

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NOS. G102781 & G102783

JAMES BASSHAM, EMPLOYEE	CLAIMANT
CITY OF SPRINGDALE, EMPLOYER	RESPONDENT
MUNICIPAL LEAGUE WCT., INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED MAY 9, 2022

Upon review before the FULL COMMISSION in Little Rock, Pulaski County, Arkansas.

Claimant represented by the HONORABLE JASON M. HATFIELD, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE MARY K. EDWARDS, Attorney at Law, North Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Respondents appeal an opinion and order of the Administrative Law Judge filed November 10, 2021. In said order, the Administrative Law

Judge made the following findings of fact and conclusions of law:

1. The stipulations agreed to by the parties at a pre-hearing conference conducted on August 4, 2021 and contained in a pre-hearing order filed that same date are hereby accepted as fact.
2. Claimant has met his burden of proving by a preponderance of the evidence that he is entitled to additional medical treatment from Dr. Knox in the form of an evaluation.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's November 10, 2021 decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on appeal.

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. §11-9-809 (Repl. 2012).

For prevailing on this appeal before the Full Commission, claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. § 11-9-715(Repl. 2012). For prevailing on appeal to the Full Commission, the claimant's attorney is entitled to an additional fee of five hundred dollars (\$500), pursuant to Ark. Code Ann. §11-9-715(b)(Repl. 2012).

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

Commissioner Palmer concurs

CONCURRING OPINION

I concur, by separate opinion, with the majority finding that the Claimant is entitled to a follow-up visit with his treating physician, Dr. James Knox.

Claimant sustained compensable back and left knee injuries in 2010. Eventually, Dr. Knox became Claimant's treating physician. The last time Dr. Knox treated Claimant was in August 2011 when he released Claimant at maximum medical improvement, assigned him an impairment rating, and referred him to Carolyn Nutter PA-C—who in turn referred Claimant to Dr. Lou for pain management.

Claimant never sought treatment with Dr. Lou. Instead, Claimant sought unauthorized medical treatment, first from a clinic in Oklahoma and then beginning in 2014, from his family doctor, Dr. Lawrence Schemel. Dr. Schemel prescribed Claimant tramadol from 2014 until June 2020 when Dr.

Schemel refused to prescribe any more tramadol to Claimant because Claimant tested positive for marijuana, methamphetamine, and non-prescribed opioids. Around this time, Claimant was also fired from his job for violating the City's drug policy. Claimant received a medical-marijuana card in August 2021.

Respondents are correct that Claimant's treatment for the past decade was unauthorized—meaning Respondent is not liable for payment. Payment or not, unauthorized or not, it is fair to say he has had treatment. To say that there is no need for Claimant to see Dr. Knox because it has been 11 years since Dr. Knox last treated Claimant and because Dr. Knox did not suggest any further treatment when he last treated Claimant overlooks the fact that he did, in fact, receive treatment, even if unauthorized. The crux is not payment or authorized versus unauthorized but that treatment was ongoing.

Regardless of who footed the bill, it is undisputed that Claimant has been receiving pain medication from the time of his compensable injuries until Dr. Schemel fired Claimant as a patient in June 2020. I, too, am concerned with the drug abuse but agree with the ALJ that Claimant is entitled to an evaluation by Dr. Knox and that Dr. Knox should first have copies of all medical records for treatment Claimant has had since his last appointment with Dr. Knox nearly 11 years ago.

Accordingly, for the reasons set forth above, I must concur with the majority opinion.

CHRISTOPHER L. PALMER, Commissioner