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June 21, 2022

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**Re: Ashley Pedoty v. State of Vermont, State File No. RR-59504  
Ruling on Claimant's Motion for Reconsideration**

Dear Counselors:

As you know, on June 15, 2022, I issued a ruling denying Claimant's request for an award of attorney fees at the informal level. On June 17, 2022, Claimant filed a Motion for Reconsideration, and Defendant responded the same day. Claimant has indicated that she will not file a reply. Accordingly, the Motion for Reconsideration is ready for determination.

Claimant obtained an interim order at the informal level on March 25, 2022, awarding her four days of temporary partial disability (TPD) benefits. Based on her having prevailed on this issue, Claimant sought an award of attorney fees in the amount of \$742.50.

After hearing from both parties and considering the request, I denied the attorney fee award. I found that, although Claimant was eligible for a discretionary fee award under 21 V.S.A. § 678(d), the discretionary considerations set forth in Workers' Compensation Rule 20.1500 did not favor such an award. *See June 15, 2022 Ruling on Claimant's Request for Attorney Fees.*

The basis for Claimant's motion for reconsideration is her contention that the Department's denial of the fee award was "predicated on the incorrect belief that an informal conference on the issue of TPD became necessary due to the lack of a Form 7." The Department did not hold such a belief. As set forth in the June 15, 2022 ruling, the Form 7 issue related to the parties' *first* dispute concerning compensability of the claim. It had no bearing on the dispute concerning four days of TPD benefits on which Claimant prevailed by interim order.

Although Claimant prevailed on the TPD issue at the informal level, the evidence does not support a finding of inappropriate claim handling. As set forth in the previous ruling, Defendant expedited the resolution of the dispute by waiving the 21-day notice period. Further, the specialist found that medical evidence dated *subsequent* to Defendant's denial of the four days of benefits



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clarified the record and supported the interim order. This finding does not imply that Defendant acted inappropriately in denying those four days of benefits based on the evidence available at the time of denial.

The discretion to award fees at the informal dispute resolution level is intended to be exercised in limited circumstances and not as a general rule. *See* Workers' Compensation Rule 20.1500. Here, I find that an award of attorney fees will not further any of the goals set forth in Workers' Compensation Rule 20.1500. Accordingly, I decline to issue an attorney fee award.

Based on the foregoing, Claimant's Motion for Reconsideration is **DENIED**.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Beth A. DeBernardi", written in a cursive style.

Beth A. DeBernardi  
Administrative Law Judge