

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. **H109911 & H407455**

TRENTON COLE, EMPLOYEE	CLAIMANT
SOUTHERN TIRE MART LLC, EMPLOYER	RESPONDENT
TRAVELERS INDEMNITY COMPANY, CARRIER/TPA	RESPONDENT #1
THE HARTFORD	RESPONDENT #2

OPINION FILED **DECEMBER 2, 2025**

Hearing before ADMINISTRATIVE LAW JUDGE JOSEPH C. SELF in Fort Smith, Sebastian County, Arkansas.

Claimant is represented by EDDIE H. WALKER, JR., Attorney, Fort Smith, Arkansas.

Respondent #1 is represented by GUY A. WADE, Attorney, Little Rock, Arkansas.

Respondent #2 is represented by RANDY MURPHY, Attorney, Little Rock. Arkansas.

STATEMENT OF THE CASE

On September 8, 2025, the above captioned claim came on for a hearing at Fort Smith, Arkansas. A pre-hearing conference was conducted on March 13, 2025, 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 this claim.
- 2 The employee/employer/carrier relationship existed on December 8, 2021, and April 12, 2024.
- 3 Claimant sustained a compensable injury on December 8, 2021.

By agreement of the parties, the issues to be litigated and resolved at the forthcoming hearing were limited to the following:

1 Did claimant suffer a new injury/aggravation or a recurrence on April 12, 2024.

All other issues are reserved by the parties.

The claimant contends that “His ongoing need for treatment is due to the effects of his December 8, 2021, injury. The April 12, 2024, incident was simply a recurrence of symptoms arising out of his December 8, 2021, injury and not a new injury. The respondents have controverted his entitlement to additional compensation, including medical treatment, regarding his December 8, 2021, compensable injury. The claimant contends that he is entitled to medical mileage reimbursement that remains unpaid.”

Respondent #1 contends that “Respondent, Travelers contends that the original injury was accepted with applicable benefits paid. Claimant was released and returned to work and sustained a new injury almost two years after his release. Respondent Travelers did not provide workers’ compensation coverage on April 12, 2024, and they are NOT responsible for benefits for the subsequent injury. Claimant’s benefits are being paid for the subsequent April 2024 injury and therefore have not been controverted by any party, regardless of responsible carrier.”

Respondent #2 contends that “Claimant did not sustain a new injury or an aggravation on April 12, 2024. Respondents contend that the claimant’s knee problems and alleged injury of April 12, 2024, were a continuation or recurrence of injuries on December 8, 2021.”

From a review of the entire record including medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the claimant 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 March 13, 2025, and contained in a pre-hearing order filed on that same date are hereby accepted as fact.
2. The evidence preponderates that claimant's compensable left knee injury of April 12, 2024, was a recurrence, not an aggravation; said injury is the responsibility of Respondent No. 1, Travelers.

HEARING TESTIMONY

Claimant was the only witness to testify for any party. He related how he was injured in 2021, which was accepted as a compensable injury to his left knee. Dr. Tom Coker performed surgery on his left knee and has followed claimant's treatment since that surgery. Claimant said his knee has had issues which he termed "going out" and which he further explained was his knee would twist out of socket and cause him to fall.

On April 12, 2024, claimant was trying to ease back into work to see what he was capable of performing at his job. He was putting a tire on a vehicle; after removing the first one and putting the second one on, he said his left knee folded, causing him to fall to the floor. His boss told him he could go home for the day, but claimant later explained that he was told that he had to go to the Occupational Medicine Clinic to take a drug test. He said that this was similar to what had happened to him multiple times since his surgery. Claimant did not believe that he had sustained a new injury to his knee and that it does not do anything different after the April 12, 2024, incident than it was after his surgery.

On cross-examination, Mr. Wade cross-examined claimant on behalf of respondent Travelers Indemnity Company. Claimant agreed that his impairment rating after the surgery by Dr. Coker had

been accepted and paid and his medical expenses had been paid for follow up visits. Claimant testified that he is working the same number of hours that he worked before the December 2021 accident. When he returned to work, claimant was doing counter sales and making tickets, keeping up with the books, and things of that nature. In September 2023, Dr. Coker said that claimant could increase his activity and on April 12, 2024, he was in the shop working away from the desk.

After seeing Dr. Ian Cheyne at Mercy Occupational Medicine, he was then seen by Dr. Coker. Claimant agreed that he had not received any treatment for his knee between September 11, 2023, and April 12, 2024. Claimant said that his incident report on April 12, 2024, was correct “was guiding a super single tire on wheel and putting on first bead and weight of right leg when first bead went and pivoted to left and knee gave out.” Claimant agreed that the way he pivoted on April 12, 2024, made the pain worse than it had been before. Claimant stated that he did not see Dr. Owen Kelly in Russellville for an examination or evaluation on his left knee.

On cross-examination by Mr. Murphy for respondent #2, The Hartford, claimant agreed that a subluxation of his knee is what he calls “folding,” which happened many times before April 12, 2024. He said his subluxation continued from his knee injury in 2021, and that he had not had a new injury at any point since December 8, 2021. Claimant believes all of his problems relate to his December 8, 2021, injury. He agreed with Dr. Kelly’s assessment, “Mr. Cole’s April 12, 2024, incident appears to be just a recurrence/continuation of his previous 2021, injury and would not be deemed a new injury.”

On redirect-examination, claimant said his knee had gone out nine or ten times between the December 8, 2021, injury and the April 12, 2024, incident. He described it as being sore and swollen for a little while but nothing that happened on April 12, 2024, had not already been happening. Claimant said that in this instance, he was sent to the doctor. Claimant said that he was not lifting

anything unusual at the time of the April 12, 2024, incident nor did he trip or fall. He said there was nothing different about that incident than the other times that his knee gave out on him before April 12, 2024.

On recross-examination, by Mr. Wade, claimant said he had been back to Dr. Coker on other occasions due to his knee folding. Claimant said that on April 12, 2024, he was pivoting when the knee went out. Since April 12, 2024, his knee has not folded or given him more difficulty than before that date.

On recross-examination, by Mr. Murphy, claimant said that when his knee folds, he experiences some pain and has some minor swelling or tenderness, but it goes away. He said that is what happened after the April 12, 2024, incident.

On redirect-examination, by Mr. Walker, claimant related that the company has a policy that if any incident occurs at work that an incident report was to be filled out. Claimant did not ask to go to the doctor on April 12, 2024; he left the premises and then was called and told he had to take a drug test. He again related that the collapsing of his knee on April 12, 2024, was no different than other occasions when the knee had collapsed before that date.

On recross-examination, claimant said that when he was told he needed to see a doctor on April 12, 2025, he asked to go see Dr. Coker, but he was sent to Mercy Occupational to take a drug test.

REVIEW OF THE EXHIBITS

In addition to the prehearing order discussed above, the exhibits admitted into evidence in this case were Claimant's Exhibit #1, consisting of two index pages and fifty-six numbered pages thereafter; Claimant's Exhibit #2, consisting of one index page and three pages of letters to respondent #1 attorney; Respondent #1 Exhibit #1, consisting of three index pages and one hundred twenty-

three numbered pages of medical records; Respondent #1 Exhibit #2 the incident report for the April 12, 2024; Respondent #2 Exhibit #1 consisting of one index page and twenty-six pages of medical records.

Reviewing the medical records in chronological order, the records that predate the April 12, 2024, incident showed that claimant suffered a dislocated left patella with collateral ligament damage. Claimant underwent arthroscopic knee surgery on February 8, 2022. Dr. Coker referred claimant for a functional capacity evaluation (FCE) which was performed on May 25, 2022. Claimant put forth a reliable effort and based on that evaluation, Dr. Coker released him to work at a “sit down position,” but claimant could carry pursuant to the findings of the FCE, which demonstrated claimant could work at the heavy classification of work. Dr. Coker did state that claimant should not be climbing stairs nor performing full squats. A 12% permanent impairment rating was assessed, which respondent #1 accepted and paid.

When Dr. Coker saw claimant on March 3, 2023, claimant reported “he feels like the patella is unstable and gives occasionally, this is when he gets tired is when he has to flex.”¹ Dr. Coker sent claimant for a second FCE, which was performed on May 1, 2023. Claimant again put forth a consistent effort, but the result of this evaluation was that claimant’s impairment now placed him in the medium classification of work. Dr. Coker said that claimant’s permanent restrictions would now be occasional lifting once or twice a day over sixty pounds with frequent lifting up to twenty-five pounds. He stated that claimant could do “more physical activity and build strength up but I think these limitations on how much weight and how often he should lift are probably permanent.” His

¹ Dr. Coker’s notes have several incomplete sentences and missing punctuation; I recognize the records are mainly for his benefit, and errors in the transcription of his dictation are of little consequence to him in rendering care to his patients. Instead of correcting those entries to what I believe was meant, I am reproducing what is contained in the records as is. The incorrect date of injury mentioned twice in Dr. Coker’s report is left as he wrote it.

assessment status was “post patella dislocation with loose body and now some post traumatic patellofemoral chondromalacia.”

Claimant again saw Dr. Coker on September 11, 2023, but no office chart for that day was submitted, only a return to work note for claimant to return on September 13, 2023.

As mentioned in claimant’s testimony, he went to Mercy Clinic Occupational Medicine on April 12, 2024. Dr. Cheyne’s diagnosis was that claimant had a sprain of an unspecified collateral ligament of his left knee and a recurrent subluxation of patella, left knee. Dr. Cheyne released claimant to return to work on April 13, 2024, to sedentary duty. Claimant was referred for an MRI on his left knee by Dr. Cheyne which was performed on April 28, 2024. The findings were:

“Compared with a 3 January 2022. There is again noted lateral patella subluxation in relation to the trochlear notch. The retinaculum appears to be intact. The cruciate and collateral ligaments are intact as well as distal patellar tendon complex and quadrisects tendon. Small amounts of joint fluid. No meniscal tear or definite joint body.”

The impression was: “mild collateral patellar subluxation. Small amount of joint fluid. No other internal derangement

Claimant saw Dr. Coker again on April 30, 2024. His notes for the physical exam were as follows:

“All this was discussed with him and understood. Exam until loose body is extension full flexion is got patellofemoral grinding he stable varus valgus ACL PLC. He has a very hypermobile patella significant trochlear groove genu valgus knee. Reviewed his MRI and x-rays do not appreciate a true loose body I think he has calcifications in his medial retinaculum and his will unless he locks think I can help him with the scope so continue to leg work but more sedentary job we discuss the fact sleeves do not work for size PT he can do at home he knows well and return some APRN.”

The assessment plan was “diagnosed patella subluxation recurrent secondary to on-the-job injury and at this point he can be limited to a sedentary type job, desk type job, return to see me yearly

if that is what it takes to continue to evaluate his knees over time.” After seeing claimant on June 10, 2024, Dr. Coker noted that claimant was “stiffening up but he does have crepitus” and recommended that claimant should do desk type work rather than squatting and kneeling.

Dr. Coker saw claimant on October 29, 2024. This note contains the following sentence: “He reinjured his knee in April, but I believe that was an aggravation of a preexisting condition. His initial injury was back in February 2022. [sic]”

Respondent #2 submitted a record review from, Dr. Owen Kelly, an orthopedic surgeon. Dr. Kelly did not conduct a physical examination of claimant rather expressed his opinion based on the records that he reviewed. Dr. Kelly’s conclusions were:

“Mr. Cole had a previous patellar dislocation that required arthroscopic intervention. The MRI that was performed on April 28, 2024, does not show evidence of any acute abnormality or injury. The findings were consistent with a chronic condition. Mr. Cole’s April 12, 2024, incident appears to be just a recurrence/continuation of his previous 2021 injury and would not be deemed a new injury. This is confirmed by the imaging and the treating physician.”

ADJUDICATION

The parties did not dispute claimant had an incident involving his left knee at work on April 12, 2024. The question before me is whether the April 12, 2024, incident constituted a new compensable injury (making Hartford liable) or a recurrence of the December 8, 2021, injury (leaving Travelers liable). After reviewing all the evidence, I find that the April 12, 2024, incident was a recurrence of the prior injury.

To determine whether a subsequent episode is an aggravation or a recurrence has taken place, the test is whether the subsequent episode was a natural and probable result of the first injury or if it was precipitated by an independent intervening cause. *Georgia-Pacific Corp. v. Carter*, 62 Ark. App. 162, 969 S.W.2d 677 (1998) (citing *Bearden Lumber Co. v. Bond*, 7 Ark. App. 65, 644 S.W.2d 321 (1983)). If a

causal connection between the primary and subsequent disability exists, there is no independent intervening cause unless the subsequent disability is triggered by activity on the part of the claimant that is unreasonable under the circumstances. *Guidry v. J&R Eads Const. Co.*, 11 Ark. App. 219, 669 S.W.2d 483 (1984).

Travelers understandably puts much emphasis on one sentence in Dr. Coker's October 29, 2024, report. "At the last visit provided in the record, he [Dr. Coker] determined the claimant's April 2024 accident was an **'aggravation of a pre-existing condition.'**" (Travelers' brief, page 5; bold in original.) That, however, was not all Dr. Coker said. The complete portion of that entry reads: "He reinjured his knee in April, but I believe that was an aggravation of a preexisting condition. His initial injury was back in February 2022. [sic]" My reading of what Dr. Coker entered on his chart is that which he was treating related back to the original injury. The word "aggravation" has a particular meaning in workers' compensation law, but doctors often use "aggravation" to mean a previous injury worsened or flared up - not in the legal sense of an independent compensable injury creating new liability. The Commission need not base a decision on how the medical profession may characterize a given condition, but rather primarily on factors germane to the purposes of workers' compensation law. *Tyson Foods, Inc. v. Watkins*, 31 Ark. App. 230, 792 S.W.2d 348 (1990). See also *Curry v. Franklin Electric*, 32 Ark. App. 168, 798 S.W.2d 130 (1990) where the treating physician used the words "aggravation" and "recurrence" interchangeably. I also note that both Dr. Coker and Dr. Cheyne recorded that claimant has a recurrent subluxation of his patella.

Moving from the semantics of the medical records, this case is unusual in that the claimant did not attempt to prove he met the requirement for a compensable injury on April 12, 2024, but Travelers did to so prove. It is then necessary that I determine, based on the preponderance of all the evidence, whether the subsequent incident was an independent compensable injury or a recurrence of

the prior injury. In that regard, it is similar to *Curry*, which also saw the carriers disputing whether the claimant has suffered an aggravation or a recurrence, and thus, which one would be responsible for a second injury to the injured worker.

An aggravation is a new injury, *Maverick Transp. v. Buzzard*, 69 Ark. App. 128, 10 S.W.3d 467(2000). As such, claimant would have to establish by a preponderance of the evidence (1) an injury arising out of and in the course of employment; (2) the injury caused internal or external harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings establishing an injury; and (4) the injury was caused by a specific incident identifiable by time and place of occurrence. Claimant declined to do so; instead, Travelers took on the task of trying to establish that claimant met these requirements.

There was no question that claimant was at his place of employment on April 12, 2024, when he pivoted and suffered a subluxation of his left knee, thus establishing the first and fourth elements. As for the second element, claimant did not believe the injury required medical services; he was on his way home when his employer directed him to a medical facility for a drug test as part of the employer's policy. Therefore, the second element is questionable; claimant may not have required any medical attention before returning to work the next day. However, since claimant continued to see Dr. Cheyne and then Dr. Coker, I will not stop the analysis here and look at what the objective findings revealed.

The swelling and joint fluid are objective findings that establish an injury exists to the knee. But in the context of an aggravation or recurrence dispute, the critical question is whether those objective findings establish a new injury or whether they simply reflect a manifestation of the existing December 8, 2021, injury. Viewing the evidence as a whole, the objective findings are consistent with another symptomatic episode of the compensable knee injury of December 8, 2021. Claimant credibly

testified that each of the prior subluxation episodes caused pain and swelling. The MRI showed no acute or new findings. Dr. Coker noted the loose bodies were 'small little debris from his first injury' and described the condition as 'recurrent subluxation' that would likely continue on a chronic basis. Taken as a whole, the objective findings establish the existence and continuation of the December 2021 injury, not the occurrence of a new compensable injury in April 2024.

ORDER

Respondent Travelers is directed to pay/furnish benefits in accordance with the findings of fact and conclusions of law set forth above.

Pursuant to A.C.A. § 11-9-715(a)(1)(B)(ii), attorneys fees are awarded "only on the amount of compensation for indemnity benefits controverted and awarded." In this case, there was no claim that indemnity benefits have been controverted up to the date of hearing, and as all issues other than medical benefits were reserved, no attorney's fee can be awarded in this matter at this time. Claimant's attorney is free to voluntarily contract with medical provider pursuant to A.C.A. § 11-9-715(a)(4).

Respondent is responsible for paying the court reporter her charges for preparation of the transcript in the amount of \$ 381.11.

IT IS SO ORDERED.

JOSEPH C. SELF
ADMINISTRATIVE LAW JUDGE