Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: February 26, 2016

CLAIM NO. 199243831

PIKE CO. PUBLIC LIBRARY PETITIONER

VS. **APPEAL FROM HON. R. SCOTT BORDERS, ADMINISTRATIVE LAW JUDGE**

LINDA WARD, DR. DAVID MANNING
HON. R. SCOTT BORDERS,
ADMINISTRATIVE LAW JUDGE RESPONDENTS

OPINION
AFFIRMING
* * * * * *

BEFORE: ALVEY, Chairman, STIVERS and RECHTER, Members.

RECHTER, Member. Pike County Public Library ("Pike") appeals from the October 13, 2015 Opinion and Order and the November 20, 2015 Order on Petition for Reconsideration rendered by Hon. R. Scott Borders, Administrative Law Judge ("ALJ") resolving a medical dispute in Linda Ward's ("Ward") favor. Pike argues the finding that contested

medications are causally related to Ward's work injury is erroneous. We affirm.

In Ward's initial claim for a 1992 psychological injury, medical evidence established diagnoses of a generalized anxiety disorder, major depression with psychosis, and a severe mixed personality disorder. By opinion and award rendered July 7, 1995, ALJ Richard H. Campbell determined Ward's psychiatric condition rendered her permanently totally disabled. ALJ Campbell also determined no portion of Ward's disability was active prior to the work injury. The medical evidence having established that, but for the pre-existing condition the work injury would have resulted in no disability, ALJ Campbell found the Special Fund bore the entire liability for income benefits. Pike was responsible for only medical benefits relating to Ward's psychological condition.

Pike filed a motion to reopen and Form 112 medical dispute on August 18, 2014 to contest the reasonableness, necessity and work-relatedness of prescriptions for Lexapro, Xanax, and Vistaril. Pike supported its motion with the July 2, 2014 utilization review report of Dr. Kelly Clark, a psychiatrist who opined there is no indication of any active major depression. Dr. Clark believed any episode of major depression that began

in 1992 would not be considered currently active, and the effects of Ward's injury resolved with no lingering symptoms noted for several years. Dr. Clark indicated the current treatment and medications are not related to the work injury.

Pike also submitted the July 18, 2014 utilization review report of Dr. Ashraf Ali, a psychiatrist who opined the contested medications are not medically necessary and reasonable for treatment of the work injury. Dr. Ali stated Ward had been taking the medications for years but her depression has been in remission. Because Ward's psychiatric symptoms have resolved, there is no need for ongoing psychotropic medication treatment.

Dr. Timothy Allen performed an independent psychiatric evaluation on June 30, 2015. He reviewed extensive medical records documenting ongoing treatment for anxiety and depression since the 1992 work incident. Ward's first psychiatric treatment was in 1992, and she has had psychiatric treatment and consistently on medication since that time. Dr. Allen diagnosed histrionic personality disorder, generalized anxiety disorder, and ruled out panic disorder. Dr. Allen opined Ward had a pre-existing personality disorder, generalized anxiety, and possibly panic disorder with an exacerbation in February

1992. He felt her condition had long-since returned to baseline. He noted Ward had improved symptoms in 2012 at which time her depression was reported to be in remission. She reported idealized functioning in 2014 prior to learning her workers' compensation case would be reopened. Dr. Allen stated the contested medications were reasonable and necessary for Ward's diagnoses, but no longer related to her 1992 work injury.

Dr. David B. Manning submitted correspondence dated October 15, 2014. He noted Ward related the onset of her psychiatric illnesses to mistreatment by a supervisor in 1992 when she was working at the library. Dr. Manning observed:

> Our records indicate that this [led] to her being hospitalized for psychiatric illness in Pikeville Kentucky. She reported problems with anxiety, depression, panic attacks, excessive worry and rumination, impaired focus and concentration, social withdrawal and ultimately reports she became unable to work.

Dr. Manning diagnosed major depressive disorder and panic disorder. He explained, "Like many psychiatric disorders, Major Depressive Disorder and Panic Disorder are generally considered to be chronic conditions." He noted Ward's current psychiatric treatments can reduce the severity of the symptoms associated with these incidents,

and the majority of patients with these illnesses will have residual symptoms, even with treatment.

In correspondence dated August 6, 2015, Dr. Manning indicated Ward suffers from major depressive disorder and panic disorder. Her current treatment, including medications, has reduced the severity of her symptoms. But without the treatment, her symptoms are likely to worsen and become debilitating. Therefore, her treatment is medically necessary and should continue indefinitely.

The ALJ's relevant findings are as follows:

> The Defendant/Employer has moved to re-open this claim to challenge the reasonableness, necessity, and relatedness of the medications; Lexapro, Vistaril, and Xanax. They support their position with testimony from Dr. Clark, Dr. Ali, and Dr. Allen, all psychiatrists. Dr. Allen opined that the current need for Lexapro, Vistaril, and Xanax are reasonable and necessary but not causally related to her condition that occurred in January 15, 1992.
>
> All three physicians are of the opinion that the effects of that workplace harassment have long since ceased and that any problems the Plaintiff is having currently with her psychological condition is due to her pre-existing personality disorder. Dr. Allen noted that the records indicate in 2012, her depression was reported to be in remission. Dr. Allen is of the opinion that the psychological problems

> caused by the 1992, work-related injury have long since resolved.
>
> The Plaintiff is of the opinion that all of her problems were the result of the 1992, work-related incident and should therefore be deemed compensable. She has submitted medical proof from Dr. Manning and his nurse practitioner who are of the opinion that the medication she is being prescribed is reasonable and necessary. While neither Dr. Manning nor his nurse practitioner specifically opined that the Plaintiff's current psychiatric condition is causally related to the 1992 incident.[sic] The Administrative Law Judge infers Dr. Manning feels the 1992 incident is what caused her current psychological problems and the need for treatment. In fact, Plaintiff was awarded a permanent total disability award as a result [of] her psychological claim with accompanying medicals. To sustain the Defendant/Employer's motion would effectively terminate the Plaintiff's medical treatment, which the ALJ is not inclined to do. The ALJ notes, Dr. Manning is attempting to use generic medication to treat the Plaintiff and therefore, the ALJ believes generic medication are reasonable.
>
> Therefore, the Administrative Law Judge finds the challenged medications; Lexapro, Vistaril, and Xanax and/or a reasonable generic equivalent are compensable.

Pike filed a petition for reconsideration requesting additional findings as to whether Ward and Dr. Manning met the burden to establish the current psychological condition and need for medications are work-

related. By order dated November 20, 2015, the ALJ summarily overruled Pike's petition.

On appeal, Pike argues the ALJ erred and abused his discretion in finding Ward's psychological condition work-related and the need for the contested medications is related to the work injury. Pike contends there is no medical evidence that the current psychological condition and the need for the contested medications are related to the 1992 work injury. While Dr. Manning diagnosed major depressive disorder and panic disorder, he never offered an opinion as to the cause of the psychological condition. Pike contends the ALJ's inference that Dr. Manning feels the work injury caused the psychological problems and need for treatment is unreasonable and is not supported by the evidence. Pike further notes Dr. Manning's reports and records make no mention of the work injury, while Drs. Allen and Clark opined the effects of the work injury had resolved and any current complaints are not related to the 1992 incident.

Pike does not challenge the finding the contested medications are reasonable and necessary treatment for Ward's psychological condition. The question on appeal is whether the ALJ could reasonably infer that Dr. Manning felt the contested medications are related to the work

injury. An ALJ has the sole authority to judge all reasonable inferences to be drawn from the evidence. Miller v. East Kentucky Beverage/Pepsico, Inc., 951 S.W.2d 329 (Ky. 1997); Jackson v. General Refractories Co., 581 S.W.2d 10 (Ky. 1979).

We believe, after reviewing the evidence in its totality, the ALJ made a reasonable inference as to the casual connection. Contrary to Pike's arguments, the evidence from Dr. Manning reasonably could be interpreted to indicate Ward's current problems are a direct result of the incident in 1992. Ward provided a history that the onset of her debilitating psychological condition was caused by the work incident. Dr. Manning's correspondence provides no indication that he had a reason to question that history. He apparently accepted that history and he identifies no other cause for the condition or Ward's current symptoms. Dr. Manning stated major depressive disorder and panic disorder are chronic conditions. Although Drs. Allen and Clark did not believe Ward's current condition could be related to the 1992 incident, Dr. Manning clearly believed Ward's condition was chronic and continued to exist since 1992.

It is important to note ALJ Campbell determined Ward did not have a pre-existing disability and that she

sustained a permanent psychological work-related injury. Dr. Allen's review of medical records confirms Ward's ongoing treatment for anxiety and depression following the work incident. No other incident is identified as an event precipitating the current psychological symptoms, other than the current reopening to litigate the compensability of medications. Dr. Allen did find the treatment was reasonable and necessary for Ward's diagnoses. However, though he believed Ward's condition returned to baseline, Dr. Allen was apparently unaware her condition did not require ongoing medical care prior to the 1992 work incident or that an ALJ determined the condition was non-disabling prior to the work event. We conclude substantial evidence and reasonable inferences drawn therefrom support the ALJ's conclusion that the contested medications are compensable.

Accordingly, the October 13, 2015 Opinion and Order and the November 20, 2015 Order on Petition for Reconsideration rendered by Hon. R. Scott Borders, Administrative Law Judge are hereby **AFFIRMED**.

ALL CONCUR.

COUNSEL FOR PETITIONER:

HON ANGELINE B GOLDEN
620 SOUTH THIRD STREET
LOUISVILLE, KY 40202

RESPONDENTS, PRO-SE:

LINDA WARD
1714 BROOKVIEW DRIVE
DANDRIDGE, TN 37725

DR. DAVID MANNING
201 W SPRINGDALE AVE
KNOXVILLE, TN 37917

ADMINISTRATIVE LAW JUDGE:

HON R. SCOTT BORDERS
PREVENTION PARK
657 CHAMBERLIN AVENUE
FRANKFORT, KY 40601