8205235). In *Gomez, supra*, the panel stated:

An employer with a valid MPN is entitled to require an injured worker to obtain medical treatment from a physician within the MPN, unless the employer fails to comply with the requirements of Labor Code §4616 et seq., and the applicable Administrative Director's Rules.

The Administrative Director also promulgated access standards, requiring an MPN to have at least three physicians of each specialty available within a certain geographic area. AD Rule 9767.5(b) and (c) require primary treating physicians to be within 30 minutes or 15 miles, and providers of occupational health services and specialists within 60 minutes or 30 miles, of the injured workers residence or employment. Where there has been a referral to a specialist for non-emergency services, the MPN must provide an appointment within 20 days of the referral within the MPN. (AD Rule 9767.5(g).) If a primary treating physician refers an applicant to a type of specialist not included in the MPN, the applicant may select a specialist outside the MPN. (AD Rule 9767.5(h).)

The panel in *Gomez* went on to state that..."The refusal of a specialist to assume the responsibility of a primary treating physician will not negate the validity of the MPN or necessarily give applicant the right to obtain medical treatment outside the MPN".

Further, "It is not a reasonable interpretation of the requirements of Labor Code §4616., that an injured worker is entitled to select a specialist outside the MPN, if a specialty selected from within the MPN is unwilling to assume the role of primary treating physician, *provided* there are other MPN physicians that meet the access standards available who are able to assume the role of primary treatment physician...."

In this case, applicant has selected pain management as the specialty of choice and was referred to Dr. Hullander in San Luis Obispo within the employers MPN. The applicant testified that she was not satisfied with her treatment and wishes to treat outside the MPN contending defendants MPN does not have three pain management physicians within a reasonable geographical area to treat her injuries. Applicants Exhibit 4, Anthem provider network lists 5 pain management physicians.


Further, as stated in *Gomez*, supra, applicant is not entitled to select a specialist outside the MPN if there are other MPN physicians that meet the access standards available who are able to assume the role of primary treating physician. The applicant presented no evidence that there were no other physicians in the geographical area that would assume the role of PTP even if a physician with the specific specialty selected by the applicant is unavailable. The applicant is being treated by a pain management specialist, Dr. Hullander however the applicant is not happy with the treatment. The applicant may choose another physician within the MPN to assume the role as PTP. Therefore, the applicant has not shown that defendants have not provided applicant with access to a sufficient number of specialists within her geographical area for selecting her PTP. Therefore, the applicant is not entitled to treat outside of the employers MPN.

ADMISSIBILITY OF APPLICANT EXHIBITS 3, 4, 5, & 6

At the trial proceedings of May 8, 2023, applicant requested submission into evidence, Anthem Provider Directory (Exhibit 4), U. S. Census Urban Areas Report Exhibit 3 and QuickFacts (Exhibit 6) and a listing of pain management physicians not within the MPN (Exhibit 5). They were objected to by defense counsel and marked for identification. The Anthem provider listing Exhibit 4 pertains to the MPN issue and is admitted into evidence.

U.S. Census report and QuickFacts pertain to applicants' argument of available providers however the listing of pain management physicians (Exhibit 5) is an unverified list made by applicant's attorney. While the admissibility of any of these documents is questionable the court reviewed these documents and further orders into evidence applicants 3 and 6 and excludes Exhibit 5.

DATE: 05/31/2023



Deborah Rothschilder
WORKERS' COMPENSATION
ADMINISTRATIVE LAW JUDGE

BRADFORD BARTHEL VENTURA, Email

JOSEPH LOUNSBURY SANTA MARIA, Email

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