

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-0381

MARIE LAFLEUR,

Appellant,

v.

THE ARBOR HOLDING COMPANY
LLC d/b/a BARRINGTON TERRACE
OF FORT MYERS and UNITED
WISCONSIN INSURANCE
COMPANY,

Appellees.

On appeal from an order of the Judge of Compensation Claims.
Frank Clark, Judge.

Date of Accident: November 23, 2014.

June 12, 2019

RAY, J.

In this workers' compensation case, Claimant appeals an order of the Judge of Compensation Claims (JCC) denying Claimant the right to select the doctor who would serve as her one-time change of physician available under section 440.13(2)(f), Florida Statutes (2014). We reverse on the authority of *Myers v.*

Pasco County School Board, 246 So. 3d 1278 (Fla. 1st DCA 2018),* because the record does not contain sufficient evidence to support the JCC’s finding that the Employer/Carrier’s authorization of an anesthesiologist, although made within five calendar days of Claimant’s request for a one-time change, satisfied their statutory obligation to provide a physician in the “same” specialty as the previously authorized physician who specializes in physical medicine and rehabilitation. Section 440.13(2)(f) contemplates that the originally authorized physician be “in the same specialty as the changed physician.” *Myers* held that “[a] physician who provides similar services in a *different* specialty does not qualify as a doctor in the ‘same specialty’ because—quite simply—‘same’ is different than ‘similar.’” *Id.* at 1279.

REVERSED and REMANDED for further proceedings in accordance with this opinion.

ROBERTS and WINSOR, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Cory J. Pollack, Fort Myers, and Bill McCabe, Longwood, for Appellant.

Robert C. Barrett and McKensy M. Sims of Rissman, Barrett, Hurt, Donahue, McLain & Mangan, P.A., Orlando, for Appellees.

* The JCC did not have the benefit of the *Myers* opinion before rendering the order under review.