

April 29, 2022

Julie Spriggs
4004 S Marion
Sioux Falls, SD 57105

Laura Hensley
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PO Box 5015
Sioux Falls, SD 57117-5015

RE: HF No. 68, 2021/22 – Julie Spriggs v. First Premier Bank and First Dakota Indemnity

Greetings:

This letter addresses Employer and Insurer's Motion to Dismiss submitted on February 22, 2022; Claimant's Response Letter submitted March 21, 2022; and Employer and Insurer's Reply Brief in Support of Motion to Dismiss submitted April 11, 2022.

First Premier Bank and First Dakota Indemnity (Employer and Insurer) have moved the Department of Labor & Regulation (Department) to dismiss Julie Spriggs's (Spriggs) Petition for Hearing on the grounds that she has failed to state a claim upon which relief may be granted as it has been more than two (2) years since her worker's compensation claim was denied.

Spriggs claims she suffered a work-related injury to her left wrist, left arm, and neck beginning on June 12, 2018. She further claims that her symptoms were caused by using a workstation set up for left-hand mouse control. Spriggs began treatment with Dr. Van Hemert at Align Chiropractic for her alleged work-related symptoms on June 12, 2018.

On June 14, 2018, Insurer sent a letter to Spriggs informing her that the claim had been received and requesting that she sign a medical authorization to investigate the claim.

On June 18, 2018, Insurer sent another letter requesting signatures on medical authorizations. Spriggs returned a signed authorization but limited the release to only the records after June 11, 2018. Insurer sent an additional request for a signed authorization on July 10, 2018.

On July 30, 2018, following a request made by Employer and Insurer, the Department ordered Spriggs to sign the medical release regarding Sanford Health records. On August 2, 2018, Employer and Insurer issued a conditional denial of benefits based on Spriggs's refusal to provide a signed medical authorization. On August 6, 2018, the Department Ordered Spriggs to sign a release regarding her Align Chiropractic records.

Dr. Douglas Martin conducted a medical records review on behalf of Employer and Insurer, and based on Dr. Martin's opinion, Employer and Insurer denied Spriggs's claim for benefits. A letter of denial was sent to both Spriggs and the Department on December 19, 2018. The letter also referenced the previous conditional denial sent out on August 2, 2018. Spriggs filed her Petition for Hearing with the Department on January 12, 2022, regarding her alleged work injury.

It was more than two years between the date of denial and the filing of this Petition for hearing. Employer and Insurer properly informed both the Department and Spriggs of their denial of her claim on December 19, 2018. The Petition was not filed until January 12, 2022, which was over three years later. Therefore, Spriggs's right to compensation is barred pursuant to SDCL 62-7-35 which provides,

The right to compensation under this title shall be forever barred unless a written petition for hearing pursuant to § 62-7-12 is filed by the claimant with the department within two years after the self-insurer or insurer notifies the claimant and the department, in writing, that it intends to deny coverage in whole or in part under this title. If the denial is in part, the bar shall only apply to such part.

It is hereby ORDERED that Employer and Insurer's Motion for Summary Judgment is GRANTED. This letter shall constitute the order in this matter.

This is the final decision in this matter unless you appeal in one of two ways:

1. The decision is appealed directly to circuit court within 30 days after the date of this decision
2. A request for a Department of Labor and Regulation review is filed by mailing a letter of appeal to the Secretary, S.D. Department of Labor and Regulation, 123 W. Missouri Ave., Pierre, SD 57501 within 10 days after the date of this decision. The Secretary's Decision may be appealed to circuit court within 30 days after the date of the Secretary's decision.

Sincerely,

A handwritten signature in blue ink that reads "Michelle Faw". The signature is written in a cursive, flowing style.

Michelle M. Faw
Administrative Law Judge

MMF/das