

K.S.A. 44-551(b), as amended by S.B. 59, (1995) provides the Appeals Board the authority to review preliminary hearing orders if it is alleged the Administrative Law Judge exceeded his or her jurisdiction in granting or denying the relief requested.

Claimant and respondent appeared at a benefit review conference on December 12, 1994, at which time it was agreed respondent would provide a list of three (3) physicians from whom the claimant could choose an authorized treating physician. Respondent named Dr. Kneidel, Dr. Poole, and Dr. Jansson. Claimant chose Dr. Jansson from the list of three (3) as the authorized treating physician. When claimant appeared at Dr. Jansson's office, he advised Dr. Jansson that he was there by court order and was not appearing willingly. He had been previously treated by Dr. Bruner and felt Dr. Bruner's treatment would be preferred. Dr. Jansson, in evaluating claimant and claimant's attitude regarding his authorized treatment, elected to transfer the treatment to Dr. Bruner as the authorized treating physician, feeling claimant's relationship with Dr. Bruner would be beneficial to claimant's successful ongoing medical care.

Respondent objects, contending claimant has circumvented the intent of the statute by obtaining an appointment with a doctor to whom the respondent specifically objected.

K.S.A. 44-534a grants the Administrative Law Judge the power to make decisions regarding temporary total disability and medical treatment. The right to appeal from these preliminary hearings is statutorily limited.

The Appeals Board finds that the Administrative Law Judge has the power and authority to make decisions regarding medical care and treatment. This would logically include decisions regarding the choice of treating physician.

The Administrative Law Judge did not exceed her jurisdiction in ordering respondent to provide authorized medical care through Dr. Jansson and Dr. Jansson's referrals and, accordingly, this Appeals Board does not have jurisdiction to review that decision.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Nelsonna Potts Barnes dated March 16, 1995, remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of June, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Andrew A. Busch, Wichita, Kansas
Robert G. Martin, Wichita, Kansas
Nelsonna Potts Barnes, Administrative Law Judge
George Gomez, Director