IN THE COURT OF APPEALS OF THE STATE OF NEVADA

AMAZON.COM; AND SEDGWICK CMS,
Appellants,
vs.
WILLIESTEIN JACKSON,
Respondent.

No. 85053-COA

ORDER OF AFFIRMANCE

Amazon.com and Sedgwick CMS appeal from a district court order granting a petition for judicial review of an appeals officer's decision in a workers' compensation matter. Eighth Judicial District Court, Clark County; Nancy L. Allf, Judge.

Respondent Williestein Jackson suffered a slip-and-fall accident while working as a fulfillment center associate for Amazon. Amazon's third-party administrator, Sedgwick, subsequently accepted her workers' compensation claim for injuries that she sustained in connection with the accident.

Jackson proceeded to treat with a physician's assistant who diagnosed her with strains of the left leg, hip, thigh, knee, and ankle, and released her to work modified duty. Sedgwick then notified Jackson that her claim was being closed, and Jackson appealed that determination to a hearing officer, arguing that an independent medical examination (IME) should have been conducted prior to the closure of her claim (the first administrative appeal).

While Jackson's first administrative appeal was pending, she separately submitted a request for an IME with Michael Fleming, D.C., to

Sedgwick. Sedgwick failed to respond to that request within 30 days, which was statutorily required to be treated as a denial of the request. *See* NRS 616C.315(3) (requiring hearing officers to deem an insurer's failure to respond to a written request for a determination within 30 days after receipt of the request as a denial of the request). Jackson then appealed the matter to a hearing officer pursuant to NRS 616C.315(3), which authorizes a person who is aggrieved by an insurer's de facto denial of a written request for a determination to request a hearing before a hearing officer (the second administrative appeal). Sedgwick later mailed Jackson a written notice, indicating that her request for an IME had been denied due to the closure of her claim (the denial letter).

The following day, the hearing officer held a hearing concerning Jackson's first administrative appeal and remanded the matter with directions for Sedgwick to schedule Jackson for an IME with a physician from Amazon's insurer's preferred provider organization (PPO) network who the parties mutually agreed upon. Shortly thereafter, Sedgwick mailed Jackson a letter in which it requested that she notify it of her preferred physician from Amazon's insurer's PPO provider list, which was enclosed with the letter and did not include Dr. Fleming, so that an IME could be scheduled (the acceptance letter).

The hearing officer later held a hearing concerning Jackson's second administrative appeal. However, the hearing officer dismissed the appeal as moot, reasoning that Sedgwick's acceptance letter addressed her request for an IME. Jackson appealed that determination to an appeals officer, who concluded that Sedgwick's denial and acceptance letters rendered Jackson's appeal moot and affirmed the hearing officer's decision as a result.

Jackson then petitioned for judicial review, arguing, among other things, that the appeals officer improperly relied on the mootness doctrine in affirming the hearing officer's decision since NRS 616A.010(3) provides that the Nevada Industrial Insurance Act (NIIA) is premised on a renunciation of employers' and employees' common law rights and defenses, and because NRS 616C.360(2) requires an appeals officer to hear any matter before him or her on the merits. Over Amazon and Sedgwick's opposition, the district court reversed the appeals officer's decision, concluding that the plain and unambiguous language of NRS 616A.010(3) precluded application of the mootness doctrine in the workers' compensation context. This appeal followed.

Like the district court, this court reviews an appeals officer's decision in a workers' compensation matter for clear error or an arbitrary and capricious abuse of discretion, deferring to the appeals officer's factual findings and fact-based conclusions of law provided that they are supported by substantial evidence. NRS 233B.135(3); *Vredenburg v. Sedgwick CMS*, 124 Nev. 553, 557, 188 P.3d 1084, 1087 (2008). "Substantial evidence is evidence that a reasonable person could accept as adequately supporting a conclusion." *Vredenburg*, 124 Nev. at 557 n.4, 188 P.3d at 1087 n.4.

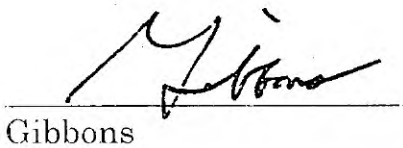
On appeal, the parties dispute whether the mootness doctrine may be applied in workers' compensation cases in light of NRS 616A.010(3). And assuming the mootness doctrine can be applied, appellants argue in their opening brief that Jackson's second administrative appeal was moot because the acceptance letter approved her request for an IME. Jackson counters in her answering brief that she specifically requested an IME with Dr. Fleming, and because the acceptance letter instead instructed her to select a physician from Amazon's insurer's PPO provider list, Jackson

maintains that a dispute remained between the parties, such that her second administrative appeal was not moot. In their reply brief, appellants make no attempt to address how the PPO-provider-list limitation in the acceptance letter affected the potential applicability of the mootness doctrine to Jackson's second administrative appeal, but instead, argue that if Jackson was aggrieved by the acceptance letter, she should have filed a third administrative appeal.

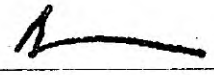
We need not resolve the parties' dispute concerning whether NRS 616A.010(3) precludes applying the mootness doctrine in workers' compensation cases because Jackson's second administrative appeal is not moot. Notably, because appellants required Jackson to select a physician from Amazon's PPO provider list to conduct the IME, they have denied Jackson's specific request for an IME *with Dr. Fleming*. Under these circumstances, we agree with Jackson that a dispute therefore remained between the parties. *See Personhood Nev. v. Bristol*, 126 Nev. 599, 602, 245 P.3d 572, 574 (2010) (explaining that a case is moot if it does not present a live controversy through all stages of the proceeding); *NCAA v. Univ. of Nev.*, 97 Nev. 56, 58, 624 P.2d 10, 11 (1981) (providing that "[a] moot case is one which seeks to determine an abstract question which does not rest upon existing facts or rights"). And given that a dispute remains between the parties, the appeals officer erred in determining that Jackson's second administrative appeal was moot. *See Martinez-Hernandez v. State*, 132 Nev. 623, 625, 380 P.3d 861, 863 (2016) ("Whether an issue is moot is a question of law that we review de novo."); *see also Vredenburg*, 124 Nev. at 557, 188 P.3d at 1088 (providing that, in the administrative context, pure questions of law are reviewed de novo).

Likewise, because Jackson's second administrative appeal was not moot and should not have been dismissed, we are not persuaded that Jackson was required to file a third administrative appeal to challenge the denial of her request for an IME with Dr. Fleming. Thus, we conclude that the appeals officer erred by affirming the hearing officer's dismissal of Jackson's second administrative appeal on mootness grounds, *see* NRS 233B.135(3); *Vredenburg*, 124 Nev. at 557, 188 P.3d at 1087, and we therefore affirm the district court's order granting Jackson's petition for judicial review insofar as it reversed the appeals officer's decision, albeit for reasons different than those relied on by the district court.[1] *See Rosenstein v. Steele*, 103 Nev. 571, 575, 747 P.2d 230, 233 (1987) (providing that Nevada's appellate courts "will affirm the order of the district court if it reached the correct result, albeit for different reasons").

It is so ORDERED.[2]



_____, C.J.
Gibbons



_____, J.
Bulla

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[1]Since the district court reversed the appeals officer's decision without expressly remanding, we direct the district court to remand this matter to the appeals officer for further proceedings consistent with this order.

[2]Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given our disposition of this appeal.

cc: Hon. Nancy L. Allf, District Judge
Ara H. Shirinian, Settlement Judge
Hooks Meng & Clement
GGRM Law Firm
Eighth District Court Clerk