

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H201972

JAMES BEAUCHAMP,
EMPLOYEE

CLAIMANT

CONAGRA FOODS PACKAGED FOODS, LLC,
EMPLOYER

RESPONDENT

BROADSPIRE SERVICES, INC.,
INSURANCE CARRIER/TPA

RESPONDENT

OPINION FILED SEPTEMBER 28, 2023

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

Claimant represented by the HONORABLE EVELYN E. BROOKS, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE JARROD S. PARRISH, Attorney at Law, Little Rock, Arkansas.

ORDER

The respondents in the above-styled matter have filed a **MOTION FOR RECONSIDERATION AND REQUEST FOR DETERMINATION ON CONSTITUTIONALITY IN THE ALTERNATIVE**. The Full Commission denies the respondents' motion for reconsideration, and we find that the respondents have not suffered a violation of their constitutional rights.

The parties stipulated that the employee-employer-carrier relationship existed on January 4, 2022. The claimant testified that he fell on his left knee and hip that day at work. A pre-hearing order was filed on September 15, 2022. The claimant contended, among other things, that he was "entitled to medical treatment for his right hip, and pelvic fractures in

addition to treatment respondents are providing for his left hip.” The respondents contended that the claimant “did not suffer a right hip injury on or about January 4, 2022.” The parties agreed to litigate issues including, “1. Whether claimant sustained a compensable injury on January 4, 2022, regarding his right hip and pelvis.” After a hearing, an administrative law judge filed an opinion on January 23, 2023. The administrative law judge found that the claimant proved he “suffered a compensable injury to his right hip and pelvis on January 5, 2022.”

The respondents appealed to the Full Commission. The Full Commission filed an opinion on July 13, 2023 and found that the claimant did not prove he sustained a compensable injury to his right hip or pelvis on January 4, 2022. However, we found that “the claimant’s right hip and pelvis difficulties were a natural consequence of the January 4, 2022 compensable injury to the claimant’s left hip.” The Full Commission awarded temporary total disability benefits beginning February 15, 2022 until a date yet to be determined.

In their motion for reconsideration, the respondents state that the Full Commission determined *sua sponte* that the claimant’s right hip and pelvis injury was a natural consequence of the compensable left hip injury. The respondents assert that the Full Commission “interjected another issue/contention to justify awarding Claimant benefits.” However, the

Arkansas Court of Appeals has held that Arkansas Workers' Compensation Rule 25, which defines the scope of review from the administrative law judge to the Full Commission, does not preclude the Commission from reviewing issues not appealed from or not raised at the administrative law judge level if it so chooses. *See CHI St. Vincent Infirmary v. McCauley*, 2023 Ark. App. 126, citing *Pharmerica v. Seratt*, 103 Ark. App. 9, 285 S.W.3d 699 (2008). The Full Commission has the authority, and the duty, to render anew findings relevant to the claim before it. *Id.*

Moreover, we reiterate the claimant's pre-hearing contention that he was "entitled to medical treatment for his right hip, and pelvic fractures in addition to treatment respondents are providing for his left hip." The respondents expressly argued in their brief on appeal to the Full Commission, "**A. CLAIMANT DID NOT ESTABLISH A CAUSAL LINK BETWEEN HIS ALLEGED RIGHT HIP INJURY AND THE COMPENSABLE INJURY TO HIS LEFT HIP.**" In arguing that there was no "causal link" between the claimant's alleged right hip injury and the compensable injury to the claimant's left hip, the respondents plainly and manifestly raised to the Full Commission the pertinent issue of whether the claimant's right hip injury was a "natural consequence" of the compensable left hip injury. Stated another way, the issue of whether there was "a causal connection" between the compensable left hip injury and alleged right hip

injury was squarely and properly before the Full Commission. The Full Commission recognized that the burden was on the claimant to establish the necessary causal connection. *See Nichols v. Omaha Sch. Dist.*, 2010 Ark. App. 194, 374 S.W.3d 178.

The Full Commission therefore denies the respondents' motion for reconsideration. The respondents do not identify which section of the Constitution of the United States or Constitution of Arkansas have purportedly been violated by the Full Commission's award of benefits in the present matter. Nevertheless, there is no evidence of record demonstrating that the Full Commission has denied the respondents' federal or state constitutional rights.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

Commissioner Mayton concurs, in part, and dissent, in part.

CONCURRING AND DISSENTING OPINION

I concur, in part, and dissent, in part, with the majority's opinion. Specifically, I concur with the majority's denial of the respondents' motion

for reconsideration and finding that the respondents have not suffered a violation of their constitutional rights.

It is well settled that Arkansas Workers' Compensation Commission Rule 25, defining the scope of review from the ALJ to the Commission, does not preclude the Commission from reviewing issues not appealed from or not raised at the ALJ level if it so chooses. *Pharmerica v. Seratt*, 103 Ark. App. 9, 285 S.W.3d 699 (2008). The Commission reviews cases appealed to it de novo, and the duty of the Commission is not to determine whether there was substantial evidence to support the ALJ's findings; rather, it must make its own findings in accordance with a preponderance of the evidence. *Id.* (citing *Tyson Foods, Inc. v. Watkins*, 31 Ark. App. 230, 792 S.W.2d 348 (1990)). Hence, the Commission has authority, and the duty, to render anew findings relevant to the claim before it. *Id.*

Our Rules and case law are clear that the Commission is empowered to raise relevant issues *sua sponte* on appeal. *CHI St. Vincent Infirmary Med Ctr. v. McCauley*, 2023 Ark App. 126, 663 S.W.3d 411 (2023).

However, I respectfully dissent from the finding of the majority that the respondents “expressly argued in their brief on appeal to the Full Commission, ‘**A. CLAIMANT DID NOT ESTABLISH A CAUSAL LINK BETWEEN HIS ALLEGED RIGHT HIP INJURY AND THE**

COMPENSABLE INJURY TO HIS LEFT HIP,” therefore “plainly and manifestly” raising the issue of whether the claimant’s right hip injury was a natural consequence of his compensable injury. (P. 3). This finding is not relevant to the issue before the Commission and fails to address the respondents’ position that “[t]he main thrust of the arguments made by Claimant seems to be that he injured his right hip in the initial incident but did not discover that fact until a later date.” The respondents did not raise or argue the issue of whether the claimant’s right hip injury was a natural consequence of his compensable left hip injury.

For the reasons stated above, I concur, in part, and dissent, in part, from the majority’s opinion.

MICHAEL R. MAYTON, Commissioner