

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H203811

PAUL WILLIAMS, Employee	CLAIMANT
STERICYCLE, Employer	RESPONDENT
SEDGWICK CLAIMS, Carrier	RESPONDENT
LINCOLN FINANCIAL GROUP	DISABILITY CARRIER

OPINION FILED NOVEMBER 15, 2022

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Springdale, Washington County, Arkansas.

Claimant represented by EDDIW H. WALKER, Attorney at Law, Fort Smith, Arkansas.

Respondents represented by MICHAEL E. RYBURN, Attorney at Law, Little Rock, Arkansas, though not appearing at hearing.

STATEMENT OF THE CASE

This case comes on for review following a hearing on November 1, 2022, regarding Lincoln Financial Group's, a disability carrier, right to recover subrogation for long term group disability payments made to the claimant.

On September 30, 2022, notice was sent to Lincoln Financial Group via certified mail advising that a hearing would be conducted on November 1, 2022, beginning at 11:30 a.m. at the Workers' Compensation Commission offices in Springdale, Arkansas. The hearing was to address a determination of any potential liens involving payment of medical expenses or long term disability by any outside parties in accordance with A.C.A. §11-9-411. United States Postal Service records indicate that the notice was delivered and picked up by an individual at a United States Postal facility on October 21, 2022, at 9:27 a.m. This tracking information can be found at Commission's Exhibit 2, Page 1. Despite having received notice of the hearing, Lincoln

Financial Group failed to respond to the hearing notice in any manner whatsoever and failed to appear at the date and time of said notice. The respondent in this matter provided notice to the Commission through their attorney that they would waive their appearance at the hearing in this matter. However, both claimant and his attorney appeared and provided evidence and testimony for the Commission's consideration.

The claimant in this matter is a 63-year-old male who was involved in an automobile accident on November 10, 2020. After that accident, the claimant missed work for a few days and then returned to work and continued working until May 20, 2021. On that same day, the claimant saw Kacee Bodiford and complained of back difficulties that the claimant related to his November 10, 2020, accident. The respondent in this matter denied the claimant's complaints of May 20, 2021, were related to the automobile crash he was involved in in November 2020. It was the respondent's position that the November 10, 2020, accident was temporary in nature as evidenced by the claimant only having missed a few days of work and then having returned to work for more than a year.

The claimant underwent an MRI at the request of Dr. Bodiford. That MRI revealed degenerative disc disease. The claimant, who at the time of this hearing was 63 years of age, testified that his work for the respondent was particularly physically demanding.

The claimant testified that he began receiving long term disability payments on or about May 18, 2022, which is more than a year and a half after the November 10, 2020, incident he alleges. It appears from the claimant's testimony and the medical evidence, particularly the MRI of the claimant's lumbar spine, that the claimant's need for long term disability was in fact due to degenerative changes throughout his spine and not the result of the workplace accident he alleges on November 10, 2022.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witness and to observe his demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The Arkansas Workers Compensation Commission has jurisdiction to determine any potential liens involving payment of medical expenses or long term disability by any outside parties in accordance with A.C.A. §11-9-411.

2. Lincoln Financial Group has failed to prove the existence of any potential lien involving payment of medical expenses or long term disability in accordance with A.C.A. §11-9-411. In fact, the claimant's need for long term disability was due to degenerative issues with the claimant's back and not associated with the November 10, 2020, accident he was involved in while working for the respondent.

ORDER

Lincoln Financial Group is not entitled to a lien involving repayment of medical expenses or long term disability benefits paid to the claimant regarding Workers' Compensation Claim Number H203811 which involved a November 10, 2020, automobile accident.

IT IS SO ORDERED.

**HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE**