



Board Lengthens Some Medical Disputes in Workers' Compensation

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The Kentucky Workers Compensation Board has added another layer to cases that are called medical-fee disputes. The Board ruled recently in [Workman v. Twin Resources, et al.](#) (2005-00744) that all medical-fee disputes must be assigned to an administrative law judge for proof-taking, which often is a six-month process.

Medical-fee disputes have long been a part of Kentucky workers' comp law. An injured worker can file a dispute if he/she believes an employer is wrongfully denying payment of a bill or wrongfully denying treatment. On the flip side, an employer can file a dispute if it believes a course of treatment is neither reasonable nor necessary. Either side does so by filing a special motion, which names the other party as well as the medical provider as respondents. This special med-fee motion is reviewed by the Chief Administrative Law Judge. In the past, in certain cases, the CALJ has summarily ruled in favor of the moving party, provided that none of the other parties filed a response. However, if the CALJ believed that a genuine dispute existed or the other parties filed a response, then the CALJ has assigned the case to another ALJ for proof-taking.

In [Workman](#), the Workers Compensation Board ruled that the CALJ cannot summarily decide such a motion, and must assign the case for proof-taking. The CALJ had ruled Workman's employer had established a prima facie case for the reopening, then ordered all parties to submit responses in 60 days. When neither the worker nor the physician filed a response, the CALJ summarily ruled in favor of the employer. The Workers Compensation Board ruled that the CALJ had no power to do this and was compelled to assign the matter to another ALJ for proof-taking. The Board gave no rationale, other than that it seemed to believe the records themselves established a genuine dispute as to whether a proposed surgery was compensable.