

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. H000017**

<b>DJOANNA Z. BELIZARIO-AUSBROOKS, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>BAPTIST HEALTH, SELF-INSURED EMPLOYER</b>	<b>RESPONDENT</b>
<b>CLAIMS ADMINISTRATIVE SERVICES, CARRIER/TPA</b>	<b>RESPONDENT</b>

**OPINION FILED AUGUST 19, 2021**

A hearing was held before ADMINISTRATIVE LAW JUDGE KATIE ANDERSON, in Little Rock, Pulaski County, Arkansas.

Claimant, Ms. Djoanna Z. Belizario-Ausbrooks, *pro se*, appeared at the hearing.

Respondents were represented by Mr. Jarrod Parrish, Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

A hearing was held in the above-captioned claim on May 21, 2021, in Little Rock, Arkansas. A Prehearing Order was previously entered in this case on April 13, 2021. The Prehearing Order has been marked as Commission's Exhibit #1 and was made a part of the record without objection from the parties.

**Stipulations:**

During the prehearing telephone conference, the parties agreed to the following stipulations. They read:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. An employer-employee relationship existed on December 13, 2019, when Claimant sustained a compensable injury in the form of a contusion to her right

forearm.

3. Claimant was earning an average weekly wage of \$553.77, entitling her to temporary total disability (TTD)/permanent partial disability (PPD) compensation rates of \$369.00/\$277.00.

Issues:

The parties agreed to litigate the following issue at the hearing:

1. Whether Claimant is entitled to additional medical treatment from Dr. Frazier in the form of further heat and cooling therapy on her arm.

Contentions:

The following contentions were submitted by the parties:

Claimant contends that, while gathering her stuff from the nurse's lounge, a co-worker kicked the door to the lounge open, causing the door to slam on Claimant's right arm. She contends that she was out of work from December 19, 2019, to April 23, 2020. Claimant contends that her arm is still not completely healed and that she is entitled to more therapy or additional medical treatment from a doctor.

Respondents contend that all appropriate benefits have been paid with regard to this matter. There are no objective findings of an acute injury and additional medical treatment is not reasonable and necessary.

Summary of Evidence:

The record consists of the hearing transcript of May 21, 2021, and the exhibits contained therein. Specifically, the following exhibits have been made a part of the record without objection: Commission's Exhibit #1 included the Prehearing Order entered on April 13, 2021, along with the parties responsive filings; Commission's Exhibit #2 included the transcript from the December 16, 2020, Motion to Dismiss hearing.<sup>1</sup> Commission's Exhibit #3 included a letter from the

---

<sup>1</sup> Commission's Exhibit #2 was admitted into evidence with no objection by the parties but was retained in the Commission's file by way of a letter from the Commission dated May 21, 2021.

Commission issued May 21, 2021, informing the parties that the transcript from the December 16, 2020, Motion to Dismiss hearing would be retained in the Commission's file; Claimant's Exhibit #1 consisted of seven (7) pages of medical records from Dr. Frazier dated June 11, 2020, and July 23, 2020; Respondents' Exhibit #1 was forty-four (44) pages in length and consisted of medical records; Respondents Exhibit #2 was one (1) page in length and included Claimant's post-injury wage records.

Witnesses:

During the hearing, Ms. Djoanna Belizario-Ausbrooks (Claimant, used interchangeably herein) was the only witness to testify.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the evidence and other matters properly before the Commission, and after having had an opportunity to hear the testimony of the Claimant and observe her demeanor, 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 Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. I hereby accept the above stipulations as fact.
3. I find that Claimant failed to establish by a preponderance of the credible evidence that the additional medical treatment by Dr. Frazier in the form of further heat and cooling therapy on her arm is reasonably necessary in connection with her compensable right forearm injury of December 13, 2019.

**CASE IN CHIEF**

**Hearing Testimony:**

Claimant was forty (40) years old at the time of the hearing. She was a high-school graduate who had worked for Respondent-Employer as a Nursing Assistant<sup>2</sup> from January 2015 until July 2020. She testified that she had received job training specific to her duties with Baptist Health but had not obtained any other career training. Before working for Respondent-Employer, Claimant testified that she had held previous jobs as a retail cashier, convenience store owner, airport concession stand worker, and a retail merchandise worker.

Claimant testified that her hourly wage with Respondent-Employer was \$12.50 and that she worked an average of thirty-six (36) to sixty (60) hours per week. As a Nursing Assistant, her job duties included cleaning and bathing patients, changing diapers, helping patients into bed, and assisting the nurses as needed. On December 13, 2019, when Claimant had taken an extra night shift, she was gathering her belongings in the breakroom approximately fifteen (15) to twenty (20) minutes before leaving work. When she stood up, a co-worker kicked the door, causing the door to hit Claimant's right hand and arm.<sup>3</sup>

Claimant stated that she first saw Dr. Vargas after her incident, at which time a cast was placed on her arm for approximately three (3) to four (4) weeks. Claimant further testified that Dr. Vargas also prescribed needle therapy, cooling therapy, and occupational therapy; Claimant admitted that none of these treatments had helped.

---

<sup>2</sup> While Claimant testified that her job title was a Certified Nursing Assistant (CNA), Claimant later testified that she was not, in fact, "certified."

<sup>3</sup> At the hearing, Claimant pointed to her right forearm, between her wrist and her elbow when indicating where the injury occurred to her right arm.

Claimant then received a change of physician and began treating under Dr. Frazier, who recommended additional therapy, including either heating or cooling therapy. Claimant testified that her last date of treatment with Dr. Frazier was July 23, 2020.

With regard to her current symptoms, Claimant testified that she still experiences tingling in her right middle, ring, and small pinky fingers, which spreads into her right forearm when she moves her fingers.<sup>4</sup> She described the pain as occasionally “very intense,” rating the pain as a 9 out of 10, especially when using fine motor skills, such as writing, lifting, or cooking. When not using any fine motor skills, Claimant stated that her pain level would be around a 2 or 3 out of 10. She stated that she experiences stiffness in her right forearm in the mornings.

Claimant explained that she began working on an as-needed basis for Respondent-Employer in June or July 2020, and her last date of work for Respondent-Employer was in November of 2020. She had not returned to any employment since November of 2020 due to a high-risk pregnancy. Claimant stated that she had not had any previous injuries to her right arm prior to December 13, 2019, and has not had any injury to her right arm since that date.

As for her daily activities, Claimant explained that she is able to walk to maintain her health while pregnant, to cook meals, to do laundry, and to dress herself. She also stated that she is able to perform cross-stitching and scrapbooking activities every two to three days. She explained that the pain in her right hand does not prohibit her from performing her daily activities, but it does take her longer to do these activities than it did before the work injury.

Upon cross-examination, Claimant testified that, when her co-worker kicked open the door and hit her right arm between her wrist and her elbow, she spilled the coffee she was holding; however, the force was not strong enough to cause her to drop her coffee mug. She further testified

---

<sup>4</sup> At the hearing, Claimant indicated that when she moved her fingers, she experienced the tingling from the tips of her middle, ring, and small pinky fingers into her forearm.

that she used a heating pad and ice pack initially to treat and provide relief for her arm, which caused some redness on the skin on her forearm. However, she stated that the redness disappeared shortly after she removed the heat or ice. She also stated that she did not have any swelling in the right arm initially after the incident. She further testified that the diagnostic tests ordered by Dr. Vargas, including x-rays, an MRI, and a nerve conduction study, suggested no abnormalities in her right arm. While the second MRI (ordered by Dr. Frazier in June of 2020) showed a contusion of the forearm musculature. Claimant agreed that Dr. Frazier's physical examination of her right forearm in June of 2020, showed no abnormalities.

On cross examination, Claimant testified that she underwent physical therapy with Dr. Vargas for eight (8) to ten (10) weeks, three (3) visits per week, during which time the therapist treated Claimant with heat and cooling therapy as well as dry needle therapy. She also underwent occupational therapy with arm-specific exercises. However, Claimant stated that these therapies did not help her condition. Nevertheless, she was requesting additional heat and cooling therapy for her right arm.

Claimant further testified that Dr. Vargas released her from his care on April 24, 2020. She also agreed that Dr. Frazier released her from his care on July 23, 2020. She agreed that she last saw Dr. Frazier on July 23, 2020, and that her condition currently remained the same as when both doctors released her. Claimant stated that she has had health insurance continuously since her injury date through either Baptist Health or Southwest Airlines (her husband's health insurance).

When questioned about Claimant's gap in medical treatment, Claimant admitted on cross examination that she had not made any type of request for additional medical treatment to the Commission from the time she last saw Dr. Frazier in July of 2020, until the Respondents' filed a Motion to Dismiss on October 21, 2020.

Claimant also agreed that both Drs. Vargas and Frazier had released her to full duty work. Nevertheless, she admitted that she had changed her work status with Respondent-Employer to PRN (as needed), and subsequently decided not to return to full-time work due to her history of miscarriages, her current high-risk pregnancy, and the COVID-19 pandemic. Claimant specified that once she changed her employment status to PRN (as needed), she did not get called in enough to remain on the payroll, and her employment ended at that time. However, she testified that her decision to remain out of the workforce was not as a result of any restrictions that had been assigned to her right arm by a doctor.

Medical Exhibits:

An MRI of Claimant's forearm taken on February 13, 2020, showed no contusion or fracture and no evidence of muscle strain.

On April 21, 2020, Claimant underwent electrodiagnostic studies on her right wrist. The studies yielded normal results, and included specifically:

Normal electrodiagnostic examination.

1. There is no evidence of carpal tunnel syndrome, cubital tunnel syndrome, or a generalized peripheral neuropathy in the right upper limb of the nerves that were tested.
2. There is no electrodiagnostic evidence of a right cervical radiculopathy of the muscles that were tested.
3. Of note, EMG is not a sensitive study and also does not evaluate small sensory pain fibers. Thus a lack of active denervation does not exclude as active radiculopathy. Clinical correlation is needed to determine the significance of the findings on the EMG and NCS with today's study.

On April 24, 2020, Claimant saw Dr. Victor Vargas, an orthopedic specialist at OrthoArkansas. That day, Dr. Vargas's notes indicated that Claimant's MRI scan was unremarkable and her electrodiagnostic studies were also normal. He noted Claimant's complaints

of being unable to lift anything over five pounds and her continued complaints of pain in her right forearm. She was assessed with right forearm pain “of unknown origin.” Dr. Vargas noted that:

At this point we have no objective findings of injury to multiple testing including MRI and electromyography and nerve conduction study of the right upper extremity.

She had received treatment with physical therapy.

The patient preferred a mechanism of direct trauma over the wrist and forearm with a door.

This problem happened 4 months and a half ago. She has not improved despite all the treatment.

She has been recommended light duty but she also has resting.

I am considering with a reasonable degree of medical certainty that the patient has exhausted the treatment options without having objective findings and testing such as MRI and electromyography nerve conduction study and x-rays.

Therefore, I am considering that the patient does not require further treatment and is considered to be at maximum medical improvement.

Impairment rating:

The patient is entitled to 0% permanent impairment.

I recommend to discuss with the adjuster if she has further concerns including requesting a second opinion.

Claimant was released by Dr. Vargas to full duty work.

On June 11, 2020, Claimant saw Dr. Thomas Frazier for an evaluation of her right forearm and wrist pain following her compensable forearm injury. That day, Claimant complained of continued pain over the dorsum of the right forearm. Dr. Frazier’s notes included the following history: that Dr. Vargas placed a cast on the forearm for five to six weeks; that Claimant subsequently underwent outpatient therapy, including dry needling range of motion and functional modalities; that as a result of the COVID-19 pandemic, Claimant discontinued therapy and began



a home exercise program; that Claimant was released to full duty on April 24, 2020; that Claimant had not undergone pain management treatment; and that she was not on any medications at the time, other than the occasional ibuprofen. Dr. Frazier’s physical examination of Claimant’s right forearm, hand, and wrist revealed no abnormal findings, except for “tenderness to palpation over the exterior digitorum calmness [sic] muscle bellies.” An x-ray of Claimant’s right wrist showed no fracture or dislocation and no soft tissue swelling. Dr. Frazier assessed Claimant with a “contusion of the right forearm with continued pain,” and recommended an MRI scan of the forearm to evaluate the extensor digitorum communis muscle. Dr. Frazier noted that he was requesting Claimant’s therapy records to explain exactly what therapy had been performed on Claimant. In the meantime, she was allowed to continue full duty without restriction.

On June 18, 2020, Claimant saw Dr. Zulekha Hamid at the Little Rock Diagnostic Clinic for her Type 2 Diabetes Mellitus. Clinic records indicated that Claimant suffered from diabetes that was uncontrolled and complicated by nephropathy, hypertension, and hyperlipidemia. Claimant was assessed with Type 2 Diabetes Mellitus with diabetic nephropathy, with long-term use of insulin. Clinic notes indicated that Claimant was undergoing fertility treatment at that time.

On July 23, 2020, Claimant saw Dr. Frazier for a follow-up appointment for complaints of continued pain in her right forearm. Dr. Frazier’s Progress Notes indicated that Claimant’s MRI scan of her right forearm showed a contusion to the forearm musculature, but no evidence of fracture, nerve injury, or muscular tendinous disruption. Dr. Frazier indicated that Claimant had undergone extensive treatment including therapy with range of motion exercises, acupuncture, application of heat and cooling therapy, and strengthening. He assessed her with possible myofascial pain syndrome. He recommended pain management and began her on a low dose of

Lyrica to see if medication would improve her symptoms. He stated that Claimant should return to his office only on an as-needed basis.

On September 24, 2020, Claimant returned to Dr. Hamid for a follow-up on her diabetes and associated symptoms of weight gain, hyperlipidemia, and hypertension. Adjustments to Claimant's insulin regimen were made for Claimant's diabetes, which was uncontrolled.

On October 16, 2020, Dr. Vargas authored a letter wherein he opined the following as it related to objective findings:

I have been requested to establish if the patient has objective findings that support further treatment. Based on the most recent testing and advanced imaging studies, the patient still has no objective findings that explain her persistent pain. The most recent MRI with and without contrast was compared with the one done two months after the accident Mrs. Belizario-Ausbrooks sustained in December. The findings seen in the last MRI of minimal subcutaneous dorsal edema are new, which does not correlate with the initial claim accident. The patient's initial self-reported accident was when her right forearm was hit by a door when a door was open by a co[-]worker. The initial MRI showed no soft tissue, bone muscle or nerve injury. Mrs. Belizario-Ausbrooks's forearm pain falls into the category of subjective complaint.

Therefore, without objective findings and the extensive treatment over several months with physical therapy, bracing immobilization, and medications, I am still considering with a reasonable degree of medical certainty that the patient reached the maximum medical improvement on April 24, 2020, and no further treatment is recommended.

On December 1, 2020, December 29, 2020, January 28, 2021, and February 25, 2021, Claimant saw Dr. Hamid for further evaluation and management of her diabetes (uncontrolled and complicated by neuropathy), hyperlipidemia, and hypertension. There was no mention of Claimant's compensable injury to the right forearm, or any complaints of right forearm pain documented in any of Dr. Hamid's medical records.

Documentary Exhibits:

Respondents submitted Claimant's post-injury wage records from Baptist Health System from December 14, 2019, through August 15, 2020. The wage records indicated that there were weeks that Claimant did not work, with the largest gap being between February 8, 2020, pay period end and the May 9, 2020, pay period end. Claimant also worked very few hours in July and August of 2020, once she moved to PRN (as needed) status with Respondent-Employer.

**ADJUDICATION**

A. Reasonable and Necessary Medical Treatment:

The sole issue for determination is whether Claimant is entitled to additional medical treatment by Dr. Frazier in the form of further heat and cooling therapy on her right forearm.

The 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) (Repl. 2012). The employee has the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary. Stone v. Dollar General Stores, 91 Ark. App. 260, 209 S.W.3d 445 (2005).

However, it is well-settled that a claimant does not have to support a continued need for medical treatment with objective findings. Chamber Door Industries, Inc. V. Graham, 59 Ark. App. 224, 956 S.W. 2d 196 (1997).

In this matter, Claimant contends that her arm has not completely healed and that she is entitled to more therapy or additional medical treatment. Respondents contend that all appropriate

benefits have been paid. Further, respondents contend there are no objective findings of an acute injury and additional medical treatment is not reasonable and necessary.

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that Claimant failed to prove by a preponderance of the credible evidence that the additional medical treatment by Dr. Frazier in the form of further heat and cooling therapy on her arm is reasonably necessary in connection with her compensable right forearm injury of December 13, 2019.

Here, it is undisputed that Claimant suffered a compensable injury to her right forearm on December 13, 2019. Claimant initially treated with Dr. Vargas for her right forearm pain. An MRI of Claimant's right forearm yielded normal results and further EMG testing was also normal. Claimant's testimony and the medical records show that while under the care of Dr. Vargas, she underwent extensive treatment with medication; bracing immobilization; physical therapy three (3) sessions per week for eight (8) to ten (10) weeks, during which time the therapist treated Claimant with heat and cooling therapy as well as dry needle therapy; occupational therapy with arm-specific exercises; and a home exercise program after the Covid-19 pandemic began. The medical records also show that on April 24, 2020, Dr. Vargas released Claimant from his care, finding that Claimant had reached maximum medical improvement (MMI) and that Claimant had a zero percent (0%) impairment rating to the right forearm.

Because Claimant continued to experience pain in her right forearm, she pursued a change of physician from Dr. Vargas to Dr. Frazier for her compensable right forearm injury, which was granted on April 20, 2020. On July 23, 2020, Dr. Frazier's clinic notes show that all of the tests he performed that day yielded normal results. Claimant's X-ray of her wrist and forearm were

also normal. Dr. Frazier also shared the results of Claimant’s new MRI, revealing a contusion to the forearm musculature, but also ruling out evidence of a fracture, nerve injury, or muscular tendinous disruption. Dr. Frazier noted that Claimant had undergone “extensive treatment including therapy with range of motion exercises acupuncture application of heat and cold and strengthening.” As Claimant did not have a surgical problem, he recommended pain management and a trial of Lyrica, and then released her from his care.

Thereafter, on October 16, 2020, Dr. Vargas provided a follow-up medical opinion in the form of a letter after reviewing both of Claimant’s MRI scans and other medical records. In the letter, he opined that the second MRI obtained new findings that “did not correlate with the initial claim accident.” Dr. Vargas further concluded that Claimant’s original MRI showed no soft tissue, bone, muscle, or nerve injury; that Claimant’s continued complaints of arm pain were subjective in nature; that after undergoing extensive treatment, Claimant remained at maximum medical improvement (MMI); and that no additional medical treatment was recommended. I assign great weight to Dr. Vargas’s medical opinion.

I acknowledge Dr. Frazier’s recommendation for treatment in the form of pain management therapy and medication. However, based on my review of the evidence, Claimant has failed to establish a causal connection between the contusion identified in the second MRI, and her compensable injury of December 13, 2019. All of the testing performed on Claimant’s arm in the months following the compensable event yielded normal results, including an MRI and EMG testing. As noted by Dr. Vargas, the new MRI finding of a contusion did not correlate with the initial imaging taken after the compensable incident. Therefore, I find that additional medical

treatment in the form of heat and cooling therapy by Dr. Frazier is not reasonably necessary treatment for Claimant's compensable injury of December 13, 2019

In the matter at hand, Claimant is specifically requesting additional heat and cooling therapy from Dr. Frazier; however, Claimant testified that the heat and cooling therapy she received while under the care of Dr. Vargas failed to improve her symptoms, and that as a result, she continued to experience forearm pain.

Moreover, Claimant testified that her arm pain remained the same since she last saw Dr. Frazier in July of 2020; however, there are no additional medical records (including those of Dr. Hamid) indicating that Claimant pursued any additional medical treatment for her compensable injury, despite having health insurance coverage continuously since her December 13, 2019, compensable injury, either through Baptist Health or through her husband's health insurance with Southwest Airlines. The only medical evidence in the record after Claimant last saw Dr. Frazier on July 23, 2020, was with Dr. Hamid regarding her diabetes and other health conditions that were unrelated to her compensable right forearm injury. Those medical records did not contain any notations regarding complaints of right arm pain or a compensable injury to her right forearm.

Both Dr. Vargas and Dr. Frazier released Claimant from their care in April and July of 2020 with no restrictions. Testimony showed that Claimant voluntarily changed her employment status to PRN (as needed) and soon thereafter her employment ended. She has not returned to work since that time. She admitted on cross examination that she left the workforce due to her history of miscarriages, her current high-risk pregnancy, and the added risk of the COVID-19 pandemic, all of which were unrelated to the compensable injury to her forearm.

I think it is noteworthy that although Claimant complains of right arm pain and tingling in her fingers, she admitted that it did not significantly impact her daily activities. She testified that she was able to walk for exercise, prepare meals, do laundry, and dress herself. In fact, she admitted that although she was slower to accomplish tasks requiring fine motor skills, she was still able to engage in hobbies such as cross-stitching and scrapbooking. Claimant stated that she enjoyed cross-stitching and scrapbooking as much as two to three days a week.

In light of Claimant's testimony of her history of miscarriages, her current high-risk pregnancy, and her treatment for uncontrolled diabetes and other pregnancy related conditions, I sympathize with Claimant's current health condition. However, Claimant's testimony of continued right arm pain and her need for additional medical treatment is simply not supported by a preponderance of the evidence. While Claimant testified that she continued to have pain in her right arm, she has not sought medical treatment for her right arm since she last saw Dr. Frazier in July of 2020, despite having health insurance coverage. Claimant also stated that extensive physical therapy, bracing immobilization, and medication treatment did not improve her symptoms. Moreover, initial imaging and testing yielded normal results, and Dr. Vargas released her at maximum medical improvement (MMI) and a zero percent (0%) impairment rating in April of 2020. Lastly, the contusion shown on Claimant's second MRI was a new finding, and there was no evidence of a causal connection between the contusion in the second MRI and her compensable injury of December 13, 2019

In sum, based on the record before me, I find that Claimant has failed to establish by a preponderance of the evidence that additional medical treatment, specifically in the form of further

heat and cooling therapy by Dr. Frazier, is reasonably necessary to treat her compensable right forearm injury of December 13, 2019.

**ORDER**

The Claimant failed to prove by a preponderance of the credible evidence that additional medical treatment, in the form of further heat and cooling therapy, is reasonably necessary in connection with her compensable right forearm injury of December 13, 2019, pursuant to Ark. Code Ann. § 11-9-508(a) (Repl. 2012). Therefore, this claim is respectfully denied and dismissed.

---

**KATIE ANDERSON**  
**ADMINISTRATIVE LAW JUDGE**