

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

TREASURER OF THE STATE OF MISSOURI-
CUSTODIAN OF THE SECOND INJURY FUND,

Appellant

v.

DONALD HUDGINS.

Respondent

DOCKET NUMBER WD71423

DATE: May 4, 2010

Appeal From:

LABOR AND INDUSTRIAL RELATIONS

Appellate Judges:

Division Four: Thomas H. Newton, C.J., James Edward Welsh, and Gary D. Witt, JJ.

Attorneys:

Maureen T. Shine, Kansas City, MO

Counsel for Appellant,

Attorneys:

David A. Slocum, Kansas City, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**TREASURER OF THE STATE OF MISSOURI -
CUSTODIAN OF THE SECOND INJURY FUND,
Appellant, v. DONALD HUDGINS, Respondent**

WD71423

Labor and Industrial Relations

Before Division Four Judges: Thomas H. Newton, C.J., James Edward Welsh, and Gary D. Witt, JJ.

The Missouri State Treasurer as Custodian of the Second Injury Fund appeals the Labor and Industrial Relation Commission's decision that the Second Injury Fund is liable for \$29,076.47 in medical expenses that Dennis Hudgins incurred as a result of a work injury. The Second Injury Fund contends that requiring it to pay \$29,076.47 in medical expenses exceeds the amount that is fair, reasonable, and necessary to make Hudgins whole. According to the Second Injury Fund, only \$5,093 remains to be paid on the medical expenses because the rest has been paid by Hudgins's personal insurance companies or has been written off or adjusted by the health care providers.

AFFIRMED.

Division Four holds:

No evidence in the record supports the Second Injury Fund's contention that only \$5,093 remained outstanding to be paid, that Hudgins's personal insurance companies have paid the expenses, or that health care providers have written off or adjusted the amount of medical expenses. The Second Injury Fund had the opportunity to present evidence at the hearing in regard to whether the amounts billed were "fair, reasonable, and necessary expenses" to cure and relieve the effects of Hudgins's injury. In the absence of such evidence, the Second Injury Fund cannot unilaterally revisit that determination by now speculating that only \$5,093 remains outstanding to be paid to the medical providers.

Hudgins presented sufficient competent and substantial evidence to support the Commission's award of medical expenses in the amount of \$29,076.47. Hudgins produced documentation detailing his past medical expenses and testified as to the relationship of such expenses to the compensable workplace injury. The Second Injury Fund could have challenged Hudgins's evidence and testimony, but it did not do so. Having failed to challenge the evidence at the hearing, the Second Injury Fund has no basis to challenge the award of medical expenses on appeal.

Opinion by: James Edward Welsh, Judge

May 4, 2010

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.