BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM № H600775

CECILE R. BEARD, EMPLOYEE	**CLAIMANT**
WELLPATH, LLC, EMPLOYER	**RESPONDENT**
AMERICAN ZURICH INS. CO., CARRIER/ CORVEL ENTERPRISE CLAIMS, INC. TPA	**RESPONDENT**

OPINION FILED 3 NOVEMBER 2026

Heard before Arkansas Workers' Compensation Commission Administrative Law Judge JayO. Howe on 6 August 2026 in Pine Bluff, Arkansas.

The Caldwell Law Firm, P.A., Mr. Andy L. Caldwell, appeared for the respondents.

Barber Munson, Ms. Karen H. McKinney, appeared for the respondents.

I. STATEMENT OF THE CASE

A Prehearing Order was filed on 5 May 2026 and admitted to the record as Commission's Exhibit № 1.

STIPULATIONS

Consistent with the Prehearing Order, the parties agreed to the following Stipulations:

1. The Arkansas Workers' Compensation Commission (the Commission) has jurisdiction over this claim.

2. The employee/employer/carrier-TPA relationship existed at all relevant times.

3. The respondents have controverted this claim in its entirety.

4. The respondents acknowledge that they directed the claimant to Jefferson Regional Medical Center for initial care and that they are estopped from denying responsibility for that initial emergency care.

5. The claimant's average weekly wage at the time of her alleged injuries was $1,216.40, which would relate to weekly benefits amounting to $811 for temporary total disability (TTD) and $608 for permanent partial disability (PPD).

ISSUES TO BE LITIGATED AT HEARING

After discussion at the hearing, the parties amended the Issues to include:

1. Whether the claimant sustained compensable injuries by specific incident to her head, neck, back, right hip, and upper extremities.

2. Whether the claimant is entitled to temporary total disability benefits.

3. Whether the claimant is entitled to medical benefits and reimbursement for reasonable and necessary treatment(s) and expenses.

4. Whether the claimant is entitled to an attorney's fee.

All other issues are reserved.

CONTENTIONS

The parties' Contentions were set out in their respective Prehearing Questionnaire Responses and were amended as follows:

Claimant

The claimant contends that she was injured in the course and scope of her employment on or about 2 February 2026, when she slipped and fell on ice. The claimant was employed by the respondent and was on the parking lot of one of the locations where she was contracted to go and perform duties as an LPN.

The claimant was paid for her travel to this location. The claimant sustained injuries to her head, neck, back, right hip and bilateral upper extremity injuries. The claimant has treated with JRMC, the VA and UAMS. All treatment of record is reasonable, necessary and causally related to her alleged compensable injuries for which the respondents should be responsible including reimbursement.

Respondent

The respondent contends that the claimant did not sustain a specific incident compensable injury on 2 February 2026, while performing employment services. More specifically, the respondents contend that the claimant slipped and fell in the parking lot as she exited her car and was reporting for

orientation on her first day of employment. The claimant did not complete orientation and never started her employment with the respondent-employer.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the record as a whole, including the evidence summarized below, and having heard testimony from the claimant, observing her demeanor, I make the following Findings of Fact and Conclusions of Law under Ark. Code Ann. § 11-9-704:

1. The Commission has jurisdiction over this claim.

2. The Stipulations as set forth above are reasonable and are hereby accepted.

3. The claimant has failed to prove by a preponderance of the evidence that she suffered compensable injuries to her head, neck, back, right hip, and upper extremities.

4. The remaining Issues in this litigation are moot and will not be addressed in this Opinion.

III. ADJUDICATION

The stipulated facts as outlined above are reasonable and accepted. It is settled that the Commission, with the benefit of being in the presence of a witness and observing their demeanor, determines a witness' credibility and the appropriate weight to accord their statements. *Wal-Mart Stores, Inc. v. VanWagner*, 337 Ark. 443, 990 S.W.2d 522 (1999). A claimant's testimony is never considered uncontroverted. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994). The determination of a witness' credibility and how much weight to accord to that person's testimony are solely up to the Commission. *White v. Gregg Agricultural Ent.*, 72 Ark. App. 309, 37 S.W.3d 649 (2001). The Commission must sort through conflicting evidence and determine the true facts. *Id.* In so doing, the Commission is not required to believe the testimony of the claimant or any other witness but may accept and translate into findings of fact only those portions of the testimony that it deems worthy of belief. *Id.*

SUMMARY OF THE EVIDENCE

The claimant and Ms. Kim Rosenthal testified at the hearing. The record consists of the hearing transcript, which includes following exhibits: Commission's Exhibit № 1 (the 5 May 2026 Prehearing Order); Claimant's Exhibit № 1 (one index page and 174 pages of medical records); Claimant's Exhibit № 2 (one index page and 20 pages of non-medical records); Respondents' Exhibit № 1 (three index pages and 108 pages of medical records); Respondents' Exhibit № 2 (one index page and 7 pages of non-medical records). Also, I have blue-backed to this Opinion the post-hearing briefs that were filed by the parties on 2 November 2026.[1] Those documents are being served on the parties in conjunction with this Opinion. *See Sapp v. Tyson Foods, Inc.*, 2010 Ark. App. 517, 2010 Ark. App. LEXIS 549.

Claimant's Testimony

Respondent-employer Wellpath, LLC, is the contracted medical services provider for inmates in the custody of the Arkansas Department of Correction (ADC). Wellpath staffs its employees at various ADC units; and it maintains a regional office at the ADC's Central Office complex in Pine Bluff. Regardless of an employee's "home site," where they will work from day-to-day, Wellpath requires its new employees to participate in orientation at its Central Office site. New employees are paid mileage for their travel to and from the Central Office. And they are paid their contract rate for the time that they spend on the clock during orientation sessions. The Central Office does not house inmates. Its parking lot is open to the public.

The claimant lives in Malvern, Arkansas. Wellpath hired her to work as an LPN at the ADC's Malvern Unit. On 2 February 2026, the claimant drove from Malvern to the

[1] Ordinarily, post-hearing briefs are due to be filed much nearer in time to the hearing date versus the subsequent filing of an Opinion. The parties, however, experienced unanticipated delays in the delivery of the transcripts in this case. The deadline for filing their briefs was extended, accordingly.

Central Office for her orientation session, where she anticipated filling out new employee paperwork, checking off clinical skills, and being issued the credentials necessary for working at her home site. The claimant left home early that morning to account for possible road hazards after a recent winter storm. Some snow and ice remained in the office complex's parking lot, but the claimant had no trouble choosing a place to park at the back side of the lot. She then waited in her car until the orientation session was supposed to start. She recalled in her testimony that she left her car and started walking through the parking lot a little after 9:00 AM. She slipped and fell somewhere in the middle of the parking lot. She believes that she lost consciousness as a result of the fall.

The claimant was helped by someone who got her up and into the front of the office building. ADC personnel spoke with Wellpath staff, who contacted Kim Rosenthal, Wellpath's onsite Director of Operations. Ms. Rosenthal contacted the company nurse so that the claimant could report her accident. Another Wellpath employee eventually drove the claimant to the hospital for evaluation and treatment.

While the claimant's memory was not clear immediately following her fall, she knows that she did not sign herself into the Central Office facility. She acknowledges that she had not yet entered the building and was not yet on the clock at the time of her fall. Someone else did sign her in though; and the claimant was paid for the time she spent in the building before leaving for the hospital, which appears on the entry log as between 9:10 AM and 10:30 AM.

Witness Kim Rosenthal

Ms. Rosenthal testified that because new employees appearing at orientation do not yet have badges for swiping in and out, Wellpath records their in-office or on-the-clock time for them via a written entry log that is kept at the front of the office. She did not dispute the claimant's general timeline accounting for when and where she fell, her time spent in

the offices, or her eventual departure for the hospital with another employee. She also confirmed that new employees are reimbursed for the mileage associated with their travel to and from Central Office; but they are not paid their contract rate for their time spent traveling.

DISCUSSION

A compensable injury is defined, in part, as an accidental injury which arises out of and in the course of employment. Ark. Code Ann. § 11-9-102(4)(A)(i). However, a compensable injury does not include an injury "inflicted upon the employee at a time when employment services were not being performed." *Id.* §11-9-102(4)(B)(iii).

> An employee is performing employment services when he or she is doing something that is generally required by his or her employer. *Cont'l Constr. Co. v. Nabors*, 2015 Ark. App. 60, 454 S.W.3d 762. We use the same test to determine whether an employee is performing employment services as we do when determining whether an employee is acting within the course and scope of employment. *Pifer v. Single Source Transp.*, 347 Ark. 851, 69 S.W.3d 1 (2002).

Williams v. Malvern School Dist., 2025 Ark. App. 208, 712 S.W.3d 739.

In *Haynes v. Ozark Guidance Ctr., Inc.*, 2011 Ark. App. 396, 384 S.W.3d 570, the Court of Appeals, citing *Texarkana Sch. Dist. v. Conner*, 373 Ark. 372, 284 S.W.3d 57 (2008), explained:

> Our supreme court has held that an employee is performing "employment services" when he or she "is doing something that is generally required by his or her employer." […] The critical inquiry is whether the interests of the employer were being directly or indirectly advanced by the employee at the time of the injury. *Id.* at 377, 284 S.W.3d at 61. Moreover, the issue of whether an employee was performing employment services within the course of employment depends on the particular facts and circumstances of each case.

The facts in this claim are not in dispute. The parties generally agree that the claimant was walking through a parking lot (on her way to start the orientation for her first day of work) when she fell. The question is whether the claimant was performing

employment services *at the time that she fell. See Williams, supra.* Cases like this are fact-dependent and often complicated by claims that an employee *was* in the time and space boundaries of their employment, but not actually advancing their employer's interest in and around the moments of an accident.

This case, however, is not so complicated. At the time of the claimant's fall, she was walking through a parking lot that is open to the public. She had no assigned job duties or responsibilities to Wellpath. The claimant acknowledges that she was not yet on the clock or even in her employer's offices at the time of her fall. She was, instead, in the parking lot walking towards getting started at her new job. But she wasn't there yet at the time of her fall. Nor was she directly or indirectly advancing Wellpath's interests at the time of her fall. Additionally, the "going and coming rule" generally precludes an employee from a recovery under these circumstances. *See Olsten Kimberly Quality Care v. Pettey*, 328 Ark. 381, 944 S.W.2d 524 (1997). And keeping with that precedent requires the same result here. Because the claimant was not directly or indirectly advancing the interests of her employer at the time that of her parking lot slip-and-fall, she has failed to prove by a preponderance of the evidence that she sustained a compensable injury. This finding renders the other issues in this litigation moot.

IV. CONCLUSION

The claimant has failed to prove by a preponderance that she sustained a compensable injury. The other issues in this litigation are therefore moot and not addressed in this Opinion.

SO ORDERED.

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JAYO. HOWE
ADMINISTRATIVE LAW JUDGE