

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

VINCENT C. GRAY
MAYOR



F. THOMAS LUPARELLO
ACTING DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 13-097 (R)

**PHILLIS SHIPMAN,
Claimant-Respondent,**

v.

**DISTRICT OF COLUMBIA DEPARTMENT OF MENTAL HEALTH,
Employer-Petitioner.**

DEPT. OF EMPLOYMENT
SERVICES
COMPENSATION REVIEW
BOARD
2014 OCT 15 PM 12 41

On Remand from the District of Columbia Court of Appeals,
No. 13-AA-1228, (September 23, 2014), AHD No. PBL 13-026

Cory Argust for the Petitioner
Kirk D. Williams for the Respondent

REMAND ORDER

On October 2, 2013, the CRB issued a decision in this matter, affirming a July 2, 2013 Compensation Order issued by an Administrative Law Judge (ALJ) which reinstated Claimant's temporary total disability benefits and held the ALJ properly weighed the competing medical evidence on the issue of medical causal relationship.

On appeal, the District of Columbia Court of Appeals (DCCA) issued an Order on September 23, 2014, remanding this matter for further proceedings, consistent with statements in the Employer's consent motion, requesting the ALJ's weigh the competing medical evidence in accordance with the more recent standard enunciated by the Court in *D.C. Public Schools v DOES*, 95 A.3d 1284, (2014) (*Proctor*).

In Proctor, the court reviewed a 2010 statutory amendment repealing the treating physician preference in public sector claims, holding:

The legislative history manifests a clear and unmistakable intent on the part of Council to accord equal weight to the testimonies of both treating and non-treating physicians in public-sector cases brought under the (District of Columbia Comprehensive Merit Personnel Act).

Therefore, the ALJ's July 2, 2013 Compensation Order is vacated and this case remanded to the Administrative Hearings Division for additional proceedings that are consistent with the DCCA's September 23, 2014 Order.

FOR THE COMPENSATION REVIEW BOARD:

/s/ Lawrence D. Tarr
LAWRENCE D. TARR
Chief Administrative Appeals Judge

October 15, 2014
DATE