

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H005187

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| JACOB M. CIFUENTES, Employee | CLAIMANT |
| CITY OF GENTRY, Employer | RESPONDENT |
| ARKANSAS MUNICIPAL LEAGUE WCT, Carrier | RESPONDENT |

OPINION FILED FEBRUARY 4, 2021

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

Claimant represented by JASON M. HATFIELD, Attorney, Springdale, Arkansas.

Respondents represented by MARY K. EDWARDS, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On January 13, 2021, the above captioned claim came on for hearing at Springdale, Arkansas. A pre-hearing conference was conducted on November 9, 2020 and a pre-hearing order was filed on that same date. A copy of the pre-hearing order has been marked as Commission's Exhibit #1 and made a part of the record without objection.

At the pre-hearing conference the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. The employee/employer/carrier relationship existed among the parties at all relevant times.
3. The claimant sustained a compensable injury to his left knee on May 8, 2020.

At the pre-hearing conference the parties agreed to litigate the following issue:

1. Claimant's entitlement to additional medical treatment from Dr. Arnold.

The claimant contends he sustained a compensable injury while working for respondent on or about May 8, 2020. At that time, claimant was in the course and scope of his employment with respondent when he sustained a lifting injury. Dr. Christopher Arnold is claimant's treating physician and has recommended an OATS procedure. After receiving the recommendation, the respondents sent claimant to Little Rock for an IME, and subsequently, respondents have controverted this treatment.

The respondents contend that additional medical treatment is not reasonable or necessary.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witness and to observe his demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at a pre-hearing conference conducted on November 9, 2020 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. Arnold. This includes a second surgical procedure on the claimant's left knee.

FACTUAL BACKGROUND

The claimant is a 30-year-old man who previously worked for the Washington

County Sheriff's Office and as a patrolman for the Fayetteville Police Department. In April 2020 claimant was hired by respondent as a patrolman.

Initially, it should be noted that prior to going to work for the respondent as a patrolman in April 2020, claimant had suffered an injury to his right knee while lifting weights. This was a non-work related injury and claimant is seeking no benefits for any right knee complaints. However, claimant did undergo surgery on that right knee, including the surgical procedure that has been recommended by Dr. Arnold in this particular case. Claimant has paid for all medical treatment relating to his right knee with his group health insurance.

On May 8, 2020, the claimant suffered an admittedly compensable injury to his left knee while he was performing a training exercise that required him to pull a heavy bag that weighed approximately 200 pounds. Claimant testified that while he was performing this exercise his left knee popped. Claimant reported the injury and was sent by respondent for medical treatment at Community Physicians Group.

Claimant's initial medical treatment was received from Catherine Casey, ANP, on May 28, 2020. Casey diagnosed claimant's condition as acute pain of the left knee and she prescribed medication and the use of an ace wrap for work. She also referred claimant for an orthopedic evaluation.

Claimant was seen by Dr. Christopher Arnold for an orthopedic evaluation on June 18, 2020. Dr. Arnold assessed claimant's condition as an internal derangement of the left knee and ordered an MRI scan to evaluate for a meniscus tear. Dr. Arnold also restricted claimant to sit down work only. Claimant returned to work for respondent performing sit down work and has since been promoted to detective.

Claimant underwent the MRI scan on June 25, 2020, and it did not reveal a meniscal tear or ligamentous derangement. Instead, it revealed that claimant suffered from Chondromalacia patella. According to Dr. Arnold, this is a condition that causes pain under the kneecap.

Dr. Arnold performed an arthroscopic procedure on claimant's left knee on July 22, 2020. In a post-operative report dated July 30, 2020, Dr. Arnold referred claimant for physical therapy. The medical records indicate that claimant underwent physical therapy, but that he continued to have problems involving his left knee.

In a report dated September 3, 2020, Dr. Arnold noted that claimant's condition was worsening. He also recommended a second surgical procedure.

Patient had a work injury with a chondral defect patella trochlea medial femoral condyle he is offered no relief from the scope. He is excellent candidate for articular allograft patella trochlea medial femoral condyle with a tibial tubercle osteotomy to unload the patellofemoral joint. He had no pain prior to his work injury this is all work-related.

Respondent denied claimant's entitlement to additional medical treatment from Dr. Arnold and claimant has filed this claim contending that he is entitled to the additional medical treatment, including surgery.

ADJUDICATION

Claimant contends that he is entitled to additional medical treatment from Dr. Arnold, including the proposed surgical procedure. Claimant has the burden of proving by a preponderance of the evidence that he is entitled to additional medical treatment.

Dalton v. Allen Engineering Company, 66 Ark. App. 201, 989 S.W. 2d 543 (1999).

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that claimant has met his burden of proof.

In response to Dr. Arnold's opinion recommending a second surgical procedure, respondent had claimant evaluated by Dr. Lawrence O'Malley, orthopedic surgeon. Dr. O'Malley did not agree with the specific surgical procedure recommended by Dr. Arnold, and he also was of the opinion that more than 51% of claimant's current problems were due to a pre-existing condition, not his work-related injury. Specifically, Dr. O'Malley stated:

After full review of the patient's history and imaging along with arthroscopic imaging I feel that greater than 51% of the patient's current issue is due to a pre-existing trochlear and femoral condyle chondromalacia. The patient appears to have had trochlear chondral loss due to excessive use bilaterally. I feel as though that his left knee trochlear chondral loss was exacerbated by his work injury but greater than 51% of his current issues are not due to his work related injury.

Surgical options for treatment of his left knee, he may consider microfracture of the defect along with possible tibial tubercle osteotomy, MACI or osteochondral allograft. A full trochlear osteochondral allograft is very difficult to obtain appropriate contour surgically.

At this point I would release him to activities as tolerated. Recommend continued quad strengthening and patellar tracking exercises along with anti-inflammatories on a p.r.n. basis.

In addition to Dr. O'Malley, respondent also had claimant's medical records reviewed by Dr. Theodore Hronas, a radiologist. Dr. Hronas authored a report dated January 3, 2021, in which he stated:

In summary, there is abnormal signal within Hoffa's fat pad characteristic of a subacute injury of the infrapatellar plica, and consistent with an acute injury secondary to the work-related injury described on 05/08/2020. The small focus of grade II chondromalacia within the superior aspect of the trochlear groove represents a chronic finding not related to the work-related event described on 05/08/2020.

Dr. Arnold was given the opportunity to review Dr. O'Malley's opinion. In a letter dated December 21, 2020, Dr. Arnold stated that he disagreed with Dr. O'Malley's opinion and again reiterated that claimant was in need of a second surgical procedure.

He had no problems with his left knee until a work injury. He developed sharp joint line pain, swelling, catching, and locking. He had findings consistent with a chondral defect. MRI suggested a chondral defect. I scoped his knee and performed a chondroplasty patellar, trochlea, and medial femoral condyle. He had a grade-II chondral defect patella, grade III to IV about the trochlea and a grade III about the medial femoral condyle.

The scope has failed to alleviate his symptoms and I subsequently recommend osteoarticular autograft to the trochlea and possibly medial femoral condyle. I would do a tibial tubercle osteotomy to unload the trochlear defect. I disagree with Dr. O'Malley that osteochondral allografts are difficult in the trochlea. We have done approximately 100 of these over the years with approximately 85% good excellent results.

Now the question is, is there causation of his need for a cartilage restoration. It is my medical opinion that greater than 51% need for cartilage restoration is related to his workers' compensation injury. This is based on the fact that he had no problems with his knee prior to the injury; this is given the fact that he had traumatic injury, which was followed by the acute onset of mechanical signs and symptoms. At the time of the arthroscopy, he had findings consistent with a

full-thickness chondral defect to the trochlea, which corresponds to his mechanism of injury and his symptoms are related. (Emphasis added.)

I find that the opinion of Dr. Arnold is entitled to greater weight than that of Dr. O'Malley and Dr. Hronas. First, Dr. Arnold is an orthopedic specialist whereas Dr. Hronas is a radiologist. In addition, even though Dr. O'Malley is also an orthopedic surgeon, Dr. Arnold has treated claimant on multiple occasions whereas Dr. O'Malley only evaluated the claimant on one occasion. Furthermore, and more importantly, Dr. Arnold has the benefit of having actually observed the condition of claimant's knee during the arthroscopic procedure. Thus, he is not relying solely upon imaging studies or on a physical examination. Accordingly, I find that Dr. Arnold's opinion is credible and entitled to greater weight than the opinions of Dr. Hronas or Dr. O'Malley.

Based upon the opinion of Dr. Arnold, which I find to be credible and entitled to great weight, I find that claimant has met his burden of proving by a preponderance of the evidence that he is entitled to additional medical treatment from Dr. Arnold. This includes the proposed second surgical procedure.

AWARD

Claimant has met his burden of proving by a preponderance of the evidence that he is entitled to additional medical treatment from Dr. Arnold. This includes the proposed second surgical procedure on claimant's left knee.

Pursuant to A.C.A. §11-9-715(a)(1)(B)(ii), attorney fees are awarded "only on the amount of compensation for indemnity benefits controverted and awarded." Here, no

indemnity benefits were controverted and awarded; therefore, no attorney fee has been awarded. Instead, claimant's attorney is free to voluntarily contract with the medical providers pursuant to A.C.A. §11-9-715(a)(4).

Respondents are responsible for paying the court reporter's charges for preparation of the hearing transcript in the amount of \$426.25

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE