COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF INDUSTRIAL ACCIDENTS **BOARD NO. 041587-97**

Lawrence Oliver	Employee
Varian Ion Implant Systems	Employer
Varian Associates, Inc.	Self-insurer

REVIEWING BOARD DECISION
(Judges Horan, Levine and Fabricant)

The case was heard by Administrative Judge Bean.

APPEARANCES
Brian C. Cloherty, Esq., for the employee
Paul W. Goodrich, Esq., for the self-insurer

HORAN, J. The self-insurer appeals, arguing that the judge failed to address the sole issue at hearing; to wit, its liability for payment of the employee's ongoing use of narcotic medication to treat his work-related low back pain.[1] Because we, and the employee, agree with the self-insurer, we vacate the decision and recommit the case.[2]

In his decision, the judge acknowledged the employee's addiction to narcotics for pain relief. (Dec. 373.) After summarizing, but not adopting, the opinions of the physicians in evidence, the judge found "the employee's treatment regime needs to be assessed and changes in the regimen need to be tried." (Dec.

[1] General Laws c. 152, § 30, provides, in pertinent part:

> The insurer shall furnish to an injured employee adequate and reasonable health care services, and medicines if needed, together with the expenses necessarily incidental to such services. . . .

[2] On October 31, 2011, the parties filed a joint motion for recommittal, citing Wiswell v. Massachusetts Institute of Tech., 24 Mass. Workers' Comp. Rep. 233, 235 (2011) ("Equivocal musings are no substitute for definitive findings"). "Not wanting to stand in the way of such a meeting of the minds, we add our voice to the consensus for recommittal." Beverly v. M.B.T.A., 17 Mass. Workers' Comp. Rep. 621, 622 (2003).

374.) He also ordered "that a sincere and serious attempt at tapering the employee's [drug] use to a complete discontinuance be undertaken under a doctor's supervision. . . ." He then concluded the employee had prevailed, and ordered the self-insurer to "pay for all of the reasonable and necessary medical treatment related to the [employee's] October 28, 1997 industrial injury." (Dec. 375.)

By failing to adopt any of the medical opinions in evidence, "[t]he judge simply did not resolve the issue in controversy." Wiswell, supra at 235. Thus, further "effective appellate review [is] impossible." Leary v. M.B.T.A., 19 Mass. Workers' Comp. Rep. 66 (2005). Accordingly, we vacate the decision and recommit the case.

So ordered.

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Mark D. Horan
Administrative Law Judge

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Frederick E. Levine
Administrative Law Judge

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Bernard W. Fabricant
Administrative Law Judge

Filed: **November 14, 2011**