

COURT OF APPEALS OF VIRGINIA

Present: Judges Elder, Clements and Senior Judge Annunziata

FAIRFAX COUNTY SCHOOL BOARD

v. Record No. 2625-06-4

KAREN S. BROOKS

MEMORANDUM OPINION\*  
PER CURIAM  
MARCH 13, 2007

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Michael N. Salvesson; Hunton & Williams LLP, on brief), for  
appellant.

No brief for appellee.

Fairfax County School Board (employer) appeals a decision of the Workers' Compensation Commission finding it responsible for payment of certain medical expenses incurred by Karen S. Brooks (claimant). Employer contends the commission erred in (1) shifting to the employer the burden of proving that claimant's proposed surgery is unreasonable or unnecessary; and (2) using, as the basis for its decision, the principle that the opinions of independent medical evaluators who "were specifically hired by one party to render an expert opinion on behalf of that party and not to treat the claimant," cannot overcome "the unequivocal emphatic opinion" of a treating expert, even when that expert rendered his opinion after examining the claimant on only two occasions.<sup>1</sup> We have reviewed the record and the

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\* Pursuant to Code § 17.1-413, this opinion is not designated for publication.

<sup>1</sup> In its opening brief, in the argument section, part (C), employer contends the commission erred in ruling that employer failed to show that the claimed rotator cuff surgery is unreasonable and unnecessary. However, employer did not include in its brief a Question Presented related to this specific argument. Accordingly, to the extent that employer argues that issue, we will not address it on appeal as it was not part of the questions presented. See Rule 5A:20(c)-(e); Hillcrest Manor Nursing Home v. Underwood, 35 Va. App. 31, 39 n.4, 542 S.E.2d

commission's opinion and find that this appeal is without merit. Accordingly, we affirm for the reasons stated by the commission in its final opinion. See Brooks v. Fairfax County Sch. Bd., VWC File No. 191-28-15 (Sept. 25, 2006). We dispense with oral argument and summarily affirm because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process. See Code § 17.1-403; Rule 5A:27.

Affirmed.

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785, 789 n.4 (2001) (finding “an issue [was] not expressly stated among the ‘questions presented,’ . . . we, therefore, decline to consider [it] on appeal”). The sole issues contained in the questions presented and considered by this Court in summarily affirming the commission's decision are whether the commission erroneously shifted the burden of proof to employer and whether it used an incorrect standard in construing the physicians' opinions.