

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H001634

ERICKA WILLIAMS BEELER, Employee	CLAIMANT
CITY OF BENTONVILLE, Employer	RESPONDENT
ARKANSAS MUNICIPAL LEAGUE WCT, Carrier/TPA	RESPONDENT

OPINION FILED MARCH 31, 2021

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

Claimant represented by JASON M. HATFIELD, Attorney, Springdale, Arkansas.

Respondents represented by JARROD PARRISH, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On March 3, 2021, the above captioned claim came on for hearing at Springdale, Arkansas. A pre-hearing conference was conducted on November 9, 2020 and a pre-hearing order was filed on that same date. A copy of the pre-hearing order has been marked as Commission's Exhibit #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 the within claim.
2. The employee/employer/carrier relationship existed among the parties at all relevant times.
3. The claimant sustained a compensable injury to her left lower extremity on

February 26, 2020.

4. The claimant was earning an average weekly wage of \$796.58 which would entitle her to compensation at the rates of \$531.00 for total disability benefits and \$398.00 for permanent partial disability benefits.

At the pre-hearing conference the parties agreed to litigate the following issues:

1. Claimant's entitlement to additional medical treatment, including a trial dorsal column stimulator.

At the time of the hearing, claimant clarified that she is requesting actual implantation of a stimulator as recommended by the doctors at the Mayo Clinic; specifically, the permanent implant of a DRG stimulator.

The claimant contends she sustained a compensable injury on or about February 26, 2020. At that time, claimant was in the course and scope of her employment with respondent when during a training session, she sustained a crush injury to her left lower leg. Initially, she received surgery with Dr. Marcus Heim. Shortly after surgery, Dr. Heim diagnosed complex regional pain syndrome. Claimant requested a change of physician to Dr. Christopher Dougherty, and Dr. Dougherty has continued her care. Dr. Dougherty has been consulting with a complex regional pain syndrome specialist in Boston, Massachusetts, every step of the way. Dr. Dougherty has followed a conservative line of treatment and included Dr. George Deimel to the team for continued pain management. All of the treating doctors recommend a trial with a dorsal column stimulator. Instead of complying with all of the doctor recommendations, the Municipal League set up an IME in Little Rock with Dr. Carlos Ramon. Dr. Roman after the one-time visit concluded that the treating physicians were wrong and opined that Police Officer Beeler does not need

a trial stimulator. Claimant contends she is entitled to the reasonable and necessary medical treatment recommended by her treating physicians.

The respondents contend that a spinal cord stimulator is not reasonable and necessary for the claimant's work-related injury.

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 a pre-hearing conference conducted on November 9, 2020 and contained in a pre-hearing order filed that same date are hereby accepted as fact.

2. Claimant has met her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable injury as recommended by Dr. Dougherty and her physicians at the Mayo Clinic. This includes recommended treatment for RSD/CRPS.

#### FACTUAL BACKGROUND

The claimant is a 35-year-old woman with an Associate's Degree in Criminal Justice. She is three credit hours short of a bachelor's degree in criminal justice. She attended the Police Academy for thirteen weeks of training in February 2017 and began

working for respondent as a Patrol Officer I on February 15, 2017. Claimant was subsequently promoted to Patrol Officer II. Her job duties included responding to emergency calls; including, domestic violence, child abuse, arrests, DWIs, and first responder duties at times.

The claimant is certified as a Women's Self-Defense Instructor and was teaching a class at the Bentonville Police Department on February 26, 2020. She was demonstrating a move when one of the other instructors landed on her left leg, resulting in an injury to the leg. An injury to claimant's left lower extremity has been accepted by the respondent.

Claimant received medical treatment including an ultrasound which was negative for deep vein thrombosis and a CT angiogram which showed no evidence of a vascular injury. Claimant was eventually seen by Dr. Heim who diagnosed claimant with a traumatic hematoma that was not resolving. He recommended and performed a surgical procedure to drain the hematoma on March 19, 2020.

Claimant returned to Dr. Heim on April 1, 2020 for a follow-up visit and he noted that she was having difficulty putting pressure on her left foot because of pain. Dr. Heim stated that he was concerned because she has "autonomic change in the left lower extremity consistent with probable early complex regional pain syndrome." Dr. Heim ordered physical therapy for the CRPS.

On May 13, 2020, claimant received a change of physician to Dr. Dougherty and she was evaluated by him on May 27, 2020. Dr. Dougherty noted that claimant had signs of RSD in her leg and he prescribed medication and a possible nerve block.

In his report of June 10, 2020, Dr. Dougherty diagnosed claimant with complex

regional pain syndrome of the lower limb. In doing so, he stated:

The diagnosis of CRPS type 1 is based on Budapest Criteria including Hyperesthesia, skin color change and vasomotor symptoms in the extremity. I do believe the plica and her CRPS are due to her work related injury at greater than 51%.

Claimant returned to Dr. Dougherty on August 10, 2020, and he again noted that claimant met the criteria for RSD, but stated that two weeks of physical therapy had not improved claimant's condition.

Because claimant's condition did not improve, Dr. Dougherty referred claimant to Dr. Deimel for nerve blocks. Dr. Deimel performed the first nerve block on L1 and L2 on August 24, 2020. Dr. Deimel's report of September 2, 2020 indicates that the block provided "mild" or "moderate" relief. He also indicated that claimant would be a candidate for a spinal cord stimulation trial. Finally, he recommended a second series of nerve blocks targeting the L2, L3, and L4 levels which he performed on September 11, 2020. The second nerve blocks provided no relief.

In response to the diagnosis of CRPS and the recommendation for a spinal cord stimulator trial, respondent sent claimant to Dr. Carlos Roman for an evaluation. In a report dated September 22, 2020, Dr. Roman stated that claimant did not fit the Budapest Criteria for CRPS and there was no indication for a spinal cord stimulator trial. Instead, he recommended a change in medication and the discontinuation of physical therapy.

Claimant returned to Dr. Deimel on September 24, 2020, at which time claimant requested a second opinion. Dr. Deimel referred claimant to the Mayo Clinic for consideration of treatment options.

On September 30, 2020, claimant returned to Dr. Dougherty who disagreed with Dr. Roman's opinion. Specifically, Dr. Dougherty stated:

Her third opinion stated that we were wrong with her original diagnosis and that she did not meet criteria for CRPS but did state that her pain was neurological. In this case the third opinion did not have the opportunity to see her initially when she did meet all criteria and at this point she is improved but still remains symptomatic. I did discuss her case with the experts in CRPS at Boston's Childrens for her management and their recommendations were to continue PT at that time which is contrary to the third opinion's recommendations. As they are a center that only does CRPS and no other treatments, I am inclined to state with medical certainty that she was not initially misdiagnosed that her management has been by the book as recommended by the leading experts in the field and at this time recommendation is for a trial of a spinal cord stimulator.

Claimant again returned to Dr. Dougherty on November 11, 2020, and he also referred claimant to the Mayo Clinic for treatment of CRPS. On November 17, 2020, claimant was seen by telemedicine by Dr. Olatoye at the Mayo Clinic. He diagnosed claimant as suffering from chronic left lower extremity neuropathic pain and suspected CRPS. He indicated that the diagnosis of CRPS was plausible, but actual clinical examination was required. He noted that if claimant's problems were CRPS based she would benefit from a trial of nerve stimulation in the form of a spinal cord stimulator or peripheral nerve stimulation. He also ordered an MRI scan of her lumbar spine to rule out the possibility of spine etiology as a contributor to her pain.

Claimant saw Dr. Olatoye for an in-person examination on January 11, 2021. He noted that the MRI showed no pathology to explain her symptoms and went on to state:

Based on my assessment, history obtained, physical examination and review of her outside advanced imaging, I can confidently state that her symptoms secondary to complex regional pain syndrome based on Budapest Criteria. Ultimately, CRPS is a diagnosis of exclusion and no other diagnosis can explain her current symptoms. Furthermore, her response to previously performed lumbar sympathetic block, albeit for a short duration, supports that her symptoms are sympathetically mediated which again supports this diagnosis.

Dr. Olatoye stated that claimant would be a good candidate for neuromodulation either through spinal cord stimulation or peripheral nerve stimulation.

Apparently, claimant returned to the Mayo Clinic and had two trial stimulators implanted. The medical records from this procedure are not part of the documentary evidence. Claimant testified that she has both a DRG stimulator as well as a spinal cord stimulator. She testified that the DRG stimulator has been “amazing” and is now requesting permanent implant of that stimulator.

Respondent has not accepted liability for the implantation of a stimulator and as a result claimant filed this claim.

### ADJUDICATION

Claimant contends that she is entitled to additional medical treatment for her compensable left leg injury; including permanent implantation of the DRG stimulator. 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. A.C.A. §11-9-508(a). Claimant has the burden of proving by a preponderance of the evidence

that she is entitled to additional medical treatment. *Dalton v. Allen Engineering Company*, 66 Ark. App. 201, 989 S.W. 2d 543 (1999). What constitutes reasonably necessary medical treatment is a question of fact for the Commission. *Wright Contracting Company v. Randall*, 12 Ark. App. 358, 676 S.W. 2d 750 (1984).

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that claimant has met her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment for RDS/CRPS from Dr. Dougherty and the physicians at the Mayo Clinic.

Respondent contends that claimant does not suffer from RSD/CRPS based upon Dr. Roman's opinion that claimant's symptoms do not meet the criteria of that diagnosis as well as the negative bone scan and her response to the nerve blocks. In contrast to the opinion of Dr. Roman, Drs. Heim, Dougherty, Deimel, and Olatoye have all concluded that claimant does suffer from RSD/CRPS. Just two weeks after her surgery, Dr. Heim indicated in his report of April 1, 2020 that claimant had changes in her left lower extremity consistent with early complex regional pain syndrome.

Claimant subsequently began treating with Dr. Dougherty who likewise diagnosed claimant with RSD/CRPS. As previously noted, Dr. Dougherty in his report of June 10, 2020 stated that claimant met the Budapest Criteria for CRPS which included hyperesthesia, skin color changes and vasomotor symptoms. Dr. Dougherty in his report of September 30, 2020 also noted that Dr. Roman did not have the opportunity to see claimant initially when she met all the criteria.

In addition, Dr. Olatoye at the Mayo Clinic has diagnosed claimant as suffering from RSD/CRPS. In a response, he has recommended additional medical treatment in



the form of a stimulator.

I find that the medical opinions of Drs. Heim, Dougherty, Deimel, and Olatoye are entitled to greater weight than the opinion of Dr. Roman in this particular case. Those physicians have evaluated the claimant on a number of occasions whereas Dr. Roman evaluated the claimant on only one occasion. While I have no reason to doubt Dr. Roman's report that the Budapest Criteria were not present at the time of his examination, I likewise have no reason to suspect that Dr. Dougherty "fabricated" those findings at the time of his examination of claimant on June 10, 2020. Furthermore, it is significant to note that claimant has actually undergone the implantation of a DRG stimulator and a spinal cord stimulator and claimant has indicated that she has received good results from the DRG stimulator. This constitutes evidence that the treatment is reasonable and necessary as well.

In short, I find based upon a totality of the evidence presented in this case that claimant suffers from RSD/CRPS based upon the opinions of Drs. Heim, Dougherty, Deimel, and Olatoye. I find that claimant has met her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment from Dr. Dougherty and the physicians at the Mayo Clinic for her RSD/CRPS. I do not specifically find that this includes the permanent implantation of the DRG device. As previously noted, the medical records relating to this procedure are not in evidence. Claimant obviously underwent a procedure to implant the trial and according to her testimony the results are "amazing." However, the Commission does not have before it any evidence from a treating physician recommending the actual permanent implantation of the DRG stimulator. Absent such a report, a specific finding approving that procedure

would be speculative. It is certainly possible (or even likely) that this recommendation will be forthcoming given claimant's testimony that she has received positive results from the DRG stimulator. At this point, I am finding that claimant is entitled to additional medical treatment for her RSD/CRPS from Drs. Dougherty and the physicians at the Mayo Clinic. This may include permanent implantation of the DRG stimulator if that recommendation is made by her treating physicians.

AWARD

Claimant has met her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable injury as recommended by Dr. Dougherty and her physicians at the Mayo Clinic. This includes any recommended treatment for RSD/CRPS.

Pursuant to A.C.A. §11-9-715(a)(1)(B)(ii), attorney fees are awarded "only on the amount of compensation for indemnity benefits controverted and awarded." Here, no indemnity benefits were controverted and awarded; therefore, no attorney fee has been awarded. Instead, claimant's attorney is free to voluntarily contract with the medical providers pursuant to A.C.A. §11-9-715(a)(4).

Respondent is responsible for paying the court reporter her charges for preparation of the hearing transcript in the amount of \$517.05.

IT IS SO ORDERED.

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GREGORY K. STEWART  
ADMINISTRATIVE LAW JUDGE