

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G705258

BARBARA BOYD, Employee	CLAIMANT
WALMART ASSOCIATES, INC., Employer	RESPONDENT
WALMART CLAIMS SERVICES, Carrier/TPA	RESPONDENT

OPINION FILED MARCH 1, 2021

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

Claimant appearing *pro se*.

Respondents represented by CURTIS L. NEBBEN, Attorney, Fayetteville, Arkansas.

OPINION

On January 7, 2021, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on October 7, 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 prior opinions are final.

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

1. Unpaid medical bills.

The claimant contends that respondent is liable for payment of medical bills for her

compensable injury.

The respondent contends that it has paid all medical benefits owed for claimant's compensable injury.

From a review of the record as a whole, to include all documents and other matters properly before the Commission, and having had the 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 October 7, 2020, and contained in a pre-hearing order filed that same date are hereby accepted as fact.

2. Claimant has failed to prove by a preponderance of the evidence that there are unpaid medical bills for treatment relating to her compensable neck injury.

FACTUAL BACKGROUND

The claimant began working for respondent in July 2016 and on July 25, 2017, was employed by respondent as an assistant manager. On July 25, 2017, claimant and other employees were in the process of walking outside through a garage door that was manually opened and closed. Claimant described her accident as follows:

A. Just we was all going outside and the gentleman, I guess he was going to close the door behind us, but as I went out, like I told you, I don't know if he didn't see me or whatever, but he just slammed it down on my head.

Q. Okay. So did it hit your forehead? Did it hit the top of your head? Do you remember where it hit you?

A. I don't remember exactly where it hit it.

The parties had previously stipulated that claimant suffered a compensable injury to her neck on July 25, 2017, and that respondent had paid medical benefits through August 29, 2017. Claimant sought medical treatment for an injury to her head, including a concussion, headaches, and vestibular injury. Respondent did not accept liability for those conditions.

On November 7, 2018, a hearing was conducted on claimant's claim that she suffered a compensable injury to her head, which included a concussion, headaches, and vestibular injury on July 25, 2017. In an opinion filed November 28, 2018, this administrative law judge found that claimant had failed to meet her burden of proving that she suffered any compensable injury to her head, including a concussion or vestibular injury, on July 25, 2017. Therefore, respondent was not liable for payment of any medical benefits associated with an injury to her head.

This opinion was appealed by claimant to the Full Commission which in an opinion filed April 11, 2019 affirmed and adopted the administrative law judge opinion. The Full Commission opinion was not appealed and is final.

Claimant has filed this claim contending that there are unpaid medical bills.

ADJUDICATION

Claimant contends that respondent is liable for payment of unpaid medical bills associated with her compensable injury. Claimant has the burden of proving by a

preponderance of the evidence that respondent is liable for payment of medical treatment.

The only compensable injury in this case is the injury to claimant's neck which was accepted by respondent prior to the first hearing. A finding was made after that hearing that claimant had failed to prove a compensable injury to her head on July 25, 2017. Therefore, respondent is only liable for paying medical bills associated with the neck injury. Respondent is not liable for paying medical bills relating to a head injury.

At the second hearing on January 7, 2021, claimant indicated that she had been receiving medical treatment in the form of therapy for her neck from Dr. Julie Slavick. Claimant did not introduce any of Dr. Slavick's medical bills or medical records at the hearing; therefore, it is impossible to find that this medical treatment is related to the compensable neck injury.

At the hearing claimant also mentioned medical treatment involving her head.

I have a severe - - from getting hit in the head, I have severe migraine; I have excruciating headache, and also it has messed with my back and my legs. It's like my doctor said, it could be a rotating thing. I'm not sure; I'm not a doctor. And I have vision problems....

As previously discussed, a prior finding was made that claimant failed to prove that she suffered a compensable injury to her head on July 25, 2017. That finding is final and respondent is not liable for any medical treatment given to claimant for an injury to her head or any other associated ailments which she relates to her head injury such as migraine headaches, vision problems, or back and leg issues.

In addition to asking for payment of medical bills, claimant also asked to "put the settlement back to where it was." Apparently, a settlement was discussed by the parties

prior to the first hearing. Even after the second hearing, a decision on the merits of the claim was delayed at the parties' request in order to give the parties an opportunity to settle the claim. The respondent subsequently chose not to pursue a settlement and the claim is now being considered based on the record from the hearing. A settlement is a voluntary agreement between the parties (subject to Commission approval) and the Commission does not have the authority to compel either party to settle a claim.

Finally, I note that at the hearing claimant mentioned benefits for pain and suffering.

If they're not related to that and you find it under the law that it's not related to that, all I told him were pain and suffering, you know, because like I said, my livelihood - - I don't work. I can't work. I can't stand up over a hour.

There is no provision under the Arkansas Workers' Compensation law which allows for the award of benefits relating to pain and suffering.

In summary, claimant has the burden of proving by a preponderance of the evidence that there are unpaid medical bills relating to her compensable neck injury. I find that claimant has failed to meet her burden of proof. Claimant presented insufficient credible evidence that there are any medical bills relating to her compensable neck injury which remain unpaid. Furthermore, respondent is not liable for any medical treatment associated with an injury to claimant's head or associated ailments which claimant relates to her head such as migraine headaches, vision issues, or back and leg issues. In addition, the Commission does not have the authority to force the respondent to settle the claim and finally, there is no provision for the award of benefits for pain and suffering

under Arkansas workers' compensation law.

ORDER

Claimant has failed to prove by a preponderance of the evidence that there are unpaid medical bills for treatment relating to her compensable neck injury. Respondent is not liable for payment of any medical bills relating to an injury to claimant's head or associated ailments which claimant relates to her head injury. Therefore, her claim for compensation benefits is hereby denied and dismissed.

Respondent is liable for payment of the court reporter's charges for preparation of the hearing transcript.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE