

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H402480

MARK BALLARD, EMPLOYEE

CLAIMANT

U S XPRESS, INC., EMPLOYER

RESPONDENT

GREAT WEST CASUALTY COMPANY, CARRIER/TPA

RESPONDENT

OPINION FILED MARCH 11, 2025

Hearing before Administrative Law Judge, Steven Porch, on February 4, 2025, in Little Rock, Arkansas.

Claimant represented himself, *Pro Se*, Vilonia, Arkansas.

Respondents were represented by Mr. Eric Newkirk, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A full hearing was held on this claim on February 4, 2025. A prehearing telephone conference took place on November 20, 2024. A prehearing order was entered on that date and subsequently entered into evidence as Commission Exhibit 1. The parties' stipulations are set forth.

STIPULATIONS

By agreement of the parties, the stipulations applicable to this claim are as follows:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. The employer/employee/carrier relationship existed among the parties on March 23, 2024, when Claimant allegedly sustained compensable injuries to his left elbow and left hip.
3. Respondents have controverted this claim in its entirety.
4. The parties stipulate to Claimant's Temporary Total Disability (TTD) benefits rate being \$876.00 and Permanent Partial Disability (PPD) benefits rate being \$657.00, weekly.

The parties have identified the following issues to be adjudicated:

1. Whether Claimant sustained compensable injuries to his left hip and left elbow by specific incident.
2. Whether Claimant is entitled to reasonable and necessary medical treatment and related expenses, including mileage and out of pocket expenses.
3. Whether Claimant is entitled to Temporary Total Disability (TTD) from March 24, 2024, to a date to be determined.

All other issues are reserved.

CONTENTIONS

Claimant contends that:

1. He passed out and fell on his left hip at Love's Truckstop in Carthage, Texas.
2. He was injured while working for U S Xpress.
3. He reported the injury to the Respondent employer.

Respondents contend that:

1. They cannot establish a compensable injury on March 23, 2024, have no knowledge of a purported work incident and assert that no work-related event/incident occurred on March 23, 2024.
2. Alternatively, any issues that occurred were idiopathic in nature and in no way causally connect to any sort of work activities or specific work event/incident. Thus, any resulting left hip or left elbow problems would not be compensable or in any way work-related as they were instead traceable to an idiopathic fall.

3. They are unaware of any objective medical findings of left hip or left elbow injury. To the extent any objective medical findings do exist then such findings are traceable to pre-existing abnormalities and not work-related or causally connected to a compensable work event/incident on March 23, 2024.
4. They plead an offset for any group medical insurance or group short-term disability benefits paid to the Claimant or on his behalf. Respondents also assert an offset for any unemployment benefits paid to the Claimant, to the extent allowed under Arkansas law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Therefore, after a thorough consideration of the facts, issues, the applicable law, and the evidentiary record, 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 over this claim.
2. The stipulations set forth above are reasonable and are hereby accepted.
3. The Claimant has not proven that he has sustained a left elbow and left hip injury with objective findings nor was his passing out episode work-related.
4. Based on my findings of no compensability, the remaining issues of reasonable and necessary medical treatment, and temporary total disability benefits are moot and will not be addressed in this opinion

CASE IN CHIEF

Summary of Evidence

The record is made up of Claimant's Exhibit 1A and 1B, pictures, consisting of 2 pages total, Claimant's Exhibit 2, payment records, that consists of 18 pages, Respondents' Exhibit 1, medical records, that consist of 93 pages, Joint Exhibit 1, driver message history, consisting of 128

pages, and Commission Exhibit 1, Pre-Hearing Order filed July 2, 2024, that consists of 5 pages. Forms AR-C, AR-2, and AR-1 will be blue-backed and made a part of the evidentiary record. The Claimant was the only witness testifying at the full hearing.

Claimant was employed as a truck driver for the Respondent/Employer. On March 23, 2024, Claimant passed out at a gas pump in Carthage, Texas after filling up his work truck.¹ The Claimant was rushed, by ambulance, to UT Health Carthage, emergency department. Resp. Ex. 1, pp. 64 – 71. The attending provider was Dr. Orlando Beckum. After examining the Claimant, Dr. Beckum diagnosed Claimant's fainting episode as syncope, the unspecified type. *Id.* The Claimant alleges he had injured his left elbow and left hip when he passed out. But did not introduce one scintilla of medical evidence into the record showing a left elbow or left hip injury. Moreover, the Claimant did not provide any documentary/medical proof demonstrating a nexus between his employment and his fainting episode at the gas pump. The Claimant, however, did testify that he did have an x-ray of his left hip that shows bone spurs, but did not produce the x-ray report. When asked why he did not produce the x-ray report he stated that the doctor's office would not give him the records. Trans. p.76, line 25, thru p. 78, lines 1 – 7.

The Claimant's testimony was speculative as to why he passed out resulting in the alleged injuries to his left elbow and left hip. The Claimant alleges that he was on the road for fifteen days without his medication for his high blood pressure, diabetes, and other medical conditions. Trans. p. 24, lines 19 – 25, thru p. 25, lines 1 – 3.; Trans. p. 38, lines 13 – 25, thru p. 39, lines 1 2. The Claimant testified that he did make it home to get his medication and was taking it two or three

¹ Claimant alleges that his issues began with a spider bite that occurred inside the cab of his truck around September 9, 2022, but healed a month later. Trans. p. 16, lines 21 – 25 thru p. 17, lines 1 – 25. I found the testimony concerning the spider bite wholly irrelevant to Claimant's March 23, 2024, passing out episode and subsequent alleged left hip and left elbow injury. The Claimant has never made a workers' compensation claim for the spider bite.

days prior to passing out at the gas station pump in Carthage, Texas. Claimant also testified that he was going to get something to eat after getting gas for his truck. The Claimant blamed Respondent/Employer as the reason he passed out. The Claimant alleged that Respondent/Employer did not allow him to go home to get his medication during that fifteen-day stretch when he was without his medication. But contrary to his allegation, Claimant testified that he didn't ask Respondent/Employer to go home to get his medication during those fifteen days. Trans. p. 33, lines 9 – 16. The Claimant also testified that he did not tell the Respondent/Employer that he wasn't feeling well. Trans. p. 35, lines 2 – 25.

Adjudication

A. Whether Claimant sustained a compensable injury to his left elbow and left hip by specific incident.

Under Arkansas Code Annotated § 11-9-102(4)(A)(i) (Repl. 2012), which I find applies to the analysis of Claimant's alleged injuries, defines "compensable injury":

(i) An accidental injury causing internal or external physical harm to the body . . . arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is "accidental" only if it is caused by a specific incident and is identifiable by time and place of occurrence[.]

A compensable injury must be established by medical evidence supported by objective findings. Ark. Code Ann. § 11-9-102(4)(D) (Repl. 2012). "Objective findings" are those findings that cannot come under the voluntary control of the patient. *Id.* § 11-9-102(16). The element "arising out of . . . [the] employment" relates to the causal connection between the claimant's injury and his or her employment. *City of El Dorado v. Sartor*, 21 Ark. App. 143, 729 S.W.2d 430 (1987). An injury arises out of a claimant's employment "when a causal connection between work conditions and the injury is apparent to the rational mind." *Id.*

If the Claimant fails to establish by a preponderance of the evidence any of the requirements for establishing compensability, compensation must be denied. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997). This standard means the evidence having greater weight or convincing force. *Barre v. Hoffman*, 2009 Ark. 373, 326 S.W.3d 415; *Smith v. Magnet Cove Barium Corp.*, 212 Ark. 491, 206 S.W.2d 442 (1947).

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.*

Claimant has not proven by the preponderance of the evidence that he sustained a compensable work-related injury to his left elbow and left hip with objective findings. The Claimant has not proven that a specific work-related event occurred that caused the Claimant to pass out at the gas pump resulting in the alleged left elbow and left hip injury. The Claimant argues that it was his lack of medication for fifteen days that ultimately caused him to pass out. The Claimant has not provided any medical evidence to substantiate this claim. During my review of Respondents submitted medical records covering the day of the alleged incident, March 23, 2024, to August 29, 2024, there was no mention of a left elbow or a left hip injury. Resp. Ex. 1, pp. 66-89. As to the reason the Claimant passed out, the records refer to it as syncope, the unspecified type. *Id.* at 64-71. The Claimant also testified that he never told his employer that he needed his

medication during those fifteen days. Trans. p. 33, lines 9 - 16. The Claimant further testified that he has neglected his health and that he just messed up. Trans. p. 47, lines 9 – 24. I find by the preponderance of the evidence that Claimant’s passing out episode was idiopathic, likely a result of him not taking care of his own personal health, but not work-related.

Moreover, Claimant has not produced any medical evidence demonstrating an injury to his left elbow and left hip. The Claimant has not introduced any medical records whatsoever into the evidentiary record. Nor did he specify the alleged work-related event that caused the Claimant to pass out resulting in the alleged left elbow and left hip injury. Looking solely at Respondent’s submitted medical record, Dr. Beckum diagnosed the Claimant’s passing out episode as syncope, the unspecified type. Resp. Ex. 1, pp. 64 – 71. Furthermore, Dr. Beckum did not link Claimant’s fainting episode with his employment. Thus why, I must find that the Claimant has failed to prove by the preponderance of the evidence that he has sustained a work-related injury, with objective findings, to his left elbow and left hip. Therefore, Claimant’s claim must fail. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997).

MISCELLANEOUS ISSUES

Based on my previous findings that Claimant has failed to prove he sustained a work-related injury by specific incident and the lack of objective findings of a left elbow and left hip work-related injury, the remaining issues regarding reasonable and necessary medical treatment, temporary total disability benefits, are moot and will not be addressed in this opinion.

CONCLUSION

In accordance with the Findings of Fact and Conclusions of Law set forth above, the parties shall act consistent with this opinion.

BALLARD H402480

IT IS SO ORDERED.

Hon. Steven Porch
Administrative Law Judge