

IN THE SUPREME COURT OF THE STATE OF NEVADA

CRAIG M. COVERT,
Appellant,
vs.
MGM-MIRAGE-PRIMADONNA CO.,
Respondent.

No. 41934

FILED

NOV 16 2005

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

This is a proper person appeal from a district court order denying a petition for judicial review in a workers' compensation case. Eighth Judicial District Court, Clark County; Michael L. Douglas, Judge. On appeal, appellant Craig M. Covert argues that the appeals officer misinterpreted NRS 616C.140(1)(b) and (3) by holding that the panel examination in Las Vegas was "reasonably convenient" for him.

"The function of this court in reviewing an administrative decision is identical to the district court's."¹ "When determining the validity of an administrative regulation, courts generally give 'great deference' to an agency's interpretation of a statute that the agency is charged with enforcing."² As a result, the agency's interpretation of a statute is upheld as long as it is supported by substantial evidence.³

¹Riverboat Hotel Casino v. Harold's Club, 113 Nev. 1025, 1029, 944 P.2d 819, 822 (1997).

²State, Div. of Insurance v. State Farm, 116 Nev. 290, 293, 995 P.2d 482, 485 (2000).

³State, Emp. Security v. Hilton Hotels, 102 Nev. 606, 607, 729 P.2d 497, 498 (1986).

Substantial evidence exists if a reasonable person could find adequate evidence to support the agency's conclusion.⁴ Further, we are prohibited from searching the meaning of statutory provisions beyond the statute itself "[w]here the language of a statute is plain and unambiguous, and its meaning clear and unmistakable."⁵

NRS 616C.140 is plain and unambiguous. In pertinent part, NRS 616C.140(1)(b) requires an "employee who is entitled to receive compensation," if requested by his employer, to attend a "medical examination at a time and from time to time at a place reasonably convenient for the employee." (Emphasis added.) Further, NRS 616C.140(3) states that a request for such an examination must take into account "the nature of the medical examination, the convenience of the employee, [and] his physical condition." (Emphasis added.) "If the employee refuses to submit to an [employer requested] examination . . . his right to compensation is suspended until the examination has taken place."⁶

Substantial evidence exists to support the appeals officer's decision that it was "reasonably convenient" for Covert to attend the panel examination. Nevada Administrators, respondent MGM-Mirage-Primadonna Co.'s insurance provider, agreed to cover all of Covert's costs to attend the examination. Nevada Administrators further offered to have

⁴Id. at 608, 729 P.2d at 498.

⁵See State v. Jepsen, 46 Nev. 193, 196, 209 P. 501, 502 (1922), quoted in State Farm, 116 Nev. at 293, 995 P.2d at 485.

⁶NRS 616C.140(5).

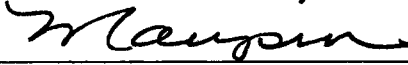
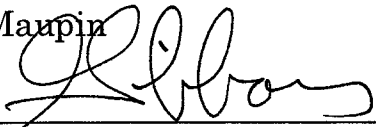
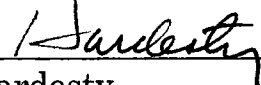
an ambulance pick up Covert at his home in Apple Valley, California, and transport him to Las Vegas. When Covert requested that Dr. Mashood replace Dr. David Oliveri, Nevada Administrators agreed. It appears that Nevada Administrators made every effort to make the examination as convenient as possible for Covert. Conversely, the record indicates that Covert failed to comply with the evaluation request by not appearing for the panel evaluation in Las Vegas.

CONCLUSION

Substantial evidence exists to support the appeals officer's determination that under NRS 616C.140, the panel examination was "reasonably convenient" for Covert.

Accordingly, we affirm the district court's order denying the petition for judicial review.

It is so ORDERED.


_____, J.
Maupin

_____, J.
Gibbons

_____, J.
Hardesty

cc: Eighth Judicial District Court Dept. 11, District Judge
Craig M. Covert
David H. Benavidez
Clark County Clerk