

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. D201010

HOWARD CARR, EMPLOYEE

CLAIMANT

**COOPER TIRE & RUBBER COMPANY,
EMPLOYER**

RESPONDENT NO. 1

**CENTRAL ADJUSTMENT COMPANY,
INSURANCE CARRIER/TPA**

RESPONDENT NO. 1

**DEATH & PERMANENT TOTAL DISABILITY
TRUST FUND**

RESPONDENT NO. 2

OPINION FILED JULY 29, 2021

Hearing held before Administrative Law Judge Chandra L. Black, in Texarkana, Miller County, Arkansas.

Claimant represented by Mr. Eddie H. Walker, Jr., Attorney at Law, Fort Smith, Arkansas.

Respondents No. 1 represented by Ms. Karen McKinney, Attorney at Law, Little Rock, Arkansas.

Respondents No. 2 represented by Christy King, Attorney at Law, Little Rock, Arkansas. Ms. King did not take part in the hearing.

STATEMENT OF THE CASE

On May 11, 2021, the above-captioned claim came on for a hearing in Texarkana, Arkansas. A Prehearing Telephone Conference was conducted in this claim on February 23, 2021, from which a Prehearing Order was filed on that same date. The Prehearing Order has been marked as Commission's Exhibit #1 and made a part of the record.

Stipulations

During the Prehearing Telephone Conference, or at the start of the hearing, the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within Claim.
2. The employee-employer-insurance carrier relationship existed at all relevant times, including on or about January 4, 1982, at which time the Claimant sustained a compensable injury, which has rendered him permanently and totally disabled.
3. The prior decisions of the Commission are the law of the case.
4. All issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.
5. This claim for additional benefits has been controverted by Respondents No. 1.

Issues

The parties agreed to litigate the following issues: Whether the Claimant is entitled to eight hours a day, seven days a week of home health care and modifications to his bathroom, bedroom, and hallway of home to make those areas handicap accessible, consistent with the American Disabilities Act.

Contentions

The parties' respective contentions are as outlined below:

Claimant:

- a. Claimant contends that his treating surgeon, Dr. Guthikonda is recommending a handicap accessible bedroom, bathroom as well as continuous daytime home health care and that said recommendation constitute reasonably necessary medical benefits.
- b. The Claimant contends that the Respondents are denying reasonably necessary medical benefits and therefore are controverting said benefits. Such controversion entitles the Claimant's attorney to any attorney's fee.
- c. The Claimant contends that although it was ordered in an Opinion filed June 20, 2014 that the Claimant's attorney is entitled to an attorney's fee in regard to mileage reimbursement benefits it appears that such fees have not been paid and therefore the Claimant's attorney contends entitlement to said fees.
- d. At the start of the hearing, the Claimant's attorney asserted the Claimant is entitled to have eight hours a day, seven days a week home health care as recommended by his

treating surgeon. His treating surgeon has also recommended modification of his bathroom so that it is handicap accessible. By “handicap accessible,” the Claimant means consistent with the American Disabilities Act regulations in regard to access for disabled people, and the same is true in terms of the bedroom.

Respondents No. 1:

Respondents No. 1 filed an Amended Response to the Prehearing Questionnaire. Specifically, Respondents No. 1 stated that the Claimant is demanding payment for a complete bathroom and bedroom remodel and continuous daytime home health care. Dr. Richard B. Sharp noted on May 18, 2020 that Claimant’s requests for a remodeled bedroom and bathroom, a new bed, and neck and leg orthopedic pillows are not medically necessary. Nevertheless, Respondents provided the Claimant with the requested orthopedic pillows and Respondents have offered the Claimant a new elevated commode and new grab bars in the bathroom area. The Claimant refused these requests and is asking for a complete bathroom and bedroom remodel. Respondents contend they are not responsible for the maintenance and repairs to Claimant’s home that must be performed prior to modifying the home to make it more handicapped accessible. Respondents further contend that a remodeled bedroom is not reasonable and necessary for treatment of Claimant’s compensable injury. Respondents further contend Claimant’s request for continuous daytime home health care is also not reasonable or medically necessary for the treatment of Claimant’s compensable injury.

Summary of Evidence

The record consists of the hearing transcript of May 11, 2021, and the exhibits contained therein. Specifically, the following exhibits have been made a part of the record: Commission’s Exhibit No. 1 consists of the Commission’s Prehearing Order of February 23, 2021, and the parties’ respective response to the Prehearing Questionnaire. For Claimant’s Exhibit 1, the Claimant

offered into evidence an Index of Documentary Evidence, consisting of 23 pages. The Claimant entered into evidence an Index of Documentary Evidence of a letter from Carolyn Covington/Hearts and Hands, consisting of one page, which has been marked as Claimant's Exhibit 2. The Claimant admitted into evidence an Index of Documentary Evidence, which included 26 Photographs, on 13 numbered pages. These were marked as Claimant's Exhibit 3. The Claimant offered into evidence Claimant's Exhibit 4, an Index of Documentary Evidence, which included a Video. The Claimant's Index of Documentary Evidence of an Opinion previously filed on June 20, 2014, by Former Administrative Law Judge Mark Churchwell, consisting of 26 pages was admitted into evidence as Claimant's Exhibit 5. The Claimant offered into evidence an Index of Documentary Evidence, which included a one-page Correspondence, which has been marked as Claimant's Exhibit 6. Respondents offered into evidence nine pages of Medical Records, which have been marked as Respondents' Exhibit 1. Respondents offered into evidence a total of 73 pages of former Administrative Law Judges, Full Commission, and Court of Appeals Opinions. These have been marked as Respondents' Exhibit 2.

Following the hearing, I asked the parties for clarification on the issues via e-mail. Therefore, these e-mail exchanges have been blue-backed and are incorporated into the hearing transcript of May 11, 2021.

Witnesses

Ms. Kellisha Goodwin, the Claimant's daughter, and Mr. Howard Carr, the Claimant, testified on behalf of the Claimant. Ms. Judy Bourne, the insurance adjuster, testified on behalf of Respondents No. 1.

Based on my review of the record as a whole, to include the aforementioned documentary evidence, other matters properly before the Commission, and after having had an opportunity to

hear the testimony of the witnesses and observe their demeanor, I hereby make the following findings of fact and conclusions of law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. I hereby accept the aforementioned stipulations as fact.
3. The Claimant has established by a preponderance of the evidence his entitlement to modifications to his hallway, bedroom, and bathroom so that they are handicap accessible, consistent with the American Disabilities Act in regard to access for disabled people.
4. The Claimant has proven by a preponderance of the evidence his entitlement to additional home health care (four hours of care on Thursdays and Fridays).

TESTIMONY

Killisha Goodwin

Ms. Goodwin confirmed that she recorded some physical measurements of the doorway to the Claimant's bedroom, and the size of his bathroom and wheelchair. The bathroom dimensions are 96 inches in length, and 85 and a half inches width. She testified that the bathroom door is 84 inches in length and 29 and a half inches in width. His wheelchair is 29 and a half inches in width. The Claimant's bedroom door is 84 inches in length and 30 and a half inches in width. Ms. Goodwin confirmed that the Claimant's bedroom door is only an inch wider than his wheelchair. This same applies for the Claimant's bathroom door.

According to Ms. Goodwin, she has personally observed the difficulty the Claimant has trying to get into his bedroom with his wheelchair. She testified that he also has significant difficulty trying to get out of his bedroom because the door width causes him significant difficulty. Ms. Goodwin agreed that the Claimant has fallen in the last nine months.

Under further questioning, Ms. Goodwin testified that her dad has difficulty transferring out of bed. According to Ms. Goodwin, the Claimant has significant weakness in his hands. She gave a brief overview of the process for him to pull himself out of bed. (TR 12-13)

Ms. Goodwin testified that the Claimant has fallen in the bathtub while trying to transfer himself over. A copy of what was marked as Claimant's Exhibit 3 was shown to Ms. Goodwin. She admitted to taking the pictures. Ms. Goodwin denied having modified the pictures. She agreed that the photos show a device hanging above the bed, which the Claimant uses to pull himself up in bed. Ms. Goodwin admitted that it has black duct tape around it because it has broken on several occasions. According to Ms. Goodwin, when the Claimant pulls on the strap, his weight causes it to "snap in two."

She agreed that Photos 10 and 12 depict a board that the Claimant uses to put underneath his legs to secure himself enough with the wheelchair to transfer himself over into the chair from the bed. Ms. Goodwin denied seeing the Claimant use any other method for getting out of bed. She admitted to taking photographs of the doors to the bathroom and bedroom. According to Ms. Goodwin, Photos 21 and 22 show where the Claimant scraped up against the doorway with his wheelchair. She explained that Photo 21 shows two doors: the door going into the hallway and the one door going into the bathroom. Ms. Goodwin essentially agreed that the one going into the hallway is "all scraped up and stuff," from the Claimant trying to get his wheelchair through the entrances.

With respect to Photo 24, she agreed that it depicts the Claimant's toilet seat. According to the Claimant, it is 25 years old and has duct tape around it. She explained:

Q And then what's this other thing here?

A It was the new one that was sent over, but it is too small for him to fit in. He's afraid he's going to fall, and the arms don't move like the one in the front; so he can't even

transfer into it with the board --

Q And that's --

A -- because he has to use the board to transfer over from one because he can't physically lift himself to hold himself up to transfer.

Q So it's taller than the regular seat, but it's not usable because of these instability issues that you're talking about?

A Yes, sir.

Ms. Goodwin confirmed Picture 26 shows the bathtub that the Claimant must get in and out of. The Claimant currently uses a chair in the bathtub and must have assistance getting into his bathtub from the wheelchair.

On cross examination, Ms. Goodwin admitted that she lives in Rowlett, Texas. It is a suburb of Dallas. She visits her dad every two or three months. Ms. Goodwin admitted to taking the video that has been introduced into evidence. She admitted that Cooper Tire provided the Claimant with the trapeze bar that he uses to lift himself out of bed. Ms. Goodwin also admitted that they provided the strap that he uses.

Ms. Goodwin denied being aware that the Respondents offered to put in a full handicap accessible commode. She verified that it is her testimony that the new seat does not work.

Howard Carr/the Claimant

The Claimant testified that he underwent his first surgery in 1982. The Claimant returned to work. He had a second surgery in 1996. Since this time, the Claimant has not been able to work. The Claimant confirmed that he has requested that the insurance company/Respondents No. 1 in this case, provide him with eight-hour-a-day home health care. This recommendation was made by his neurosurgeon, Dr. Guthikonda.

The Claimant agreed that this service would help him to have his breakfast, lunch, supper each day. He also would be able to run errands and pay bills. The Claimant further stated that if he were in therapy, he would be able to go back and forth to therapy without being in a rush. He lives out in the country and from time to time, he has to go into town.

Currently, the Claimant has 12 hours of home health care provided to him. He agreed that they are not able to help with his lunch meals. The Claimant testified that they prepare them during the time they are there. His home health care workers put his meals in the refrigerator, and he heats them in the microwave. According to the Claimant, he takes a bath once a week. He agreed that if he had someone available eight hours a day, seven days a week, he would be able to bathe more often. According to the Claimant, he needs help getting in and out of the bathtub.

The Claimant agreed that he has fallen. According to the Claimant, when trying to move around or trying to adjust himself, his legs give out on him, and he falls. He stated that he has problems using the parallel bars. These are located on the side of his bed. The Claimant verified that the trapezoid device has broken on him.

He confirmed that he also has problems with a broken commode cover. The Claimant testified that the commode seat is “too small and flimsy.” He is six feet, five inches, tall and weighs 300 pounds. The Claimant gave a detailed explanation of his difficulty getting in and out of the bathtub. (TR 30)

Regarding the Claimant’s condition, he testified that he believes his condition has changed in the last few months. The Claimant testified that his legs are weak, his back hurts sometimes, and his arms are not as strong as they were. He agreed that having a handicap accessible bathroom would help his condition. The Claimant further agreed that this would reduce the likelihood of him falling and having additional injuries. In fact, the Claimant has had experience with getting

back pain when his wheelchair broke, and he fell out of it and ended up having surgery to his lumbar spine. This issue was litigated, and the Claimant prevailed on compensability and associated benefits.

As of the date of the hearing, the Claimant continued to have problems with his legs collapsing. He agreed that he has problems with spasticity, where his legs jump, quiver, and become weak. The Claimant testified that his hands are weak. According to the Claimant, he has lost most of the feeling his fingers. The Claimant denied that the Respondents offered him an elevated commode.

On cross examination, the Claimant testified that he had a conversation with Dr. Sharp about getting help with his bedroom and bathroom. He verified that the nurse case manager took some pictures, years ago. However, the Claimant denied having refused to let them put the grab bars in the bathroom area.

The Claimant admitted that he can feed himself. However, the Claimant explained that he is unable to prepare his meals because he “gets burned.” He admitted that he does not have a catheter. According to the Claimant he sometimes has mishaps.

He essentially agreed that he wishes someone to come in to get him to take him to pay his bills. These include his utility bills, loans, and credit cards. He admitted that he has a computer and access to internet at his home. However, the Claimant testified that he does not care to pay his bill online because he does not know how to use a computer that well. According to the Claimant, he sometimes gets caught up at the doctor’s office for two or three hours. He denied that the Respondents pay for his transportation to his primary care physician. The Claimant can administer his own medication. According to the Claimant, he has had bedsores from sitting and lying, in bed.

The Claimant confirmed that in 2016, he requested a transfer bench and a new elevated commode seat. Those items were replaced by the Respondents. He denied having received an estimate for the work he wants done at his home.

In that that regard, the Claimant testified:

Q And you have not? And what is it exactly that you're wanting done in your bedroom, because we don't know? We've just been told a remodel.

A I need it where I can be able to get in and out of my bed easier and move around better.

The Claimant agreed that a hospital bed would make it a lot easier for him. However, the Claimant essentially testified that he needs a king-sized bed. He confirmed that he does not object to a hospital bed if the Respondents are willing to supply one for him.

Dr. Guthikonda last saw the Claimant on December 3, 2020. At that point, he wrote a prescription for the Claimant to have a bedroom remodel, a bathroom remodel, and eight hours a day home health care. The Claimant essentially denied having requested the script for these services. Instead, the Claimant testified that Dr. Guthikonda saw the condition he was in and made these recommendations. He admitted that Dr. Guthikonda has no idea what his bed or bedroom looks like because he has not seen his home. The Claimant essentially admitted that in 2018, he requested modifications to refinish walls, install handicapped rails and a new tub surround, and resurfacing of the floor materials.

On redirect examination, the Claimant confirmed that the request for modifications back in 2018 and here we are in 2021 and they have not been done. The Claimant confirmed that he needs those things done. He denied that his condition has gotten any better. The Claimant verified that currently he receives home health services from 12:00 p.m. until 4:00 p.m. on Mondays and Wednesdays. He testified that this allows for enough time for them to help him with his baths and

take care of his personal needs. However, he confirmed that they come in from 4:00 p.m. until 6:00 p.m. on Thursdays. During this time, they help him with cleaning his house and getting everything straightened up. On Fridays, the Claimant has home health help from 12:00 p.m. until 2:00 p.m.

He verified that even Dr. Sharp said in his report of April 12, 2021, that a handicap bathroom would be medically necessary because of his condition of being in a wheelchair. The Claimant agreed that Dr. Sharp recommended he go back to Dr. Guthikonda. The Claimant denied that Dr. Sharp is a neurosurgeon. However, the Claimant agreed that Dr. Guthikonda is s a neurosurgeon. According to the Claimant, Dr. Guthikonda performed his surgery. He verified that he has confidence in Dr. Guthikonda's training and his recommendations.

Upon being questioned by the Commission, the Claimant testified that he has fallen twice in the last year. He denied that he has a shower in his bathroom at this time.

Judy Bourne

Ms. Bourne has been employed by Central Adjustment for nine years. She is familiar with the Claimant's workers' compensation claim. Ms. Bourne has been the adjuster managing the claim since the start of her employment with the insurance company.

She verified that the Claimant had an estimate done for repairs to his home back in 2016. At that time, Rhonda Fleming was overseeing the claim. She agreed that there was a letter from Dr. Sharp for some home maintenance and remodeling. According to the Ms. Bourne, they offered a new elevated commode and installation of safety bars around the tub. However, she testified that the Claimant refused the grab bars in the bathroom area. Ms. Bourne testified that the floor had softened, and they could not install a new commode until the home maintenance was performed.

On cross examination, Ms. Bourne denied she was aware that Dr. Sharp had written a report indicating that a handicap bathroom was medically necessary due to the Claimant being confined to a wheelchair.

MEDICAL EVIDENCE

On May 18, 2020, the Claimant underwent a follow-up evaluation by Dr. Richard B. Sharp.

History of Present Illness:

This is a 67 -year-old with a work injury at Cooper Tire & Rubber Company in 1982. The patient was lifting iron skids and developed acute onset of neck pain January of that year with bilateral arm numbness. The patient was followed by Dr. Bohmfalk and in February of 1982 underwent cervical surgery. He returned back to work but in 1996, he began to have increased neck pain with burning down the arms and shoulders. He began to have gait abnormality with excessive falling. In 2003, he underwent repeat cervical surgery. Unfortunately, postoperatively, he developed infection and bilateral leg clots. Around 2009, he was coming out of his house when his wheelchair broke and his lower back struck a door frame. An MRI of the lower lumbar spine in 2009 showed abnormality and he underwent lumbar fusion. He developed a urinary tract infection subsequently and hydrocele with repair in 2010. Cervical spine MRI that showed stenosis. The patient was followed in Shreveport, Louisiana and had decompressive surgery at LSU in Shreveport 1/20/17. He subsequently underwent inpt rehab. He states his last surgery was done by Dr. G in Shreveport. He takes baclofen up to TID, Tylenol #3 up to 6 per day, bowel medications. He utilizes a wheelchair for mobility. Still with spasticity. No hospitals. His legs collapsed in the bathroom last year and he has a hole in his wall which he expects workers [sic] comp to pay for. Increased neck, shoulder and low back pain. Some had numbness. He requests neurosurgery follow up. Most recent neck and back x-rays with bathroom, bedroom, bed, neck and leg pillow. I stated this will not happen as it is not medically necessary. He requests handicap accessible bedroom, bathroom, orthopedic neck and leg pillows. A prescription is written that will help only with taxes. He feels he has increased arm numbness. Recent gastritis.

Per a prescription note pad, dated May 18, 2020, Dr. Sharp recommended that the Claimant's bedroom/bathroom be remodeled for "handicap accessibility."

The Claimant was evaluated by Dr. Guthikonda on December 3, 2020. The Claimant was noted to have a history of C2-3 laminectomy with fusion on January 20, 2017, which was performed by Dr. Guthikonda. At that time, the Claimant complained of neck and shoulder pain

with popping and constant pain. The Claimant and his daughter requested help with ADLs. Per this note, the Claimant was unable to bathe himself because his bathroom is not handicap accessible. The Claimant also requested a hospital bed. Dr. Guthikonda noted that the MRI of the cervical spine showed post-op change, no recurrent or new stenosis, but was positive for cord arthrosis. At that time, Dr. Guthikonda assessed the Claimant with “1. Chronic pain syndrome. 2. Neck pain,” for which he recommended a referral to physical therapy.

Dr. Guithkonda wrote the following letter on December 15, 2020:

It is my medical opinion that Mr. Carr requires a handicap accessible bedroom and bathroom due to his physical limitation that were acquired as a results [sic] of his work related injury. I also believe continuous daytime (8 hours/day) Home Health including weekends is necessary for his recovery. If you have any questions or concerns do not hesitate to call.

On April 12, 2021, Dr. Sharp wrote the following letter:

I am in receipt of questions January 29, 2021 by Donna Lanford, RN. I recalled seeing a letter written by Dr. Guthikonda regarding his medical opinion for the necessity of a handicap accessible bedroom and bathroom and continuous a home health therapy during the daytime. I was not aware of a request for my medical opinion. Certainly a handicap bathroom would be optimal and would be medically necessary given his wheelchair bound status. I cannot see where a handicap bedroom would add much more to his function. Based on his reported functional deficits, exam and current functions level, I cannot see where continuous home health is needed during the days and weekends for his recovery. No further recovery is likely to be made.

The Claimant introduced into evidence 26 photographs of his bedroom, bathroom, and hallway. These have been reviewed and considered herein this Opinion. A Video was also introduced into evidence by the Claimant. It has been reviewed and given consideration herein as well. My review of this evidence reveals the challenges that the Claimant encounters getting in and out of his bathtub. It also illustrates the Claimant’s significant functional deficits due to increased weakness in his upper and lower extremities due to his compensable neck injury and compensable consequence lumbar spine injury.

Respondents No. 1 introduced eight opinions from earlier court proceedings. These have been considered herein this Opinion.

ADJUDICATION

Issue 1: Modifications to the Claimant's bedroom, hallway, and bathroom per the guidelines of the American Disabilities Act

This claim has a lengthy procedural history. At the time of Claimant's compensable injury of January 4, 1982, he was only 29 years of age. The Claimant is now 68 years old. The Claimant initially sustained a compensable injury to his cervical spine in January 1982 while working for Cooper Tire & Rubber Company. It appears that the Claimant was performing employment duties of lifting iron skids and developed acute onset of neck pain.

The Claimant underwent surgeries to his cervical spine in 1982 and in 1996. Following these surgeries, a hearing was conducted on April 14, 1999. At that time, the Claimant was declared to be permanently and totally disabled as a result of his compensable injury of January 4, 1982. The Administrative Law Judge's (ALJ) decision in this regard was affirmed.

Subsequently, a hearing held on April 2, 2009, to decide if Respondents No. 1 were liable for the lumbar spine injuries that the Claimant sustained during a fall when his wheelchair broke. The ALJ found that the Claimant sustained an L5-S1 disk injury, for which he was entitled to lumbar spine surgery as proposed by Dr. Jorge Martinez. Respondents No. 1 provided this treatment along with post-rehabilitation treatment.

Since this time, there has been litigation regarding a multitude of issues including, but not limited to reimbursements for travel expenses, home health assistance, additional medical treatment for his lumbar injury, and temporary total disability. As of the date of the hearing, the Claimant continued to receive some medical benefits and permanent and total disability benefits.

The Claimant has now asserted his entitlement to a handicap accessible bathroom, bedroom, and hallway per the requirements of the American Disabilities Act.

Since the Claimant's compensable injury occurred in 1982, it is governed by the provisions of the Arkansas Workers' Compensation Law, as it existed before the enactment of Act 796 of 1993.

The applicable statute in 1982 is outlined in Ark. Stat. Ann. § 81-1311 (Repl. 1976). Specifically, it reads:

The employer shall promptly provide for an injured employee such medical, surgical, hospital, and nursing services, and medicine, crutches, artificial limbs and other apparatus as may be reasonably necessary for the treatment of the injury received by the employee.

As previously noted, the Claimant has been rendered permanently and totally disabled as a result of his compensable neck injury January 4, 1982. He also suffered a compensable consequence injury to his back as a result of his compensable injury. The Claimant is confined to wheelchair as a result of his compensable injuries to his neck and back. The medical records, the Claimant's testimony and that of his daughter, Ms. Goodwin, show that the Claimant suffers ongoing increased significant weakness in his upper and lower extremities as a result of his compensable injuries. The hearing testimony and the documentary evidence show that the Claimant's legs give-way. His testimony shows that he has fallen on at least two occasions in the last year.

Specifically, both the Claimant and his daughter credibly testified that the Claimant has fallen trying to transfer from the wheelchair to the bed, bathtub, and/or commode. The Claimant has difficulty grooming and using the commode due to inadequate accommodations. Moreover, the measurements taken by the Claimant's daughter prove that the Claimant's wheelchair is about

an inch wider than the doorways. The pictures introduced into evidence by the Claimant shows the scrapes and scratches on the wall caused by his wheelchair.

Here, the Respondents No. 1 are correct in their assertion that the Claimant is not entitled to have his home remodeled. However, I am persuaded that the Claimant's wheelchair status, and residual physical functional deficits/limitations make it reasonable and medically necessary treatment for his own personal safety to have modifications to his home's hallway, bedroom, and bathroom to make them handicap accessible to meet his wheelchair-bound needs pursuant to the American Disabilities Act. This is particularly true with regard to the Claimant's upper and lower extremities. The medical evidence demonstrates that the Claimant continues with spasticity and numbness in the fingers. During the hearing, I observed these symptoms in the Claimant. Moreover, the medical evidence shows that the Claimant has previously sustained a fall. Ultimately, this incident resulted in lumbar fusion surgery. Since this time, the Claimant's condition has worsened, and he has become weaker due to his compensable injury and subsequent fall.

On December 3, 2020, the Claimant's treating neurosurgeon, Dr. Guthikonda, recommended additional physical therapy for his functional deficits. In addition to this, on December 15, 2020, Dr. Guthikonda opined that the Claimant requires a handicap accessible bedroom and bathroom due to his physical limitations that were acquired as a result of his work-related injury. I have attached significant weight to the Claimant's treating neurosurgeon's expert opinion because it is corroborated by other probative evidence of record.

In fact, on May 18, 2020, Dr. Sharp initially opined that the Claimant needed a handicap accessible bedroom and bathroom. However, in April 2021, Dr. Sharp opined that only a handicap accessible bathroom was medically necessary, but the evidence does not demonstrate that Dr.

Sharp had physically examined the Claimant since his last visit of May 2020, almost a year ago. Yet now Dr. Sharp has opined: “I cannot see where a handicap accessible bathroom would add much to his function.” Considering that in April of 2020, Dr. Sharp opined to the contrary after physically examining and seeing the Claimant’s functional deficits, I have afforded his most recent opinion of April 2021, with only minimal weight given all of the other evidence demonstrating the Claimant’s functional deficits.

Therefore, considering the expert opinion of the Claimant’s treating surgeon, Dr. Guthikonda, the fact that the Claimant has been rendered permanently and totally disabled due to his compensable injury, Dr. Sharp’s initial recommendation of May 2020, the testimony of both the Claimant and his daughter, the fact that the Claimant’s compensable injury has resulted in him being confined to a wheelchair, and all of the other foregoing reasons, I am persuaded that modifications to the Claimant’s bathroom, bedroom, and hallway to make them handicap accessible are reasonable and medically necessary due to his compensable injury of January 1982.

Issue 2: Nursing Services

I find that the Claimant has proven by a preponderance of the evidence that additional home health care is reasonably necessary due to his compensable injury of January 4, 1982. In that regard, his testimony demonstrates that the current schedule does not provide enough time for him to bathe, take care of his personal needs, and attend medical appointments. The Claimant’s testimony also shows that he has had problems with bed sores due to prolonged sitting. His testimony shows that he bathes only once week. The Claimant also testified that he has mishaps. On December 3, 2020, Dr. Guthikonda recommended additional physical therapy for the Claimant’s functional deficits due to his compensable injuries.

Currently the Claimant has four hours of care on Mondays and Wednesdays. This care shall remain the same. However, the Claimant has only two hours of attendant care on Thursdays and Fridays. Based on the evidence before me, I find that the Claimant proved his entitlement to two additional hours of home health care on Thursdays and Fridays. Specifically, the Claimant's care on those two days is increased to four hours of care. These additional hours of home health care will give the Claimant the opportunity to shower more often, ambulate/stand without the risk of falling, take care of his personal needs, and attend medical visits.

AWARD

Respondents No. 1 are directed to pay medical benefits in accordance with the findings set forth herein.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge