

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H301244**

**MAURICE ADAMS,
EMPLOYEE**

CLAIMANT

**PERFORMANCE FOOD GROUP, INC.,
EMPLOYER**

RESPONDENT

**INDEMNITY INS. CO. OF NORTH AM.,
CARRIER**

RESPONDENT

**CORVEL ENTERPRISE COMP., INC.,
TPA**

RESPONDENT

OPINION AND ORDER FILED OCTOBER 14, 2025

Hearing before Administrative Law Judge, Steven Porch, on August 19, 2025, in Little Rock, Arkansas.

Claimant was represented by Andy L. Caldwell, Attorney at Law, Little Rock, Arkansas.

Respondents were represented by Mr. Rick Behring Jr., Attorney at Law, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion for Independent Medical Evaluation (IME) filed by Respondents on April 15, 2025. A hearing on the motion was conducted on August 19, 2025, in Little Rock, Arkansas. Claimant's counsel was present, but Claimant himself was not present for the hearing, nor was any testimony taken, only oral arguments.

The Claimant worked for the Respondent/Employer as a driver. The date for Claimant's alleged injury was on March 14, 2022, when he fell off the side of a ramp injuring his back and neck. He reported his injury to Respondent/Employer on the same day. Admitted into the record was Respondents' Exhibit 1, pleadings, and medical records, consisting of 21 pages, and Claimant's Ex. 1, Response to Motion for IME, consisting of 2 pages. I have also blue-backed

Respondents and Claimant's post hearing briefs, and Respondents' pre-hearing questionnaire. The parties stipulate to Claimant having a compensable spinal injury. TR 43.

The purpose of Respondents' motion is to obtain an order directing the Claimant to undergo an IME and they recommend Dr. Wayne Bruffett, M.D., of Little Rock, Arkansas to perform the evaluation. This IME, if granted, would allow Dr. Bruffett or another doctor of the Commission's choosing to examine Claimant, review his medical records, and issue an opinion as to his impairment rating. Respondents' reasons for requesting Dr. Bruffett are that they have controverted the impairment rating of 43% to the body as a whole, the Claimant's work restrictions, and his entitlement to permanent and total disability and/or wage loss. *See* Respondents' Questionnaire, blue-backed. The Claimant also noted in their questionnaire that the 43% impairment rating is an issue involving this claim. Resp. Ex. 1, pp. 3-5.

The Respondents arguments are centered around a letter dated December 13, 2024, by Dr. Brad Thomas, Neurosurgeon. Resp. Ex. 1, p. 20. There, Dr. Thomas states that Claimant has reached maximum medical improvement for his spinal injury; and that his first impairment of 30% to the whole person was based on station and gait impairment criteria. *Id.* Dr. Thomas further states that Claimant can rise to a standing position and can maintain it with difficulty but cannot walk without assistance. *Id.*

Respondents argued that these findings were based on subjective criteria, i.e. gait dexterity, not objective factors. Dr. Thomas also issued a 19% impairment rating for Claimant's two upper extremity impairments. Resp. Ex. 1, p. 20. Dr. Thomas stated that Claimant can use "both upper extremities for self-care, grasping, and holding but has difficulty with digital dexterity." *Id.* Dr. Thomas concluded, based on the combination chart, that Claimant's total impairment rate was 43%. *Id.* Respondents controverted this finding and again argued that Dr.

Thomas used subjective factors instead of objective factors in determining digital dexterity, gait dexterity, and ultimately the 43% impairment rating to the body as a whole, was improper: thus, necessitating in the need for an IME.

Claimant has objected to an IME, arguing that an IME in this matter is not reasonable and necessary. The Claimant argues in his post hearing brief that Dr. Thomas followed the guidelines when issuing the 43% impairment rating. See Claimant's post hearing brief, blue-backed. However, in the interest of resolution, the Claimant agreed to go to Dr. Barry Baskin for an IME. The Respondents refused to acknowledge Claimant's selection for the IME prior to the hearing, thereby rejecting Dr. Baskin as an option. The Respondents refused Dr. Baskin because he was not a spine specialist like Dr. Bruffett. The Claimant further argued that Respondents have chosen all his treating physicians in this matter. More specifically, the authorized physician Dr. Scott Carle referred Claimant to Dr. Thomas. The Claimant argues that there was no issue until the impairment rating was issued by Dr. Thomas.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole and other matters properly before the Commission, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Commission has jurisdiction over this claim.
2. Respondents have proven by the preponderance of the evidence that Claimant should submit to an independent medical evaluation by Dr. Wayne Bruffett under Ark. Code Ann. §11-9-511 (Repl. 2012) because such is reasonable and necessary. Claimant will work with the Respondents to expedite this evaluation.

III. DISCUSSION

In addressing this issue, Ark. Code Ann. § 11-9-511 (Repl. 2012) provides:

- (a) An injured employee claiming to be entitled to compensation shall submit to such physical examination and treatment by another qualified physician, designated or approved by the Workers' Compensation Commission, as the Commission may require from time to time if reasonable and necessary.
- (b) The places of examination and treatment shall be reasonably convenient for the employee.
- (c) Such physician as the employee, employer, or insurance carrier may select and pay for may participate in the examination if the employee, employer, or insurance carrier so requests.
- (d) In cases where the commission directs examination and treatment, proceedings shall be suspended, and no compensation shall be payable for any period during which the employee refuses to submit to examination and treatment or otherwise obstructs the examination or treatment.
- (e) Failure of the employee to obey the order of the commission in respect to examination or treatment for a period of one (1) year from the date of suspension of compensation shall bar the right of the claimant to further compensation in respect to the injury.

See generally Stephens Truck Lines v. Millican, 58 Ark. App. 275, 950 S.W.2d 472 (1997)(Arey, J., concurring).

There is no question that the Claimant is claiming to be entitled to compensation, mainly the 43% impairment rating issued by Dr. Thomas. The only question is whether the ordering of an IME is reasonable and necessary. After careful consideration of all the facts and evidence in this matter, I find by the preponderance of the evidence that it is reasonable to require that Claimant submit to an IME with Dr. Wayne Bruffett.

Though Claimant argued that Dr. Thomas did things appropriately in assessing Claimant's impairment rating, that alone does not prohibit Respondents' from seeking an IME with a doctor who may carry a different view. Doctors are engaged in the practice of medicine, not the perfection of it. Therefore, I find by the preponderance of the evidence that an IME is not only reasonable but also necessary. Claimant's argument against the IME is based on concern

that Respondents' will get another bite at the apple. TR 37. But to make such an argument is to appreciate that a doctor with similar experience as Dr. Thomas could differ in their assessment of the impairment rating. In fact, there is the sincere possibility that another doctor could access a higher impairment rate, oppose to a lower one. As to Claimant's alternative argument for Dr. Baskin to do the IME, Dr. Baskin is not a spine specialist, like Dr. Bruffett. I am ordering Claimant to submit to an expedited IME by Dr. Bruffett. This evaluation shall be conducted in accordance with A.C.A. §11-9-511. Thus, Respondents' motion is granted.

CONCLUSION

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion is hereby granted, and Claimant shall submit to an expedited IME exam with Dr. Wayne Bruffett.

IT IS SO ORDERED.

STEVEN PORCH
Administrative Law Judge