Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: January 30, 2015

CLAIM NO. 200378670

SHAMROCK TECHNOLOGIES PETITIONER

VS. **APPEAL FROM HON. CHRIS DAVIS, ADMINISTRATIVE LAW JUDGE**

JUSTINE EMBRY
METHODIST HOSPITAL
MAHENDRA SANAPATI, M.D.
and HON. CHRIS DAVIS,
ADMINISTRATIVE LAW JUDGE RESPONDENTS

OPINION
AFFIRMING
* * * * * *

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

STIVERS, Member. Shamrock Technologies ("Shamrock") seeks review of the January 27, 2014, Opinion and Order of Hon. Chris Davis, Administrative Law Judge ("ALJ") resolving a medical fee dispute, in part, in favor of Justine Embry ("Embry"). The ALJ determined injection treatment and the frequency of the office visits made to Dr. Mahendra

Sanapati by Embry were not reasonable and necessary treatment. The ALJ also determined Shamrock continued to be financially responsible for Percocet and Soma prescribed by Dr. Sanapati as reasonable and necessary treatment of Embry's July 14, 2003, work injury. Shamrock also appeals from the March 24, 2014, July 7, 2014, and September 11, 2014, Orders ruling on its petitions for reconsideration.

On appeal, Shamrock argues the medical evidence does not establish Embry's pain medication is reasonable, necessary, and work-related. While acknowledging Embry testified Dr. Sanapati's treatment helped her symptoms and allows her to be more functional, Shamrock asserts the uncontroverted facts do not corroborate her testimony. It argues Embry's testimony is not medical evidence and her testimony is so erratic it cannot constitute credible probative evidence.

Shamrock asserts Dr. Robert Baker and Dr. John Rademaker provided the only medical evidence addressing the reasonableness, necessity, and work-relatedness of Embry's treatment regimen provided by Dr. Sanapati. It notes the two doctors agree Embry's current medication regimen which includes Percocet and Soma is not reasonable, necessary, and work-related. Shamrock observes Embry began pain management with Dr. Stephen Rupert in May 2007 and

underwent extensive injection therapy and was prescribed six Lortab daily during the three years she saw him. Embry continued the same treatment plan when she switched to Dr. Sanapati in 2010. The only change was Dr. Sanapati prescribed Percocet five times a day. Shamrock contends that despite this continued treatment and potent narcotic regimen, Embry has continued to complain of excruciating pain. It argues Embry has not produced any proof establishing the Percocet and Soma are reasonable, necessary, and work-related.

Shamrock also contends Embry's statements these medications are reasonable, necessary, and work-related is not substantial evidence and is not a medical opinion. Since a finding of reasonableness, necessity, and work-relatedness must be based on a medical opinion and there is no medical opinion establishing the medication in question as reasonable and necessary treatment, it requests the ALJ's finding be vacated and the claim remanded for a finding Percocet and Soma are not reasonable and necessary treatment of Embry's work injury.

The Form 101 reveals Embry was injured on July 14, 2003, and she alleged injuries to her neck, right shoulder, and right arm.

On July 18, 2005, Hon. John W. Thacker, Administrative Law Judge ("ALJ Thacker") approved a Form 110 settlement agreement. The agreement indicates Embry was injured lifting heavy boxes and barrels. The nature of the injuries and the body parts affected were listed as the neck, right shoulder, and right arm. The agreement states Embry underwent fusion surgery at the C4-C5 level and both Drs. Jose Arias and Baker assessed 25% impairment ratings. Embry's benefits were based on a 22.07% impairment rating and she received a $45,000.00 lump sum. In addition, she received a lump sum payment of $5,000.00 for a waiver of the right to any vocational rehabilitation. Embry did not waive her right to future medical benefits.

On July 16, 2013, Shamrock filed a motion to join Dr. Sanapati and Methodist Hospital of Henderson, Kentucky, as parties, a Form 112, and a motion to reopen to assert a medical fee dispute. In the motion to reopen, Shamrock noted that following surgery in 2004, Embry continued to treat with Dr. Arias, her neurosurgeon, and Dr. Paul Kramer for subscapular pain in her right shoulder with radiation distally into her right arm. Embry began pain management treatment with Dr. Rupert in May 2007. Dr. Rupert diagnosed cervical spondylosis without myelopathy and previous C4-5 cervical fusion. Dr. Rupert believed Embry

had cervical facet syndrome on both sides and would need cervical median branch blocks to confirm the diagnosis. Dr. Rupert continued to treat Embry until November 2010 during which time he performed left and right-sided median branch blocks, left intraarticular facet injections, radiofrequency neurotomies, occipital nerve blocks, dorsal nerve blocks, and trigger point injections at various cervical levels.

In November 2010, Embry changed pain management doctors and began treating with Dr. Sanapati. Dr. Sanapati recommended continuing injections and prescription medications including Percocet. In May 2012, Dr. Sanapati recommended a trial of cervical epidural steroid injections. As a result, Embry received injections in June, September, and November 2012, and also took Percocet and Soma. Shamrock asserted that despite these injections, Embry's symptoms continued.

Shamrock also relied upon the opinions of Dr. Baker based on an independent medical evaluation conducted on May 6, 2013. It represented Dr. Baker believed the work injury probably caused cervical sprain which may or may not have aggravated Embry's underlying C4-5 disc degeneration. Further, Dr. Baker believed Embry had become completely dependent upon purely passive treatment which was not

helpful or successful by any objective standards and recommended she be given a home exercise program, and psychological and vocational counseling.

Shamrock noted the claim was referred to Dr. Rademaker for an opinion regarding the reasonableness and necessity of Embry's medical treatment. It represented Dr. Rademaker agreed with Dr. Baker regarding the nature of the injury and determined Embry's current medical treatment was not reasonable and necessary for the cure and relief of the July 14, 2003, work injury.

Shamrock stated the purpose of the motion to reopen was to contest the reasonableness and necessity of Embry's past and present medical treatment with Dr. Sanapati at the Methodist Hospital of Henderson which consisted of numerous injection therapies and the medications Percocet and Soma. It stated it relied upon the medical opinions of Drs. Baker, Rademaker, and Paul Loubser. Shamrock attached the reports of Drs. Baker, Rademaker, and Loubser, as well as the records of Dr. Sanapati.

On August 16, 2013, Hon. Robert L. Swisher, Administrative Law Judge ("ALJ" Swisher") entered an order sustaining Shamrock's motion to reopen, indicating an appropriate scheduling order would be entered, and joining

Dr. Sanapati and Methodist Hospital of Henderson as parties. Throughout these proceedings, Embry continued *pro se*.

A September 23, 2013, Order entered by ALJ Swisher reveals the challenged or unpaid procedures at issue were the prescription medications Percocet and Soma, pain management injective therapy, and the frequency of office visits. The sole basis for the challenge to the bills or treatment was reasonableness and necessity. The order also reassigned the medical fee dispute to the ALJ.

A November 6, 2013, Benefit Review Conference ("BRC") Order entered by the ALJ states Embry did not appear for the telephonic BRC scheduled for October 10, 2013. The ALJ noted she had actively participated in this claim and he assumed this was an error. The ALJ stated Embry is notified it is very important she attend a deposition conducted by the attorney for Shamrock's carrier. Significantly, the BRC order also states the ALJ was returning documents to Embry filed with the Department of Workers' Claims. The ALJ stated Embry should file these documents but she must also send a copy to the attorneys of record and a copy to the Department of Workers' Claims. The parties were given thirty days for proof time. A telephonic conference was set for November 5, 2013.

It appears Embry tendered a group of documents which included a handwritten response to the motion to reopen and medical fee dispute. These documents were not stamped filed and remain in the record. Thus, we assume these are the documents the ALJ ordered to be returned to Embry and were not considered since they are not discussed in his opinion.

A December 6, 2013, BRC Order reveals the parties stipulated Embry sustained a work-related injury on July 14, 2003, and the claim was decided by settlement agreement. Under the heading "Contested Issues" is the following: "reasonableness and necessity and work-relatedness of injections; frequency of office visits; and Percocet and Soma." The claim was submitted on the record as of December 6, 2013, and the parties had thirty days to submit briefs. Embry's deposition was to be considered. The record reveals Embry's November 22, 2013, deposition was taken by Shamrock and filed in the record on December 16, 2013.

The medical evidence in this claim consists of the documents attached to Shamrock's Form 112.[1] The records of Dr. Sanapati, which include records generated by

[1] Some of those same documents were also filed in Shamrock's motion to reopen.

Methodist Hospital, span the period from December 20, 2012, to April 25, 2013. The prescription records span the period from January 31, 2013, to May 31, 2013. The handwritten records of Dr. Sanapati and the records generated by Methodist Hospital reveal a consistent diagnosis of chronic neck pain and regular prescriptions of Percocet and Soma.

The medical records generated by Methodist Hospital reveal a consistent diagnosis of right-sided cervical radiculitis, C4-5 fusion, C5-6 and C6-7 disc protrusions, chronic neck pain, right upper extremity pain, failure of conservative therapy, and osteoarthritis of the cervical spine.

In his May 6, 2013, report generated as a result of a physical examination and a review of various medical records, including those of Drs. Kramer, Arias, Rupert, and Sanapati, Dr. Baker opines the work injury was probably the result of a cervical strain which may or may not have aggravated underlying C4-5 disc degeneration. He noted Embry's main symptom was neck pain but there was no evidence of cervical radiculopathy either on physical examination or diagnostic testing. He stated Embry has undergone diagnostic and therapeutic pain medicine techniques to essentially every level of her cervical spine

above and below the surgical site with no procedure providing any significant long term relief. Dr. Baker believed Embry's examination showed a full range of motion of the cervical spine without objective evidence of radiculopathy. He noted despite the multiple invasive pain procedures, Embry has been on a continuous long term course of narcotic pain medication "which the medical literature consistently discourages." It was Dr. Baker's impression that Embry falls in the category of a patient who has become completely dependent upon purely passive treatment which has not proved to be effective by any objective standard. He concluded as follows:

> Again, as regards question #5, she would be just as well served by an at-home exercise program and psychological and vocational counseling in an attempt to have her move on with her life, despite the pain that she may or may not be having, and be able to move away from having her life 'totally dominated by her apparent chronic pain.'

The report of Dr. Rademaker dated June 14, 2013, reveals he conducted a medical records review which included the report of Dr. Baker. Dr. Rademaker stated he agreed with Dr. Baker that the work injury was probably a cervical strain. He stated Dr. Sanapati's records are illegible. He noted the physical examinations were "repetitive in nature and without any objective functional

benefits of any of the techniques." Dr. Rademaker saw no reason to disagree with Dr. Baker's opinion. He opined the continued medical treatment consisting of injective therapy, one to two month office visits, monthly medications including Oxycodone/APAP (Percocet) and Carisoprodol (Soma) were not medically necessary and reasonable for the cure and/or relief of Embry's work injury.

In his report, based on a medical records review, Dr. Loubser opines the medical treatment Embry received from Dr. Sanapati consisting of various injections, one to two month office visits, and monthly medication of Percocet and Soma were not medically necessary and reasonable for the cure and relief of her work injury. Dr. Loubser stated the opioid therapy is recommended for short term use only, and the records reveal there was ongoing use of Oxycodone/APAP (Percocet). Since there was no information submitted of objective functional response for the use of these medications, Dr. Loubser concluded Percocet was not medically necessary. Concerning the ongoing use of Soma, since it is intended for short term use, Dr. Loubser concluded it too is not medically necessary.

Embry's November 22, 2013, deposition reveals she underwent fusion surgery on January 7, 2004, performed by

Dr. Arias. Since her employment terminated with Shamrock, Embry had not attempted to return to work until early 2013. Embry estimated she worked approximately two months in the beginning of 2013 for Fran's Cleaning. Her job at Fran's Cleaning entailed working an hour each weekday cleaning an insurance office and working two hours a couple of days weekly cleaning a doctor's office. Because she was drawing Social Security Disability benefits, when she attempted to return to work she advised the local Social Security Administration office she was trying to seek employment. Embry stopped working for Fran's Cleaning, approximately six months prior to her deposition because of "pain problems."

When Embry was treated by Dr. Rupert he prescribed six Lortab daily, and Dr. Sanapati changed her prescriptions in 2010 to Percocet 10 to be taken five times daily. Embry described her pain problems as follows:

> A: Until I get – oh I've worked my whole entire life. I've never been scared of work, but I guess the pain has just kind of taken me over. It's taken over my limbs, you know, because, you know, you've got your nerves coming from your spine. They go from your legs. They go to arms. They go to your head and, believe me, my legs hurt. My head hurts so bad right now. I need a shot. I've been begging for my shot.
>
> Q: Let me ask you –

> A: They help me function. My medicine helps me function. My shots. That's how I function on a daily basis. That's what makes me function and if you all got anything better to get rid of my pain, I'd be more than happy to do it. I'd stand on my head.

Embry testified the Soma allows her to sleep. Her medications and injections had previously been paid for by the workers' compensation carrier. She attributes all of her pain to her neck problems. Embry testified she has lost forty pounds. Regarding the benefits she receives from the medication, Embry testified as follows:

> Q: Does the pain medication help your symptoms?
>
> A: Yes.
>
> Q: How does it help your symptoms?
>
> A: It helps it tremendously. That's, like I say, that's, and I always say it, that's how I function.
>
> Q: Through the pain meds or through the injections?
>
> A: Through both. My pain meds – my pain meds, my injections, it keeps all this pressure down off of me and going to my head and it's really hard to explain. You have to really look at it on this. You could see what I'm going through. You'd have to really know. I can't tell you how much pain I'm in because it's excruciating and it's excruciating living like I do and I'm only forty-nine. I would rather be working.

> Q: And I want to make sure that I understand how the pain medication that you're taking helps your symptoms.
>
> A: My pain subsides tremendously. It subsides. I can move my neck. I can lift things, not big heavy stuff or nothing like that, but I feel normal, you know. I can go in there and do my dishes. If I want to go for a walk, I'm able to walk down to the block. Makes me feel great.
>
> Q: And your pain meds help you be able to do that?
>
> A: Oh, yes. That's the only thing that makes me do it. I'm scared about my neck's falling apart, you know. I've been – ever since my first surgery, ever since I got hurt, something else has been wrong with me and I know it's been my whole neck, 6 and 7, 3 and 4, 5, 6, and 7. It's been the whole doggone thing and it's just been – it's just gotten – after I had my first surgery, oh, my God, I just wanted to hug Dr. Arias and I did.

Embry testified she currently experiences muscle spasms from the base of her skull extending into her right shoulder. She denied treating with any other physician.

After summarizing Embry's testimony, the reports of Drs. Baker, Rademaker, and Loubser, and the records of Dr. Arias and Sanapati, the ALJ entered, in relevant part, the following findings of fact and conclusions of law:

> The undersigned understands that Embry's pain complaints appear, to Dr. Baker, to be greatly exaggerated and that her subjective reporting of symptoms is inconsistent with that

which would be expected. I certainly also understand the various physicians who have opined that the Percocet and Soma are intended for short term use.

Ms. Embry has participated in this claim but presented very little proof.

Notwithstanding the above the Respondent had a work-related cervical fusion and continues to allege severe pain. Dr. Sanapati, at least, believes her. The Movant can craft their arguments but what they are essentially asking is that Ms. Embry be deprived of all palliative medical treatment. No matter how much I respect Dr. Baker I will not make such a finding in these circumstances, which runs contrary to the recommendations of her treating physician.

Rather, in reliance on Ms. Embry's testimony and inference I am allowed to make [sic] that Dr. Sanapati believes the treatment he recommends is reasonable and necessary I find the Percocet and the Soma to be work-related and reasonable and necessary and therefore compensable.

However, with respect to the injections I am in agreement with Dr. Baker that they are not needed.

Finally, with regards to the office visits, the monthly or even bi-monthly office visits for a patient with no documented history of failed drug screens, substance abuse or diversion is not reasonable and necessary.

Accordingly, the ALJ ordered as follows:

The medical fee dispute is resolved in favor of the Movant as to the injections and frequency of office

> visits and in favor of the Respondents as to the Percocet and Soma. This opinion does not mean the Respondent-Embry cannot have office visits with the Respondent-Sanapati, only that once a month or once every two months is too frequent.

Shamrock filed a petition for reconsideration arguing Embry had failed to provide any proof establishing Percocet and Soma were reasonable, necessary, and work-related. It contended Embry's opinion regarding the medications is not substantial evidence and does not constitute a medical opinion. Consequently, there is no medical opinion establishing Percocet and Soma as reasonable and necessary treatment for Embry's work injury. Shamrock requested additional findings of fact regarding what medical evidence the ALJ relied upon in finding the medications were reasonable and necessary medical treatment of the work injury. In the absence of such a finding, it requested the ALJ enter an order finding Percocet and Soma unreasonable and unnecessary treatment.

In the March 24, 2014, Order overruling the petition for reconsideration, the ALJ stated the fact a physician had recommended a particular course of treatment for a patient, in and of itself, creates a presumption the physician believes the course of treatment is reasonable and necessary. He noted the alternative was to believe a

physician would recommend treatment that is not reasonable and necessary which he declined to presume. The ALJ stated as follows:

> As far as proving reasonableness and necessity through an actual unambiguous statement the Movant is asserting a technicality of evidence against a pro se injured worker in a Kentucky workers' compensation medical fee dispute. This would create a manifest injustice, especially in light of the analysis in the preceding paragraph.

The ALJ went on to point out Embry sustained a work-related cervical injury which resulted in fusion for which Shamrock had accepted responsibility. He noted there was no evidence of intervening trauma or accident and a fusion was no small matter. The ALJ concluded:

> Notwithstanding the above the undersigned finds that given the Plaintiff's injury history, lack of any intervening medical history and her own testimony a finding of causation can be made.

Shamrock filed a second petition for reconsideration noting Embry's testimony revealed she had been involved in at least three separate incidents involving head and neck trauma. It noted Embry testified she was involved in two fights which resulted in assault charges against her and that she just about "got beat to death," and was struck in the face and head. It also noted

Dr. Rademaker had reviewed Dr. Rupert's treatment record of February 17, 2009, in which Dr. Rupert noted Embry had increased neck pain after she fell at the race track. It asserted the ALJ's incorrect understanding of the post-work accident, assaults, and traumas resulted in an erroneous finding Embry's condition is work-related.

On July 7, 2014, the ALJ entered an order overruling the second petition for reconsideration finding the compensability of the fusion was never disputed by Shamrock and even Dr. Baker believed the current treatment may or may not be work-related. The ALJ concluded Embry's deposition testimony and the medical records did not support Shamrock's contention. The ALJ believed the physical altercation and the fall were isolated incidents and not nearly as severe as the fusion. Further, he concluded there was no evidence in the record which supports a finding the events superseded the effects of the fusion. Numerical paragraph two of the July 7, 2014, Order, which led to Shamrock filing a third petition for reconsideration, reads as follows:

> 2. I find, again, based on the entire medical history, the affirmative statements by Dr. Baker, the lack of any significant subsequent trauma, and the claim as a whole that the disputed medical treatment is not work-related.

Shamrock's September 11, 2014, third petition for reconsideration stated the majority of the ALJ's July 7, 2014, Order supports his analysis and reasoning for finding the contested treatment to be reasonable, necessary, and work-related. However, citing to paragraph two of the July 7, 2014, Order, Shamrock requested the ALJ clarify his finding before the claim proceeds to the appellate process. Accordingly, it requested the ALJ to state whether it was his opinion the medication was or was not work-related.

In the September 11, 2014, Order ruling on Shamrock's third petition for reconsideration, the ALJ stated the relief sought was not an appropriate subject for a petition for reconsideration and he had addressed all the facts Shamrock felt should have led to a different result. The ALJ did not address the issue raised in the third petition for reconsideration.

In a post-award medical fee dispute, the employer bears both the burden of going forward and the burden of proving the contested treatment or expenses are unreasonable or unnecessary. National Pizza Company v. Curry, 802 S.W.2d 949 (Ky. App. 1991); Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979); Addington Resources, Inc. v. Perkins, 947 S.W.2d 421 (Ky. App. 1997); Mitee Enterprises vs. Yates, 865 S.W.2d 654 (Ky. 1993); Square D

Company v. Tipton, 862 S.W.2d 308 (Ky. 1993). The claimant, however, bears the burden of proving work-relatedness. *See* Addington Resources, Inc. v. Perkins, 947 S.W.2d 421 (Ky. App. 1997).

Pursuant to KRS 342.275 and KRS 342.285, the ALJ, as fact-finder, determines the quality, character, and substance of all the evidence and is the sole judge of the weight and inferences to be drawn from the evidence. Square D Company v. Tipton, supra; Miller v. East Kentucky Beverage/Pepsico, Inc., 951 S.W.2d 329 (Ky. 1997). He or she may reject any testimony and believe or disbelieve various parts of the evidence, regardless of whether it was presented by the same witness or the same party's total proof. Magic Coal Co. v. Fox, 19 S.W.3d 88 (Ky. 2000).

The question on appeal is whether the evidence is so overwhelming, upon consideration of the whole record, as to compel a finding in Embry's favor. Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky. App. 1984). Compelling evidence is defined as evidence so overwhelming no reasonable person could reach the same conclusion as the ALJ. REO Mechanical v. Barnes, 691 S.W.2d 224 (Ky. App. 1985). The ALJ may choose whom or what to believe. Mere evidence contrary to the ALJ's decision is not adequate to

require reversal on appeal. Whittaker v. Rowland, 998 S.W.2d 479 (Ky. 1999).

The ALJ obviously grasped Shamrock's argument. However, the ALJ concluded Dr. Sanapati believed the medications he prescribed were reasonable and necessary treatment of Embry's work-related symptoms. He also found Embry's testimony regarding her pain and the relieving effects of Percocet and Soma to be credible. Thus, he concluded Embry's testimony along with the records of Dr. Sanapati established Percocet and Soma were work-related and reasonable and necessary treatment.

We disagree with Shamrock's assertion the opinions of Drs. Baker, Rademaker, and Loubser are the only medical evidence of record and compel a contrary result. The records of Dr. Sanapati reflect he regularly prescribed Percocet and Soma for Embry's pain. In addition, Embry's testimony firmly establishes the medications in question provide significant relief of her cervical pain caused by the work injury. Within his discretion, the ALJ may rely on Dr. Sanapati's record and Embry's testimony, and reject the doctor's opinion in resolving the medical dispute concerning the need for Percocet and Soma.

Significantly, the ALJ determined Embry was not entitled to injective therapy and the monthly or bi-monthly

office visits to Dr. Sanapati. However, the ALJ declined to deprive Embry of all treatment provided by Dr. Sanapati. The ALJ was not required to view Embry's circumstances in a vacuum, as he noted his decision now leaves Percocet and Soma as the only compensable treatment rendered by Dr. Sanapati.

The ALJ was not compelled to rely upon the opinions of Drs. Baker, Rademaker, and Loubser and give no weight to Embry's testimony. The claimant's own testimony as to her condition has some probative value and is appropriate for consideration by the ALJ. Hush v. Abrams, 584 S.W.2d 48 (Ky. 1979); Caudill v. Maloney's Discount Stores, 560 S.W.2d 15 (Ky. 1977). Further, depending on the circumstances involved, even where medical evidence is uncontradicted, an ALJ is vested with the authority to reject such evidence so long as a sufficient explanation for that reject is provided. Commonwealth v. Workers' Compensation Board of Kentucky, 697 S.W.2d 540 (Ky. App. 1985). In the case *sub judice*, the ALJ provided a sufficient explanation for his rejection of the opinions of Drs. Baker, Rademaker, and Loubser concerning the necessity and reasonableness of the medications in question. Notably, none of the doctors offered an opinion concerning the work-relatedness of the medications.

Concerning the ALJ's reliance in part on Embry's testimony, we note that so long as permanent impairment results from a work-related traumatic event, a claimant's testimony concerning his or her inability to provide services to another in return for remuneration on a regular and sustained basis in a competitive economy qualifies as substantial evidence sufficient to support a finding by an ALJ of permanent total disability. *See* KRS 342.0011(11)(c) and (34); Transportation Cabinet v. Poe, 69 S.W.3d 60 (Ky. 2001); Commonwealth of Kentucky, Transportation Cabinet v. Guffey, 42 S.W.3d 618 (Ky. 2001).

In addition, when the issue is the claimant's ability to labor and the applicability of the three multiplier, it is within the province of the ALJ to rely on the claimant's self-assessment of his or her ability to perform his or her prior work. *See* Ira A. Watson Department Store v. Hamilton, 34 S.W.3d 48 (Ky. 2000); Carte v. Loretto Motherhouse Infirmary, 19 S.W.3d 122 (Ky. App. 2000).

As in the above instances, Embry's testimony regarding the effects of Percocet and Soma on her cervical pain constitutes substantial evidence upon which the ALJ may rely in determining whether the medications are reasonable and necessary treatment of and causally related to her work injury. The ALJ's determination regarding the compensability

of the contested medical treatment is supported by substantial evidence and is not so unreasonable under the evidence that it must be reversed as a matter of law. Ira Watson Department Store vs. Hamilton, supra.

We are compelled to discuss the September 11, 2014, Order ruling on Shamrock's third petition for reconsideration seeking clarification of numerical paragraph two of the July 7, 2014, Order. Although the ALJ did not specifically address the issue raised in the third petition for reconsideration/motion for clarification, he overruled the petition/motion and did not alter the text of his January 27, 2014, Opinion and Order. Therefore, we conclude the phrase within the only sentence in numerical paragraph two of the July 7, 2014, Order "the disputed medical is not work-related" contains a typographical error. Our conclusion is buttressed by the fact the ALJ did not alter his initial finding that Percocet and Soma continue to be reasonable and necessary treatment of Embry's work injury. Further, his refusal to grant Shamrock any relief in the petitions for reconsideration is indicative of a continued finding Embry's cervical symptoms for which she takes Percocet and Soma are work-related.

Accordingly, the January 27, 2014, Opinion and Order and the March 27, 2014, July 7, 2014, and September

11, 2014 Orders overruling Shamrock's petitions for reconsideration are **AFFIRMED**.

ALL CONCUR.

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