

COMMONWEALTH OF MASSACHUSETTS

**DEPARTMENT OF
INDUSTRIAL ACCIDENTS**

BOARD NO. 032806-89

Debra Sullivan
Tewksbury Hospital
Commonwealth of Massachusetts

Employee
Employer
Self-Insurer

REVIEWING BOARD DECISION
(Judges Horan, Costigan and Koziol)

The case was heard by Administrative Judge Bean.

APPEARANCES

Michael A. Torrisi, Esq., for the employee
Marian C. Grimes, Esq., for the self-insurer

HORAN, J. The self-insurer appeals from a decision denying its request to modify the employee's § 34A benefits, and ordering it to pay for reasonable and necessary medical treatment related to her May 27, 1989 industrial injury. We vacate only that part of the decision which ordered the self-insurer to pay for physiatrist and a psychiatrist consultations and any recommended treatment.

In lieu of filing appellate briefs, the parties filed a memorandum stipulating that the self-insurer's "basis for appeal . . . is the fact that the Judge awarded [§] 13 and 30 benefits for [treatment with] a physiatrist and psychiatrist," that the issue of the need for physiatric and psychiatric treatment was not before the judge, and that the treatment "should not have been ordered. . . ." ¹ "Not wanting to stand in the way of such a meeting of the minds, we add our voice to the consensus" and vacate that part of the decision. Beverly v. M.B.T.A., 17 Mass. Workers' Comp. Rep. 620, 622 (2003); Paganelli v. Massachusetts Turnpike Auth., 21 Mass. Workers' Comp. Rep. 9, 13-15 (2007)(and cases cited)(error for judge to adjudicate unclaimed back injury); See also G. L. c. 152, § 11.

¹ See the "Stipulation of the Parties" filed with the board on July 5, 2012.

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So ordered.

Mark D. Horan
Administrative Law Judge

Patricia A. Costigan
Administrative Law Judge

Catherine Watson Koziol
Administrative Law Judge

Filed: **July 18, 2012**