

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H403425

DAVID BONEWELL, EMPLOYEE CLAIMANT

VAN BUREN SCHOOL DISTRICT, EMPLOYER RESPONDENT

ARKANSAS SCHOOL BOARDS ASSOCIATION WCT,
INSURANCE CARRIER RESPONDENT

OPINION FILED MARCH 25, 2026

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

Claimant represented by the HONORABLE EDDIE H. WALKER, Attorney at Law, Fort Smith, Arkansas.

Respondents represented by the HONORABLE CAROL LOCKARD WORLEY, Attorney at Law, 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 October 7, 2025. 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 April 21, 2025, and contained in a Pre-hearing Order filed April 22, 2025, are hereby accepted as fact.
2. The Claimant has proven by a preponderance of the evidence that he sustained a compensable injury to his left elbow on or about March 25, 2024.

3. The Claimant has proven by a preponderance of the evidence that he is entitled to medical treatment for his compensable left elbow injury.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's 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 of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

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).

Therefore, we affirm and adopt the October 7, 2025 decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

Commissioner Mayton dissents.

DISSENTING OPINION

I must respectfully dissent from the majority opinion finding the claimant sustained a compensable injury to his left elbow on March 25, 2025.

The claimant suffered a compensable left shoulder injury on March 25, 2024, while working for the respondent employer. The claimant initially complained of a left elbow injury, but did not complain of left elbow symptoms between April or May of 2024 and January of 2025.

The claimant underwent an elbow MRI on April 7, 2024, and respondents denied compensability based upon the findings of that MRI.

After a hearing, an administrative law judge opined that the claimant had met his burden of proving a compensable injury. Respondents appeal.

Arkansas Code Annotated section 11-9-102 (4)(A)(i) provides that a compensable injury includes “[a]n accidental injury causing internal or external physical harm to the body. . . An injury is ‘accidental’ only if it is caused by a specific incident and is identifiable by time and place of occurrence.”

Generally, a specific incident injury is an accidental injury arising out of the course and scope of employment caused by a specific incident identifiable by time and place of an occurrence. Ark. Code Ann. § 11-9-102(4)(A)(i). This, therefore, requires that a claimant establish by a preponderance of the evidence: (1) an injury arising out of and in the course of employment; (2) that the injury caused internal or external physical harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings establishing an injury as defined in Ark. Code Ann. §11-9-102(16) and; (4) that the injury was caused by a specific incident identifiable by time and place of occurrence. Ark. Code Ann. § 11-9-102(4)(A)(i).

A compensable injury must be established by medical evidence supported by "objective findings." Ark. Code Ann. § 11-9-102(4)(D). Objective findings cannot come under the voluntary control of the patient. Ark. Code Ann. § 11-9-102(16).

It is within the Commission's province to weigh all the medical evidence, to determine what is most credible, and to determine its medical soundness and probative force. *Sheridan Sch. Dist. v. Wise*, 2021 Ark. App. 459, 637 S.W.3d 280 (2021).

In weighing the evidence, the Commission may not arbitrarily disregard medical evidence or the testimony of any witness. *Id.* 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. *White v. Gregg Agricultural Ent.*, 72 Ark. App. 309, 37 S.W.3d 649 (2001).

Even if the claimant contends that his injury was an aggravation of a pre-existing elbow condition, he has failed to meet his burden of proof. An aggravation is a new injury resulting from an independent incident. *Crudup v. Regal Ware, Inc.*, 341 Ark. 804, 20 S.W.3d 900 (2000).

An aggravation, being a new injury with an independent cause, must meet the requirements for a compensable injury to establish compensability

for the aggravation. *Farmland Ins. Co. v. Dubois*, 54 Ark. App. 141, 923 S.W. 2d 883 (1996).

In his Opinion, the ALJ relies on Dr. Chad Songy's January 16, 2025 report, which states that "this is an acute worsening of a pre-existing problem." However, Dr. Songy's report from this visit also stated:

[t]he patient has advanced elbow arthritis affecting both the radiocapitellar and ulnohumeral joint. The arthritis was certainly pre-existing and is associated with intra-articular loose bodies... I also suspect the majority of the damage to his tendons were present as well associated with the degenerative changes in the joint, but we are unable to determine this without a pre-existing MRI.

Dr. Songy uses uncertain language here, because there are no previous records to establish or rule out a pre-existing condition. A diagnosis such as "acute worsening" itself is not an objective finding. *Parson v. Arkansas Methodist*, 103 Ark. App. 178, 287 S.W.3d 645 (2008).

While Dr. Songy notes the ostensible "worsening" of the claimant's pre-existing condition, the claimant has failed to provide any information regarding the pre-existing condition of his elbow beyond his own self-serving testimony.

Neither Dr. Songy nor the ALJ can know within a reasonable degree of medical certainty if any of the findings on the claimant's MRI are related to the accident on March 25, 2024, without relying on speculation or conjecture. Speculation and conjecture cannot substitute for credible evidence. *Smith-Blair, Inc. v. Jones*, 77 Ark. App. 273, 72 S.W.3d 560 (2002).

The claimant has failed to meet his burden of proving that he suffered a specific incident injury or an aggravation to his left elbow. There are no objective findings to support any acute injury or aggravation to the claimant's elbow. The sole basis for the claimant's allegations is his own subjective complaints of pain and self-serving testimony. There is no evidence in the record to support these allegations.

Accordingly, for the reasons set forth above, I must dissent.

MICHAEL R. MAYTON, Commisioner