

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F802694

DONNA CLARY, EMPLOYEE CLAIMANT

PATHFINDER, INC./ATA WORKERS'
COMPENSATION SELF-INSURANCE TRUST,
EMPLOYER/INSURANCE CARRIER RESPONDENT

RISK MANAGEMENT RESOURCES, INC.,
INSURANCE CARRIER/TPA RESPONDENT

OPINION FILED JUNE 9, 2021

Upon review before the FULL COMMISSION in Little Rock, Pulaski County, Arkansas.

Claimant represented by the HONORABLE PHILLIP J. WELLS, Attorney at Law, Jonesboro, Arkansas.

Respondents represented by the HONORABLE MELISSA WOOD, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Claimant appeals an opinion and order of the Administrative Law Judge filed January 26, 2021. In said order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. The Commission has jurisdiction of this claim.
2. The stipulations to which the parties agreed in the Prehearing Order filed October 2, 2020, which they affirmed on the record at the hearing, are hereby accepted as facts.

3. Ark. Code Ann. Section 11-9-702(b)(1) bars this claim for additional medical, indemnity, vocational rehabilitation benefits, and attorney's fees, which the claimant filed with the Commission on February 10, 2020, via the Form AR-C. The claimant has failed to meet her burden of proof in demonstrating this claim for additional benefits was timely filed "within either one (1) year from the date of the last payment of compensation or within two (2) years from the date of the injury, whichever is greater."
4. There were two (2) gaps in the claimant's medical treatment: the first from September 10, 2010 through January 19, 2012, a period of some 16 months; and the second from July 16, 2013 through October 28, 2014, a period of some 15 months. The respondent last paid PPD benefits on or about January 14, 2009, pursuant to the Commission's approval of the claimant's request for a lump sum payment of PPD benefits. The claimant did not file the subject claim for additional benefits until February 10, 2020, well more than either one (1) year from the date of the last payment of compensation, or two (2) years from the date of her January 17, 2008, compensable injury. The fact the respondent inadvertently and/or gratuitously paid the claimant's January 2020 (and other medical bill(s)) cannot resurrect her claim, which expired long ago on or about September 11, 2011.
5. The claimant's attorney is not entitled to a fee based on these facts.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's January 26, 2021 decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the

Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

Therefore we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

CHRISTOPHER L. PALMER, Commissioner

Commissioner Willhite dissents.