

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H301603

SHERRI BASS, Employee	CLAIMANT
NATIONAL OPINION RESEARCH CTR, Employer	RESPONDENT
THE HARTFORD, Carrier	RESPONDENT

OPINION FILED JANUARY 12, 2026

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Springdale, Washington County, Arkansas.

Claimant unrepresented and appearing *pro se*.

Respondents represented by RANDY P. MURPHY, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On October 14, 2025, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on March 31, 2025, and a Pre-hearing Order was filed on March 31, 2025. A copy of the Pre-hearing Order has been marked Commission's Exhibit No. 1 and made a part of the record without objection.

At the pre-hearing conference the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The relationship of employee-employer-carrier existed between the parties on February 21, 2023.
3. The claimant sustained compensable injuries to her bilateral elbows, bilateral wrists, and right trigger finger on or about February 21, 2023.
4. The claimant's weekly compensation rates will be determined at a later date.

By agreement of the parties the issues to litigate are limited to the following:

1. Whether Claimant is entitled to additional medical treatment for her compensable right trigger finger, left elbow, and left wrist injuries; and to additional medical treatment for her compensable right elbow injury in the form of surgery.

2. Whether Claimant is entitled to temporary total disability benefits from January 29, 2024, to a date yet to be determined.

3. Respondents raise an independent intervening cause as cause for claimant's need for treatment under ACA § 11-9-102(F)(b)(III).

4. Claimant's compensation rates.

The claimant's contentions are as follows:

“The treatment orders were never full-filled. Denied claims. Claims they didn't notify me were denied. They just told me 'they were working on it.' Verbally abused by the treating physicians with false diagnosis and accusations, unlawfully. Physically abused by the treating doctors, for not giving me proper restrictions and re-injuring and increasing the pain. I never had a case manager. I had to contact The Hartford through Insta-Gram. I have real injuries that have yet to receive any treatment at all. Verbal abuse tactics by Randy Murphy, AAL during a 3 way call with the State Attorney. I've been begging for treatment for over a year, for a 24 year physical career, that was ruined because of these injuries. Continued injuries for being returned to work without restrictions, over and over. There is a third claim for Cervical with an ER visit from 2022, that was denied after it was reported within the time limits. I am in severe pain and need treatment. I can no longer afford to pay out of pocket.

I would like appreciate restrictions for my dx. I would especially like treatment. I would also prefer the Work Comp Commission to choose where I receive my IME. I have requested IME's, last year, so I could get treatment on my own, and be MMI'd. They refused to do this, like everything else. Mr. Murphy and his team are badgering me to see THEIR out of town doctor, for an IME, and won't agree to mediation or a Department Committee approved physician. These records will also show discrimination. Also at the advise of the State Work Comp Legal Department.”

The respondents' contentions are as follows:

“Claimant has received all benefits to which she is entitled for her compensable work-related injury. Claimant medical records establish that she has numerous physical and emotional problems which are unrelated to the compensable injury. The medical reports of Dr. Diemer, Dr. Benafield, and Dr. Kelly establish that her psychiatric condition is a non-work related independent, intervening cause which has caused and prolongs disability and her needs for treatment. See Ark. Code Ann § 11-9-102(F)(b)(III).”

The claimant in this matter is a 60-year-old female who sustained compensable injuries to her bilateral elbows, bilateral wrists, and right trigger finger on February 21, 2023, in a specific incident when she was lifting a bag from her car that the claimant has estimated to weigh 19 lbs. The claimant has asked the Commission to determine if she is entitled to additional medical treatment for her compensable right trigger finger, left elbow, and left wrist injuries and surgery for her right elbow injury.

The claimant was originally diagnosed with lateral epicondylitis, Enthesopathy of the right elbow, and Paresthesia of the upper limb by Ryan Huet, DO, at MedExpress in Bentonville, Arkansas, on February 28, 2023. The claimant has been treated or evaluated by several doctors since that time including Dr. George Diemel and Dr. Robert Benafield, both with Ozark Orthopedics. She was also seen by Dr. James Kelly with Western Arkansas Plastic and Hand Surgery Center and Dr. Tyler Carlee with UAMS Health. Dr. Owen Kelly performed a medical records review and gave his opinions at the request of the respondent on July 19, 2024. The claimant also underwent an independent medical evaluation by agreement of the parties. This administrative law judge with the assistance of Susan Isaac, RN, with the Arkansas Workers' Compensation Commission, selected Dr. Christopher Arnold to perform that independent medical evaluation in December of 2024. The claimant has received an assortment of treatment

and evaluations for her compensable injuries; including, but not limited to, MRIs of the elbows bilaterally, MRI of the cervical spine, upper body EMG nerve conduction studies, epidural steroid shots, ultrasound guided ulnar nerve blocks, occupational therapy, physical therapy, and splinting. Both Dr. Owen Kelly and Dr. Arnold provided extensive review summaries of the medical treatment and evaluation provided to the claimant. Dr. Owen Kelly's report, authored at the request of the respondent and dated July 19, 2024, is found at Respondents' Exhibit 1, pages 180-185. Dr. Arnold's independent medical examination through the Commission is found at Respondents' Exhibit 1, pages 187-197. Both of the summaries provided give an accurate and fair assessment of the medical treatment and evaluation the claimant has received at least to the extent of the medical records provided into evidence by both parties prior to their reports.

At the hearing in this matter the claimant continued to complain of symptoms and difficulties that she has related to various doctors in the time period after her compensable injury. Dr. Benafield saw the claimant on August 23, 2023. Following is a portion of that medical report:

HPI

The patient seen in follow-up for her right ulnar neuropathy and right trigger digit. She began the interview by engaging in insults to me in my treatment of her MI ignoring of suppose it guidelines from other Administrative bodies. She kept reiterating to me how she could not do her job consisting of typing talking on the phone writing down and carrying a 3 pound laptop.

Assessment/Plan

I believe the patient is exhibiting malingering behavior and does not want to get better or go back to work. At the end of the interaction I advised her that I did not feel that she and I were a good fit and that are patient doctor relationship was irretrievable broken and I advised her to utilize the change of physician option within Arkansas Worker's Comp. guidelines to find another hand surgeon. As she was leaving she insulted my religious beliefs.

1. Ulnar neuropathy of right arm
G56.21: Lesion of ulnar nerve, right upper limb

2. Trigger finger of right hand
M65.351: Trigger finger, right little finger

After the claimant was no longer able to see Dr. Benafield, she was seen by Dr. Diemel on September 26, 2023. Following is a portion of that medical record:

Assessment:

Ms. Bass returns to clinic today for a follow up. We discussed her clinical course. She spent the first 20 minutes of the visit going through a list of grievances against Ozark Orthopaedics, Dr. Benafield, our therapy team and her WC carrier as far as how she has been treated. She states she is frustrated by her care and also noted that she has attempted to get in touch with us on multiple occasions in attempts to try to pursue different treatments. During the course of the discussion, she outlined different dates in which she had tried to reach out in hopes that she could get a “Toradol shot”. She did state that somewhere in the course of this she ultimately went to urgent care although it was unclear whether she did in fact get treatment she was looking for. She continued to reference her left shoulder and arm as the reason for the need to treatment. Previous complaints had focused on the bilateral elbows which is what initial WC injury location was indicated as per my understanding. Our previous workup had included cervical spine x-rays, MRI of cervical spine, EMG/NCS of the bilateral upper extremities, an injection for the right elbow to assess the contribution of the ulnar nerve at the elbow, referral for orthopedic hand consultation and a considerable amount of therapy to address her bilateral upper extremity concerns.

Clinical correspondence from 8/18/2023 indicates a one time, approval from her WC CM regarding evaluation of her left shoulder and wrists which prompted today’s appointment. In the correspondence, it was noted that approval had not been given previously to evaluate these injuries. She states she was not aware of when this appointment was going to be made and had to look at the portal. I told her that the appointment was requested by her work-comp case manager which she states she has not spoken to. She states that she only knew about this appointment after referencing the portal. She stated that she didn’t know what she was here but wanted to be sure to show up so “we couldn’t mark

her down as non-compliant.” I told her that I did not have any intention of making such a claim nor what “out to get her”.

So summary of initial discussion regarding this appointment from her perspective was questioning why she was here stating she did not request this appointment be made. This was subsequently followed by the aforementioned outlining of grievances she had with how her care had been administered. She then went on to say that she had hired an attorney. She also reached out to the Work-Comp State Commission. They have since sent her up an appointment with Dr. Kelley, and she has an appointment on Monday, in Fort Smith to see him and establish care.

Near the conclusion of the visit, she asked whether or not I would evaluate her left shoulder/arm. This was approximately 40 minutes into her visit. Prior to the visit, I did review records indicating we have done EMG/NCS of the upper extremities, cervical spine xrays and cervical spine MRI. We have also sent therapy in to address her upper extremities complaints. Per her recollection, therapy did not do anything to address her concerns. Review of discharge therapy records from 9/20/2023 indicated that she was “resistant” to recommendations, “argumentative” and requested therapy elsewhere.

At this point given the history of prior interactions, the fact that she has on her own accord attempted to establish care and has a pending appointment with another provider through the work-comp system which has apparently been orchestrated with her newly acquired legal representation, and made references to taking legal action against my orthopedic hand partner, Dr. Benafield, I told her that I would hold on any further evaluation of her new pain complaints. Despite my explaining this to her, she also asked whether or not she could receive a Toradol shot, which I politely declined. I did not take a detailed history of injury to the left shoulder. I did not inquire about prior injuries nor did I address work status related to her shoulder injury. From my prior evaluation, there are no functional limitations related to her elbows (initial work injury) that would limit her ability to return to her prior work tasks which have been outlined previously as computer work, administrative tasks and light duty activities.

Again, this visit was contentious and centered accusations that she has not been provided the level of care that she expected. From prior interactions, this stems from a differing opinion on whether she is able to continue her work activities as outlined. I truly believe she

believes that she cannot perform these tasks. Unfortunately, all objective data that we have to make decisions from in the context of her initial WC injury does not support her belief that continuing these work activities will result in irreversible and irreparable harm. Any attempts at discussing a return to work plan were met with resistance. My interactions seem to be consistent with documentation from Dr. Benafield and our occupational therapy team about interactions they have also had with Ms. Bass. At this point, I am not sure I have anything else further to add to her care.

Summary

Will hold on any further evaluation or treatment recommendations given that the patient has established care with another provider through work-comp.

No further work restrictions per my recommendation given pending care through other provider.

Follow up as needed.

The claimant then began to see Dr. James Kelly, who eventually authored a letter to the Commission dated December 18, 2023, and is found at Respondents' Exhibit 1, page 171.

Following is the body of that letter:

I am addressing his letter pertaining to Ms. Bass who presented to my office today. This lady is suffering from severe manic depression. She is almost incoherent and unable to really comprehend what I am trying to tell her. There is nothing surgical that I can do for her, as most of her issues I believe are psychiatric. She may very well have issues that may need physical treatment but with her current psychiatric state I am not able to do this, nor do I think anyone else would be able to, as she is totally decompensated. I am addressing his letter to you, basically to inform the board, I am not treating her any longer and she really needs to get psychiatric care, which has nothing to do with a Worker's Comp injury. I explained that to the patient as well, but I am sure she is not coherent enough to understand what I am trying to get across to her. I am also having my staff contact Anna Montgomery at Washington Regional who she listed as her primary care doctor. This lady certainly needs intervention and needs it urgently. I will try to get the primary care doctor involved, as well as obviously this is not within my practice scope.

On July 19, 2024, Dr. Owen Kelly performed a medical records review of the claimant that included the previously discussed medical treatment and evaluation summary at the request of the respondent. Dr. Owen Kelly also responded to four questions posed by the respondent as follows:

QUESTIONS:

1. What complaints can be objectively related to the reported work related incident of February 20, 2021 [February 21, 2023]? After reviewing the records and the provided physician statements from Dr. James Kelly and Dr. Robert Benafield, the bilateral lateral epicondylitis could be related to her work duties. This was the documented initial complaint.

2. Has Ms. Bass reached maximum medical improvement for this reported work related injury? The provided records indicate that Ms. Bass last treated in June of 2024 for multiple complaints and the elbows are one of them. Lateral epicondylitis isn't considered a one time injury. The records also indicate other non-physical, non-work related issues that are affecting her. Taking into account the two reputable hand surgeon opinions (Dr. Benafield and Dr. (James) Kelly. She appears to be at MMI.

3. Is there any permanent impairment noted pursuant to the AMA Guides to the Evaluation of Permanent Impairment 4th Edition? There is no of permanent impairment for the bilateral lateral epicondylitis.

4. Is there any additional medical treatment recommended for the reported work related injury? Other than conservative management of the lateral epicondylitis, no further imaging or testing is recommended.

On December 27, 2024, Dr. Arnold issued his independent medical examination. At the conclusion of his report, Dr. Arnold gives the following diagnosis and opinion:

DIAGNOSIS

1. Bilateral chronic lateral epicondylitis (based on mri/physical exam)
2. No signs of cubital tunnel (based on normal emg/ncv)
3. No signs of cervical radiculopathy (based on mri/physical exam)

OPINION

1. Claimant shows signs of symptom magnification
2. No permanent impairment – at MMI
3. Claimant has failed non-operative treatment – no further treatment/studies necessary
4. Would recommend sending for FCE

The claimant then sees Dr. Tyler Carllee on January 31, 2025. The claimant indicates in hearing testimony that she was able to see Dr. Carllee by obtaining Medicaid benefits. Dr. Carllee's medical report from that visit gives the following assessment/plan:

Assessment and Plan:

59-year-old female with right upper extremity symptoms consistent with tennis elbow, cubital tunnel syndrome most prevalent on the right elbow without frank instability but subtle instability of the nerve, triggering of the ring finger on the right hand at the A1 pulley and subacromial impingement on the right shoulder. She would like to proceed today with a repeat subacromial injection. I am happy to do that for her. She is an indication and candidate for ulnar nerve surgery which I think transposition would be the best option. I do not recommend doing any surgery however until she has completed her worker's comp evaluation with a functional capacity evaluation of the upper extremities and have that completely settled before having any surgery with me that is not covered by worker's compensation. I think that if she proceed with surgery prior to this it will be very difficult for her to distinguish symptoms related to her worker's comp claim verses a postoperative scenario after having had surgery on her elbow. Happy to see her back after the functional capacity evaluation.

Right subacromial injection

After obtaining verbal consent from the patient the right subacromial space with prepped in the standard sterile fashion with chlorhexidine. A time out was done confirming the laterality, procedure and correct patient. Utilizing an anterior entry site an injection of 4 cc of 0.25% bupivacaine without epinephrine and 80 mg of Depo-Medrol were injected into the subacromial space without complication. The patient tolerated the procedure well and a band-aid was placed. Information about the injection was given to the patient.

The claimant underwent right cubital tunnel syndrome surgery at the hands of Dr. Carllee on June 9, 2025, at Willow Creek Women's Hospital. Following is a portion of that operative report:

Preoperative Diagnosis
Right cubital tunnel syndrome

Postoperative Diagnosis
Cubital tunnel syndrome

The claimant saw Dr. Carllee for a follow-up appointment on September 3, 2025.

Following is a portion of that medical report:

History of Present Illness

Sherri Lynn Bass is a 60 y.o. year old female patient.

She is 12 weeks out from surgery. I had recommended starting formal P.T. from the above procedure. She saw Chris Kelsey with TRM one time. She was given some home exercises. She is having a few things going on today. She is having olecranon bursal pain with resting the elbow, she has persistent triggering of the right ring finger, she has soreness in the thumb and entire hand with intrinsic muscle exercises. She was unable to continue these because of hand soreness. She has some paresthesias over the thumb and ulnar long finger. She also feels dullness to sensation over the olecranon area and incision.

In the past I have also evaluated her trigger finger of the right ring finger. She was scheduled to have it injected at the time of her right elbow surgery but the day of the surgery did not want to do this because her symptoms were not bothering her enough.

She has also been evaluated by me and others for the left elbow. She has had cubital tunnel syndrome with this side as well for roughly the same length of time as the right side. She has tried taking gabapentin, Cymbalta, and Lyrica historically without relief. She has had side effects from this medication that are limiting including grogginess and cognitive disturbances.

Her shoulder is doing better after her subacromial injection in the right shoulder.

Assessment and Plan

Sherri Lynn Bass is a 60 y.o. year old female patient. The patient is here for a Follow up for the right ulnar nerve transposition performed on 6-9-25.

She is not interested in any surgical treatments for her left arm or trigger finger on the right ring finger at this time. I do think a trigger finger release is something that may benefit her in the future. We discussed trying to get all the way recovered from her ulnar nerve transposition on the right before we consider doing anything on the left side. She will continue to do home exercises to work on intrinsic hand strengthening. I do think some of her symptoms around the incision with numbness and dull sensation are going to improve with time and our products of the surgical incision there are within the realm of normal. I do think she has cubital tunnel on the left elbow with similar symptoms as the right. She has also had lateral epicondylitis symptoms on both elbows that we have treated nonsurgically. I am happy to see her back in future as needed.

An employer shall promptly provide for an injured employee such medical treatment as may be reasonably necessary in connection with the injury received by the employee. Ark. Code Ann. §11-9-508(a)(1). The claimant bears the burden of proving that he is entitled to additional medical treatment. *Dalton v. Allen Engineering Co.*, 66 Ark. App. 201, 989 S.W.2d 543 (1999).

It is the claimant's burden to prove that she is entitled to additional medical treatment, and I find the claimant is unable to so. I recognize the treatment and surgical intervention that the claimant underwent at the hands of Dr. Carllee after her independent medical evaluation by Dr. Arnold. However, the greater weight of medical evidence points to the claimant overexaggerating her symptoms and difficulties. Given the opinions of Dr. Benafield, Dr. Diemel, Dr. James Kelly, Dr. Owen Kelly, and Dr. Arnold, I find the claimant has failed to prove that she is entitled to additional medical treatment.

The claimant has also asked the Commission to determine if she is entitled to temporary total disability benefits from January 29, 2024, to a date yet to be determined.

A claimant who suffers a scheduled injury is entitled to receive temporary total or temporary partial disability benefits during their healing period or until they return to work, regardless of whether there is a total incapacity to earn wages. *Wheeler Construction Co. v. Armstrong*, 73 Ark. App. 146, 41 S.W. 3d 822 (2001).

Upon review of the medical evidence submitted by both parties during the period of January 29, 2024, and forward, I find no evidence of the claimant being removed from work by a medical provider. Also, I am in agreement with Dr. Arnold, who found the claimant to be at maximum medical improvement in his December 27, 2024, independent medical examination, and Dr. Owen Kelly in his report dated July 19, 2024, in which he states, “she appears to be at MMI.”

In an August 3, 2023, visit with Dr. Diemel, his report in part states, “Again, I do not feel there needs to be any further work restrictions as it relates to time. I will defer a final decision to Dr. Benafield to whether or not she feels she still needs to observe the 10# weight restriction, or if any surgical treatment of her elbow needs to be considered. If he does not feel that she is a surgical candidate, I need to finalize her WC case with declaration of MMI and FCE. I would be happy to assist.”

In her next visit with Dr. Benafield on August 23, 2023, that medical record in part states, “She kept reiterating to me how she could not do her job consisting of typing talking on the phone writing down and carrying a 3 pound laptop.” ... “I believe the patient is exhibiting malingering behavior and does not want to get better or go back to work.” Dr. Benafield went on to end the patient/doctor relationship with the claimant during that visit.

The claimant again saw Dr. Diemel on September 26, 2023. That medical record in part states, “From my prior evaluation, there are no functional limitations related to her elbows

(initial work injury) that would limit her ability to return to her prior work tasks which have been outlined previously as computer work, administrative tasks, and light duty activities.”

The claimant has failed to prove by a preponderance of the evidence that she is entitled to temporary total disability benefits from January 29, 2024, to a date yet to be determined.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witness and to observe her demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on March 31, 2025, and contained in a Pre-hearing Order filed March 31, 2025, are hereby accepted as fact.

2. The claimant has failed to prove by a preponderance of the evidence that she is entitled additional medical treatment for her compensable right trigger finger, left elbow, and left wrist injuries and to additional medical treatment for her compensable right elbow injury in the form of surgery.

3. The claimant has failed to prove by a preponderance of the evidence that she is entitled temporary total disability benefits from January 29, 2024, to a date yet to be determined.

4. The respondents’ issue raised of independent intervening cause is moot.

5. The claimant’s compensation rates issue is moot.

ORDER

Pursuant to the above findings and conclusions, I have no alternative but to deny this claim in its entirety.

If they have not already done so, the respondents are directed to pay the court reporter, Veronica Lane, fees and expenses within thirty (30) days of receipt of the invoice.

IT IS SO ORDERED.

**HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE**