

COURT OF APPEALS OF VIRGINIA

Present: Judges Petty, Chafin and Senior Judge Annunziata

DEPARTMENT OF SOCIAL SERVICES/
COMMONWEALTH OF VIRGINIA

v. Record No. 0377-13-1

JOHNICAL M. OWENS

MEMORANDUM OPINION*
PER CURIAM
AUGUST 6, 2013

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Kenneth T. Cuccinelli, II, Attorney General; Wesley G. Russell, Jr., Deputy Attorney General; Peter R. Messitt, Senior Assistant Attorney General; Scott John Fitzgerald, Senior Assistant Attorney General, on brief), for appellant.

(Joseph A. Miller; Joe Miller Law Ltd., on brief), for appellee.

The Department of Social Services/Commonwealth of Virginia (“employer”) appeals a decision of the Workers’ Compensation Commission (“the commission”) denying employer’s request for a termination of the award of benefits and finding employer had a gross subrogation interest for medical and indemnity expenses of an amount less than the amount claimed by employer. Employer argues the commission erred in: (1) not terminating the benefits award of Johnical M. Owens when Owens settled an underlying tort suit without the consent of the employer; (2) not including temporary total and temporary partial disability benefits awarded in the October 2005 claim in the amount owed to employer in satisfaction of its workers’ compensation lien and subrogation interest; and (3) not awarding to employer the full amount of its workers’ compensation lien and subrogation interest as a credit against future benefits. We have reviewed the record and the commission’s opinion and find that this appeal is without

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

merit. Accordingly, we affirm for the reasons stated by the commission in its final opinion. See Owens v. Department of Soc. Servs./Commonwealth of Virginia, JCN 228-59-65 (Jan. 29, 2013). 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.