

IN THE NEBRASKA COURT OF APPEALS

**MEMORANDUM OPINION AND JUDGMENT ON APPEAL**

MILLER V. REGIONAL WEST MED. CTR.

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AND MAY NOT BE CITED EXCEPT AS PROVIDED BY NEB. CT. R. APP. P. § 2-102(E).

MELISSA L. MILLER, APPELLANT,  
V.  
REGIONAL WEST MEDICAL CENTER AND CONTINENTAL  
INSURANCE CO., APPELLEES.

Filed June 12, 2012. No. A-11-923.

Appeal from the Workers' Compensation Court. Affirmed.

Robert M. Brenner, of Robert M. Brenner Law Office, for appellant.

L. Tyler Laflin and Justin K. Burroughs, of Engles, Ketcham, Olson & Keith, P.C., for appellees.

MOORE and PIRTLE, Judges, and CHEUVRONT, District Judge, Retired.

CHEUVRONT, District Judge, Retired.

INTRODUCTION

A single judge of the Nebraska Workers' Compensation Court dismissed Melissa L. Miller's request for the appointment of an independent medical examiner, concluding that she previously litigated her claim for a right shoulder injury and was denied. A majority of a review panel agreed with the single judge's determination, but reversed, and remanded for a further hearing on whether Miller's compensable injuries caused her present shoulder injury. Because (1) the 1995 award did not find a compensable injury to Miller's shoulder, (2) the review panel did not subject Miller to a heightened burden of proof, (3) a prior decision of the Nebraska Supreme Court did not reach the merits of Miller's petition, and (4) the orders below provided a basis for meaningful appellate review, we affirm the order of the review panel.

## BACKGROUND

On July 12, 1990, a 6-pound bundle of sacks fell from a shelf and struck Miller on the head, neck, and right shoulder while she was working at Regional West Medical Center (RWMC). Miller filed a petition for workers' compensation benefits based on this accident, alleging that she sustained injuries to her "upper back, head, and right shoulder" which caused her "to incur medical expenses, loss of employment, temporary and permanent disability to her body to include, but not limited to, permanent partial disability to her body as a whole and/or to her right shoulder." RWMC was named as a defendant along with Continental Insurance Company (Continental), RWMC's workers' compensation insurer at the time of the accident.

On December 11, 1995, a single judge of the compensation court issued an award to Miller. The court found that Miller "suffered injuries to her neck and head (headaches) as a result of an accident arising out of and in the course of her employment by [RWMC] when a bundle of sacks fell off a top shelf, striking [her] on the head, neck[,] and right shoulder"; that she was temporarily totally disabled for 7 5/7 weeks; that she reached maximum medical improvement (MMI) on June 29, 1994; and that she sustained a 5-percent loss of earning power from and after June 30. The court ordered RWMC and Continental to pay certain medical and hospital expenses incurred by Miller as a result of the injury, temporary total disability benefits of \$112 per week for 7 5/7 weeks, benefits of \$5.60 per week for 292 2/7 weeks to compensate for the loss of earning power, additional compensation of \$56 per week for 7 5/7 weeks to account for "waiting time," and \$1,000 in attorney fees. The court denied Miller's request for vocational rehabilitation services and treatment at a pain management center, but stated that RWMC and Continental "should continue to provide and care for such future medical and hospital care and treatment as may be reasonably necessary as a result of said accident and injury." A few weeks later, the court entered an order nunc pro tunc to address deposition costs and interest. Otherwise, the case sat dormant until 2007, during which time Miller continued to receive treatment for neck and shoulder pain resulting from the injury.

In 2007, Miller filed a request for the appointment of an independent medical examiner to assess whether surgery on her right shoulder was reasonable and necessary. Finding that the 1995 award did not include a right shoulder injury, a single judge of the compensation court denied the request. Miller appealed to a review panel of the compensation court, which determined that the trial court's order was not final and dismissed her application for review. On further appeal, the Nebraska Supreme Court affirmed the review panel's decision. See *Miller v. Regional West Med. Ctr.*, 278 Neb. 676, 772 N.W.2d 872 (2009). The Supreme Court rejected Miller's argument that the denial of her request for appointment of an independent medical examiner affected a substantial right because it precluded her from filing for benefits pursuant to Neb. Rev. Stat. § 48-173 (Reissue 2010) (stating that "[n]o petition may be filed with the compensation court solely on the issue of reasonableness and necessity of medical treatment unless a medical finding on such issue has been rendered by an independent medical examiner . . ."). Rather, the court held that "the requested independent medical examination is not a prerequisite to the filing of a petition under § 48-173 seeking benefits for the proposed shoulder surgery," that "[t]he order of the single judge denying her request for an independent medical examination does not foreclose Miller's ability to file a petition pursuant to § 48-173," and that

consequently, “the denial of the request did not affect a substantial right and is therefore not a final, appealable order.” *Miller v. Regional West Med. Ctr.*, 278 Neb. at 682, 772 N.W.2d at 877.

In July 2010, Miller again filed a petition requesting the appointment of an independent medical examiner to assess whether her right shoulder condition was associated with the 1990 injury and whether surgery was necessary. She argued that the 1995 award “allows for the recovery sought” and that “the medical treatment should be ordered and paid for by [RWMC and Continental].” In their initial answer and later in a motion for summary judgment, RWMC and Continental alleged that Miller’s petition was barred by res judicata.

In an order filed March 23, 2011, a single judge of the compensation court sustained RWMC and Continental’s motion for summary judgment, holding that because Miller “previously litigated her claim for a right shoulder injury and was denied,” her “present claim regarding a rotator cuff injury to her right shoulder, medical treatment therefore or the appointment of an independent medical examiner to address causality of the right shoulder injury to the accident of July 12, 1990, is barred by the doctrine of res judicata.”

Miller subsequently filed an application for review by a review panel of the compensation court. In an order filed September 26, 2011, a majority of the review panel found that the trial court was “correct that [Miller] cannot relitigate now whether the accident of July 12, 1990, produced an injury to her other than her neck and head (headaches).” But because the review panel also “believe[d] that [Miller] is entitled to produce evidence that her neck and/or head injury caused her present shoulder injury as she has pled,” it reversed, and remanded the matter for a further hearing. One judge concurred in part and in part dissented from the decision.

Miller timely appeals. Pursuant to authority granted to this court under Neb. Ct. R. App. P. § 2-111(B)(1) (rev. 2008), this case was ordered submitted without oral argument.

#### ASSIGNMENTS OF ERROR

Miller alleges, restated and reordered, that the review panel erred (1) in holding that the right shoulder injury was determined in the 1995 award, (2) in placing an additional burden of proof upon her to succeed on her request for the appointment of an independent medical examiner, (3) in directing that she is only entitled to produce evidence that her present shoulder condition is causally a consequence of the neck and head injury in 1990, (4) in misapplying the rule of law pertaining to judgments, (5) in failing to properly apply the legal findings or holdings of the Nebraska Supreme Court opinion previously entered in this case, and (6) in failing to provide meaningful rulings or judgment for appellate review under Workers’ Comp. Ct. R. of Proc. 11(A) (2011).

#### STANDARD OF REVIEW

A judgment, order, or award of the compensation court may be modified, reversed, or set aside only upon the grounds that (1) the compensation court acted without or in excess of its powers; (2) the judgment, order, or award was procured by fraud; (3) there is not sufficient competent evidence in the record to warrant the making of the order, judgment, or award; or (4) the findings of fact by the compensation court do not support the order or award. Neb. Rev. Stat. § 48-185 (Supp. 2011).

In determining whether to affirm, modify, reverse, or set aside a judgment of the Workers' Compensation Court review panel, a higher appellate court reviews the findings of the trial judge who conducted the original hearing; the findings of fact of the trial judge will not be disturbed on appeal unless clearly wrong. *Lovelace v. City of Lincoln*, 283 Neb. 12, 809 N.W.2d 505 (2012). With respect to questions of law in workers' compensation cases, an appellate court is obligated to make its own determination. *Id.*

## ANALYSIS

### *Scope of 1995 Award.*

Miller first assigns error to the review panel's finding that the 1995 award determined that the accident in 1990 did not result in injury to her right shoulder. The meaning of a judgment is determined as a matter of law. See *Holmes v. Chief Indus.*, 16 Neb. App. 589, 747 N.W.2d 24 (2008). We thus review this finding of the review panel de novo. See *Lovelace v. City of Lincoln*, *supra*. Upon our de novo review, we agree that the 1995 award considered the possibility of a compensable injury to Miller's right shoulder and found no such injury.

As a general matter, where an order is clearly intended to serve as a final adjudication of the rights and liabilities of the parties, the silence of the order on requests for relief not spoken to can be construed as a denial of those requests under the circumstances. *D'Quaix v. Chadron State College*, 272 Neb. 859, 725 N.W.2d 558 (2007). We have previously applied this proposition to the interpretation of workers' compensation awards. See *McKay v. Hershey Food Corp.*, 16 Neb. App. 79, 740 N.W.2d 378 (2007) (construing award's silence on issue of vocational rehabilitation benefits as denial of those services).

In the instant case, the 1995 award was meant to be a final order. The court noted in the award that it heard "final arguments" and that it had been "fully advised in the premises." In addition to calculating Miller's temporary total disability benefits, the court determined when she reached MMI and calculated her loss of earning power. Because MMI "is the date upon which the claimant has attained maximum medical recovery from all of the injuries sustained in a particular compensable accident," *Worline v. ABB/Alstom Power Int. CE Servs.*, 272 Neb. 797, 810, 725 N.W.2d 148, 158 (2006), the finding of MMI indicated that the court intended the award to adjudicate all of Miller's compensable injuries resulting from the 1990 accident. Most important, we highlight that the court reserved no issues--and no injuries--for further review. Given these circumstances, we find that the 1995 award was meant to be a final adjudication of the rights and liabilities of the parties in regard to all injuries incurred in the 1990 accident.

Because the 1995 award was intended to be a final order, it is significant that the award did not include a finding of injury to Miller's right shoulder, especially in light of the fact that the court had been explicitly asked to find a compensable injury to the shoulder. In Miller's original petition, she alleged that the accident caused "injuries to her upper back, head, and right shoulder" and, a few paragraphs later, that

[t]he nature and extent of [her] injuries referred to above has caused [her] to incur medical expenses, loss of employment, temporary and permanent disability to her body to include, but not limited to, permanent partial disability to her body as a whole and/or to her right shoulder for which she claims benefits under the Workers' Compensation Laws.

(Emphasis supplied.) She then asked the court to determine the “[n]ature and extent of disability and the amount of compensation due under the Act.” Thus, despite Miller’s contrary assertion that “there is no indication that the 1995 trial court . . . was asked to decide the extent or affect [sic] of the injury to the right shoulder,” brief for appellant at 27, she specifically petitioned for benefits for an injury resulting in disability to her right shoulder.

Additionally, we find that the court was aware of the full extent of the injuries alleged by Miller because its award acknowledged that the accident occurred “when a bundle of sacks fell off the top shelf, striking [Miller] on the head, neck[,] and right shoulder.”

Yet, despite being presented with allegations of injury to the neck, head, and right shoulder, the court specifically found that Miller “suffered injuries to her neck and head (headaches) as a result of an accident arising out of and in the course of her employment” without mentioning the alleged shoulder injury. We find the court’s silence on any injury to the right shoulder to be both an implicit finding that the 1990 accident did not result in a compensable injury to the right shoulder and a denial of Miller’s request for benefits for such injury.

The Nebraska Supreme Court’s opinion in *Dawes v. Wittrock Sandblasting & Painting*, 266 Neb. 526, 667 N.W.2d 167 (2003), *overruled on other grounds*, *Kimminau v. Uribe Refuse Serv.*, 270 Neb. 682, 707 N.W.2d 229 (2005), reinforces our interpretation of the 1995 award in the case at bar. In *Dawes v. Wittrock Sandblasting & Painting*, the claimant filed a petition with the compensation court seeking various benefits for disability resulting from a back injury he sustained while working for his employer. The claimant subsequently received an award for temporary total disability benefits and permanent partial disability benefits, but the award failed to speak to certain medical expenses, the amount of reimbursement to which his health insurance was entitled, and his requests for waiting-time penalties and attorney fees. On appeal, the Nebraska Supreme Court found as follows:

The single judge’s order was clearly intended to serve as a final adjudication of the rights and liabilities of the parties. No issues were reserved for further determination. As a practical matter, the substantial effect of the judgment was to dispose of the entire case, end the litigation, and leave nothing for the court to do. . . . The silence of the single judge’s order on the requests for relief not spoken to, including medical expenses and waiting-time penalties, must be construed as a denial of those requests under the circumstances.

*Id.* at 537, 667 N.W.2d at 180-81. In the instant case, we similarly find that the silence of the compensation court’s 1995 award as to a right shoulder injury--an injury Miller specifically alleged in her petition--must be construed as a denial of her request for benefits stemming from that alleged injury.

The review panel of the compensation court did not err in holding that the 1995 award determined that Miller did not suffer an injury to her right shoulder as a result of the 1990 accident.

#### *Burden of Proof.*

Miller’s next two assignments of error address the review panel’s holding that Miller “cannot relitigate now whether the accident of July 12, 1990, produced an injury to her other

than her neck and head,” but that she “is entitled to produce evidence that her neck and/or head injury caused her present shoulder injury as she has pled.” She argues that this places “additional evidentiary burdens on [her] to prove her right to recovery upon a level of proof higher than any previous authorities.” Brief for appellant at 13-14. Specifically, she alleges in her brief that this is a higher burden of proof than is applicable to applications for workers’ compensation benefits under Neb. Rev. Stat. § 48-101 (Reissue 2010) or for modification under Neb. Rev. Stat. § 48-141 (Reissue 2010).

In order to directly address Miller’s arguments, we must first ascertain the exact nature of the operative petition in this case. On its face, the petition sought the appointment of an independent medical examiner. But it is evident from the events leading to the filing of the petition that Miller’s ultimate goal was to obtain payment of treatment for her shoulder condition from RWMC and Continental. Indeed, the petition asked for “[p]ast unpaid medical expense plus future medical expense” and “[a]ny and all other relief available to [Miller] under the Act.”

Unfortunately, despite this clear purpose, the legal avenue through which Miller sought to obtain these additional benefits was not evident in the petition. The situation is complicated by the fact that Miller argues on appeal that the petition was both a petition for modification and a petition to recover under an award for future medical care. She argues that her petition was one for modification under § 48-141 based on “any increased disability,” brief for appellant at 14; “the latent and progressive development of [the 1990] injury,” *id.*; and a “change of circumstances,” *id.* at 35. Her brief also states that she “seeks payment for medical care and treatment under paragraph XI” of the 1995 award, *id.* at 14, which paragraph included an award for future medical care and treatment. Additionally, she asserts in her brief that she should be subject solely to the requirements for an original application for benefits under § 48-101.

Upon our de novo review, it is clear that Miller’s petition was not an original application for benefits under § 48-101 and that we need not determine whether it was a petition for modification or to enforce an award for future medical care. For either of those petitions to be successful, the petitioner must prove a causal connection between the benefits sought and the original injury. Therefore, the review panel’s decision does not place any “additional evidentiary burdens” on Miller, but simply orders her to comply with the burden of proof usually required to obtain additional benefits.

The operative petition in this case was not an original application for benefits under § 48-101. While it is technically true that Miller’s petition sought benefits authorized by § 48-101, her burden of proof is different from that attached to an original petition for workers’ compensation benefits because an award has already been issued related to the 1990 accident. When viewed in light of the previous award, Miller’s petition presented additional claims for medical expenses.

Under *Thornton v. Grand Island Contract Carriers*, 262 Neb. 740, 745, 634 N.W.2d 794, 797 (2001), once there is a final award, any future claims for medical expenses relating to that same accident are “absolutely barred” in all but two circumstances. Future claims relating to the already-adjudicated accident are allowed only if (1) the requirements for modification under § 48-141 are met or (2) the final award included an award for future medical expenses. See *Thornton v. Grand Island Contract Carriers*, *supra*. Under either of these options, the petitioner must prove a causal connection between the future claims and the original injury.

Section 48-141 provides that an award of workers' compensation benefits can be modified as follows:

(1) At any time by agreement of the parties with the approval of the Nebraska Workers' Compensation Court; or (2) if the parties cannot agree, then at any time after six months from the date of the agreement or award, an application may be made by either party on the ground of increase or decrease of incapacity due solely to the injury or that the condition of a dependent has changed as to age or marriage or by reason of the death of the dependent.

Accordingly, a petitioner for modification "must prove, by a preponderance of evidence, that the increase or decrease in incapacity was due solely to the injury resulting from the original accident." *Hagelstein v. Swift-Eckrich*, 261 Neb. 305, 308, 622 N.W.2d 663, 667 (2001).

Assuming, without deciding, that Miller's petition was one for modification, the application of the appropriate burden of proof under § 48-141 yields the same result as the review panel's evidentiary limitations. In the instant case, "the injury resulting from the original accident" is the injury to Miller's head or neck, as declared in the 1995 award. And, according to Miller's argument, the increase in incapacity stemmed from the development of her shoulder condition. Accordingly, in order to succeed on a petition for modification, Miller would have to prove that her shoulder condition was "due solely" to the head or neck injury. Because this is precisely the burden of proof ordered by the review panel, Miller is not subject to an "additional" burden compared to others seeking modification.

Neither is Miller subject to a heightened burden if we assume that her petition sought to recover under her award for future medical care. Simply stated, an award of future medical expenses requires explicit evidence that future medical treatment is reasonably necessary to relieve the injured worker from the effects of the work-related injury. *Adams v. Cargill Meat Solutions*, 17 Neb. App. 708, 774 N.W.2d 761 (2009). Indeed, in determining that the Nebraska Workers' Compensation Act, Neb. Rev. Stat. § 48-101 et seq. (Reissue 2010 & Supp. 2011), gives courts the authority to order payment of future medical expenses incurred more than 2 years after the date of the last compensation payment, the Nebraska Supreme Court concluded:

[T]he history of the medical benefits provision . . . clearly manifests a legislative intent in § 48-120 to make medical benefits available to a disabled worker without regard to any time limitation measured from the last date of payment (when an award is entered), as long as further medical treatment is reasonably necessary to relieve the worker from the effects of the work-related injury or occupational disease.

*Foote v. O'Neill Packing*, 262 Neb. 467, 475, 632 N.W.2d 313, 321 (2001). This highlights that there must be a causal connection between future medical treatment and the original injury.

Relying on the holding of *Foote v. O'Neill Packing*, this court specifically upheld the requirement that a petitioner prove a causal connection between the compensable injury and certain medical treatment before he or she can claim benefits under an award for future medical care. In *Zitterkopf v. Aulick Indus.*, 16 Neb. App. 829, 753 N.W.2d 370 (2008), the claimant sought reimbursement under a 2006 award for future medical benefits resulting from a work-related injury. He petitioned for his employer to pay for medication prescribed to treat his sleep apnea--a completely unrelated condition. But he also claimed that the medication was

meant to treat drowsiness caused by the pain medication prescribed for his work-related injury. The compensation court required the claimant to prove that one of the reasons for the medication was related to the compensable injury. When this burden was questioned on appeal, we upheld the decision of the compensation court, stating that “the trial judge’s decision correctly applied the law requiring a causal connection between the original work-related injury and the subsequent medical treatment.” *Id.* at 836, 753 N.W.2d at 376.

Thus, it is well established by case law that in order to recover under an award for future medical care, the petitioner must prove a causal connection between the treatment and the original compensable injury. This is consistent with the statute establishing an employer’s liability under the Nebraska Workers’ Compensation Act, which states in part that an employer is liable “for all reasonable medical, surgical, and hospital services, . . . which are required by the nature of *the injury*.” § 48-120(1)(a) (emphasis supplied). We note that this statute does not hold employers liable for all medical services required by the accident as a whole, but only those services required by “the injury.”

Applying the above cases and statutory law to the instant case, we recall that the compensation court found that there was injury to Miller’s neck and head resulting from the 1990 accident. But, as we concluded above, the 1995 award found no compensable injury to Miller’s right shoulder. Pursuant to § 48-120(1)(a), RWMC and Continental would only be liable for medical services incurred in the treatment of Miller’s right shoulder if those services are required by the injury to her neck or head--“the injury.” Furthermore, the award of future medical care would only cover treatment of Miller’s right shoulder--which was not a compensable injury--if she can prove that those services are required by the neck or head injury--the sole compensable injuries. Thus, the review panel’s decision limiting Miller to evidence that her shoulder condition was caused by the neck or head injury both (1) corresponded to the employer’s scope of liability as defined by statute and (2) applied the appropriate burden of proof applicable to those seeking to enforce an award of future medical benefits.

In conclusion, whether the operative petition is construed as seeking modification or enforcement of an award of future medical benefits, Miller is not subject to any “additional” burdens under the decision of the review panel, but only the burden of proof required by law. This assignment of error lacks merit.

*Rule of Law.*

Miller lists as an assignment of error that the review panel “misapplied rule of law pertaining to judgments.” We are unclear as to what particular aspect of the review panel’s decision Miller is referring in this assignment. Furthermore, there is not an argument section in her brief with a title that corresponds to this assignment, and, after scouring the brief, we failed to find an argument anywhere in her brief that addressed this issue. A claimed prejudicial error must not only be assigned, but must also be discussed in the brief of the asserting party, and an appellate court will not consider assignments of error which are not discussed in the brief. *Hass v. Neth*, 265 Neb. 321, 657 N.W.2d 11 (2003). Accordingly, we do not address this assignment of error.

*Previous Supreme Court Opinion.*

Next, Miller argues that the review panel improperly applied the opinion of the Nebraska Supreme Court issued earlier in this case. She believes that *Miller v. Regional West Med. Ctr.*, 278 Neb. 676, 772 N.W.2d 872 (2009), “dictate[d] that the present petition compels a full trial upon the whole body of facts[,] not only upon reading the [1995 award],” brief for appellant at 16, and that “any granting of [RWMC and Continental’s] motion without full trial on the merits effectively fails to follow the opinion of that court and the numerous cases on modification and change of circumstances,” *id.* at 35. In making this argument, Miller focuses on the following statement from the opinion:

The order of the single judge denying her request for an independent medical examination does not foreclose Miller’s ability to file a petition pursuant to § 48-173 seeking workers’ compensation benefits for her shoulder surgery. Such a petition would not present solely the “issue of reasonableness and necessity of medical treatment,” but also the issue of whether the proposed treatment is causally related to the injuries determined by the 1995 award.

*Miller v. Regional West Med. Ctr.*, 278 Neb. at 682, 772 N.W.2d at 877. We do not agree that this language guarantees Miller a full trial on the merits for the reasons discussed below.

Any opinion purporting to hold that Miller had a right to litigate the causal relation between her shoulder condition and the original 1990 injury could only do so if (1) there was an operative petition seeking benefits for the shoulder condition and (2) the court had addressed the merits of that petition. While there was a petition for coverage of treatment for Miller’s shoulder condition underlying the 2009 *Miller v. Regional West Med. Ctr.* opinion, the court never considered the merits of this petition. The court’s analysis focused solely on whether Miller had appealed from a final order and, after concluding that she had not, dismissed the appeal for lack of jurisdiction. When an appellate court does not have jurisdiction, it cannot reach the merits of the case. See, *In re Guardianship of David G.*, 18 Neb. App. 918, 798 N.W.2d 131 (2011); *Goeser v. Allen*, 14 Neb. App. 656, 714 N.W.2d 449 (2006).

A more logical interpretation of the reference to causality of the shoulder condition in *Miller v. Regional West Med. Ctr.*, *supra*, is that the court was simply stating that causality would need to be raised in a petition if Miller wished to obtain benefits for her shoulder condition under the 1995 award. The court must have recognized, as we do in the instant case, that the burden of proving a causal connection between the shoulder condition and the original injury would be on Miller if she filed a subsequent petition.

Because the court in *Miller v. Regional West Med. Ctr.*, 278 Neb. 676, 772 N.W.2d 872 (2009), did not reach the merits of Miller’s petition, the opinion cannot be interpreted as guaranteeing the right to present evidence that her shoulder condition is causally related to the 1990 injury. The review panel did not misapply *Miller v. Regional West Med. Ctr.*, *supra*, and we find no merit to this assignment of error.

*Rule 11 Claim.*

Miller finally alleges that the review panel and the single judge erred by issuing decisions that failed to provide a basis for meaningful appellate review under rule 11(A), which states, “Decisions of the court shall provide the basis for a meaningful appellate review. The judge shall

specify the evidence upon which the judge relies.” In discussing this assignment of error, Miller primarily focuses on the failure of the single judge or the review panel to cite to any of the exhibits entered into evidence at trial and concludes that this “forces a finding as to both [the] trial judge and [the r]eview [p]anel that they did not provide Miller meaningful review.” Brief for appellant at 39.

Before turning to the relevant orders themselves, we emphasize that the single judge’s order from which Miller now appeals was issued in response to RWMC and Continental’s motion for summary judgment, which raised the issue of res judicata. The applicability of the doctrine of res judicata is a question of law. *Ichertz v. Orthopaedic Specialists of Neb.*, 273 Neb. 466, 730 N.W.2d 798 (2007). And the application of res judicata to Miller’s case involved the interpretation of the original 1995 order, which also presented a question of law. See *Davis v. Crete Carrier Corp.*, 15 Neb. App. 241, 725 N.W.2d 562 (2006), *affirmed on other grounds* 274 Neb. 362, 740 N.W.2d 598 (2007) (meaning of judgment determined as matter of law). Therefore, the issues before the single judge were limited to questions of law. Even if the single judge had found that res judicata was not applicable, he would not have considered Miller’s medical evidence at that same hearing. Rather, he would have denied the motion for summary judgment, and the case would have proceeded to trial on the factual and medical issues at a later date. Under no circumstances was the order from which Miller now appeals meant to be a consideration of the factual and medical issues raised in her petition. It was an order resolving questions of law.

Because the issues before the single judge were limited to the questions of law raised by RWMC and Continental’s motion for summary judgment, it necessarily follows that the review performed by the review panel was also limited to those same questions of law. In appellate proceedings, the examination by the appellate court is confined to questions which have been determined by the trial court. *Watson v. Watson*, 272 Neb. 647, 724 N.W.2d 24 (2006). The orders of the single judge and the review panel did not fail to provide a basis for meaningful appellate review simply because they did not specifically refer to Miller’s exhibits.

With this understanding, we consider first the order of the single judge of the compensation court and find that it did provide the basis for meaningful appellate review. As we noted above, the single judge was considering RWMC and Continental’s motion for summary judgment on the theory of res judicata. Because “[t]he doctrine of res judicata, or claim preclusion, bars the relitigation of a matter that has been directly addressed or necessarily included in a former adjudication,” *Kiplinger v. Nebraska Dept. of Nat. Resources*, 282 Neb. 237, 247, 803 N.W.2d 28, 38 (2011), the determinative question before the single judge was whether the 1995 award addressed Miller’s shoulder condition. Accordingly, after a full-page analysis of the language of the 1995 award, the single judge concluded that Miller “previously litigated her claim for a right shoulder injury and was denied,” which judgment thereby barred the current petition. Miller argues that this does not provide for meaningful appellate review because “[t]he singular and only point of the evidence the [c]ourt relied on was the [1995 award] and to that end it made an ‘inference.’” Brief for appellant at 37. On the contrary, we find the single judge’s analysis to be solidly based on the language of the 1995 award as interpreted within the context of the injuries actually alleged in Miller’s original petition. And because “[t]he meaning of a judgment is determined, as a matter of law, by its contents,” *Davis v. Crete Carrier*

*Corp.*, 15 Neb. App. 241, 254, 725 N.W.2d 562, 574 (2006), *affirmed on other grounds* 274 Neb. 362, 740 N.W.2d 598 (2007), we do not find this analysis to be inadequate. The order of the single judge was not in violation of rule 11(A).

Because the order of the review panel also included a discussion of the language of the 1995 award and Miller's original petition, we find that it likewise provided a basis for meaningful appellate review. Like the trial court, the review panel was faced with the application of res judicata to Miller's petition, which application relied upon an interpretation of the 1995 award. Section "I" of the review panel's order clearly identified the language of the 1995 award that it found to be decisive of the issue. The order then mentioned the interpretation urged by RWMC and Continental, noted that the single judge agreed with this reasoning, and stated that it found the single judge to be "correct." By thus adopting the reasoning and interpretation of RWMC and Continental and the single judge, the review panel provided an explanation for its ruling. The review panel's order provided a basis for meaningful appellate review.

In conclusion, we find that neither the single judge nor the review panel issued an order that failed to comply with rule 11(A). Miller's final assignment of error lacks merit.

#### CONCLUSION

We conclude that the 1995 award found no compensable injury to Miller's right shoulder. We further determine that the review panel did not subject Miller to a heightened burden of proof compared to others seeking modification and that it did not misapply the prior Supreme Court decision--which did not reach the merits of Miller's petition. Finally, the orders of the single judge and the review panel provided a basis for meaningful review. Accordingly, we affirm the review panel's order.

AFFIRMED.