BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G906981

SCOTT M. CRANFORD, Employee	CLAIMANT
CITY OF BELLA VISTA, Employer	RESPONDENT
ARKANSAS MUNICIPAL LEAGUE WCT, Carrier	RESPONDENT

OPINION FILED SEPTEMBER 3, 2021

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

Claimant represented by JARID K. KINDER, Attorney, Ozark, Arkansas.

Respondents represented by JARROD PARRISH, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On August 11, 2021, the above captioned claim came on for hearing at Springdale, Arkansas. A pre-hearing conference was conducted on June 30, 2021 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 prior Full Commission Opinion of February 26, 2021 is final.

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

1. Payment of permanent partial disability benefits based on a 15% impairment rating assigned by Dr. Smith.

2. Attorney's fee.

The claimant contends he suffered a compensable injury on October 21, 2019 when he suffered a myocardial infarction while on the job for the City of Bella Vista Fire Department. On November 9, 2020 ALJ Gregory Stewart issued an opinion finding the claimant had met his burden of proving by a preponderance of the evidence that his myocardial infarction on October 21, 2019 was compensable. Said opinion was later upheld by the Full Commission and no further appeal was taken. In his opinion, Judge Stewart found that "claimant has proven by a preponderance of the evidence that his "accident" on October 21, 2019 while performing firefighter duties was an injury and the **major cause** of his heart attack on that date." See ALJ Opinion, p. 10, Emphasis Added. As a result of his compensable injury the claimant has been given a 15% rating to the body as a whole by Shawn Smith, M.D. The claimant is requesting payment of said rating pursuant to A.C.A. §11-9-522. Claimant contends that the issue of "major cause" is res judicata as a result of the prior opinion. Due to the controversion of entitled benefits, respondents are obligated to pay one-half of the claimant's attorney's fees.

The respondents contend the claimant's work injury is not the major cause of any permanency claimant claims to have suffered. While claimant's work "accident" may have been deemed the major cause of the acute cardiovascular event that led to his hospitalization, his underlying coronary artery disease is the major cause for any permanency that may exist.

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 June 30, 2021 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 permanent partial disability benefits in an amount equal to 15% to the body as a whole as a result of his compensable injury.

3. Respondent has controverted claimant's entitlement to permanent partial disability benefits.

FACTUAL BACKGROUND

The claimant is a 47-year-old man who works for respondent as the Division Chief of Training for the Bella Vista Fire Department and he has been in that position since April 2018. Claimant described his job duties at a prior hearing conducted in this claim on September 3, 2020. While claimant primarily worked as a training officer, claimant also responded to fires on some occasions. Claimant responded to a fire call on October 21, 2019, when the Bella Vista Fire Department received a call from White Rock Fire Protection District. The White Rock Fire Protection District is in Jane and Pineville, Missouri.

Claimant arrived at the scene to discover that there was a 30,000-gallon propane tank on fire after it had been struck by a bus. In addition, there was a second 20,000-gallon propane tank next to the tank that was on fire.

Claimant testified that he had never responded to an event like this while working for respondent and after they had evacuated a one-mile radius, claimant led two teams of firefighters toward the burning tank while they were spraying water before one individual was able to reach up under the tank and shut the valves off and put out the fire. Claimant testified that this was an extremely stressful situation and that he tripped and fell several times on the wet and muddy ground. He also moved a 50-100 pound hose.

After this event claimant and the other crews returned to the station and the crews began cleaning up hoses and equipment. Claimant testified that he did not feel well and sat down before ultimately asking an administrative assistant to call an ambulance. Claimant was taken by ambulance to the hospital where it was determined that he had suffered a myocardial infarction. Claimant underwent a cardiac catherization which revealed a 99% occlusion in the LAD. A stint was put in place by Dr. Pahul Singh.

This claim was the subject of a prior hearing on September 3, 2020 before ALJ Grimes. That claim was subsequently assigned to this administrative law judge for an opinion. In an opinion filed November 9, 2020, I found that claimant had met his burden of proving by a preponderance of the evidence that he suffered a compensable myocardial infarction on October 21, 2019. The respondent appealed that decision to the Full Commission which in an opinion filed February 26, 2021 affirmed and adopted the November 9, 2020 opinion.

Claimant has filed the current claim requesting payment of permanent partial disability benefits in an amount equal to 15% to the body as a whole based upon an impairment rating assigned by Dr. Shawn Smith.

ADJUDICATION

Claimant contends that he is entitled to payment of permanent partial disability benefits in an amount equal to 15% to the body as a whole. When an employee suffers a compensable injury, permanent benefits shall be awarded only upon a determination that the compensable injury was the major cause of the disability or impairment. A.C.A. §11-9-102(4)(F)(ii)(a). Major cause means more than fifty percent of the cause. A.C.A. §11-9-102(14)(A).

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 proving by a preponderance of the evidence that he is entitled to permanent partial disability benefits in an amount equal to 15% to the body as a whole.

In support of his contention, claimant has submitted an undated impairment rating report written by Dr. Shawn Smith who practices in Oklahoma City. Dr. Smith is not a cardiologist, but instead practices physical medicine and rehabilitation. Dr. Smith's report indicates that he reviewed the medical reports from Dr. Moffitt, EMS, Northwest Medical Center, Dr. Singh, and Northwest Cardiology Clinic. Dr. Smith also noted the history of claimant's myocardial infarction and the results of a stress test performed on December 26, 2019, wherein claimant was able to meet 94% of his maximum age-predicted heart rate and a MET level of 13.7 with no recurrent angina or signs of congestive heart failure.

Based upon that information, Dr. Smith opined the following:

> After review of the records provided, I have consulted with the AMA Guides to the Evaluation of Permanent Impairment, Fourth Edition, the current guides required by Arkansas Workers' Compensation statutes for

> determining permanent impairment related to work-related injuries. Based on table 6, page 178 Mr. Cranford meets the criteria for Class II impairment for coronary heart disease. Based on review of these guides and specifically example 2 on the same page, Cranford meets criteria for 15% impairment of the whole person as a result of his acute myocardial infarction. No additional impairment was added for cardia arrhythmias as the arrhythmia he suffered was present during the acute cardiac injury and did not require long-term use of antiarrhythmics or implantable pacemakers or defibrillators.

I find that the opinion of Dr. Smith is credible and entitled to great weight based upon the evidence presented. First, I note that Dr. Smith based his opinion upon Table 6, Page 178, of the *AMA Guides, Fourth Edition*. That table divides impairment ratings into four separate classes. Dr. Smith placed claimant in Class II. Class 2 states that an individual has a 10% - 29% impairment to the body as a whole if the following conditions are met:

> Patient has a history of myocardial infarction or angina pectoris documented by appropriate laboratory studies, but at time of evaluation, patient has no symptoms while performing ordinary daily activities or even moderately heavy physical exertion (functional class 1);
>
> **and**
>
> Patient may require moderate dietary adjustment or medication to prevent angina or to remain free of signs and symptoms of congestive heart failure;
>
> **and**
>
> Patient is able to walk on the treadmill or bicycle ergometer and obtain heart rate of 90% of predicted maximum heart rate without developing significant ST-segment shift, ventricular tachycardia, or hypotension,

> if patient is uncooperative or unable to exercise because of disease affecting another organ system, this requirement may be omitted; METS>7;
>
> **or**
>
> Patient has recovered from coronary artery surgery or angioplasty, remains asymptomatic during ordinary daily activities, and is able to exercise as outlined above; if patient is taking a beta-adrenergic blocking agent, he or she should be able to walk on treadmill to level estimated to cause energy expenditure of at least 7 METS as substitute for heart rate target.

I find that the relevant portion of Class 2 is the second part of the classification which requires first that claimant has recovered from coronary artery surgery or angioplasty. Here, claimant underwent this procedure on the date of his myocardial infarction on October 21, 2019. It also requires that a patient remain asymptomatic during ordinary daily activities. Claimant testified that he returned to work on December 2, 2019, and that he does not have any limitations. Claimant noted that he has changed his diet to eat healthier and that he currently takes medications prescribed by his treating physicians. He also indicated that he did not disagree with the medical report of Dr. Jeyaraj, a cardiologist, that he had no symptoms that limited his work and that he suffered from no shortness of breath, palpitations, or syncopal events.

Finally, the classification indicates that a patient must be able to exercise as outlined above. The classification in Class 2 requires a patient to be able to walk on a treadmill or bicycle ergometer and obtain a heart rate of 90% of predicted maximum heart rate without developing significant ST-segment shift. Here, according to Dr. Smith's medical report, the claimant underwent a stress test which indicated that he was able to

meet 94% of his maximum age-predicted heart rate.

In short, I find that Dr. Smith's medical opinion is corroborated by a review of the *AMA Guides* and comparing them to the evidence presented. Claimant did undergo coronary artery surgery or angioplasty; he remains asymptomatic during ordinary daily activities; and he is able to exercise within the guidelines set forth in Class 2. For these reasons, I find that Dr. Smith's opinion is credible and entitled to great weight.

I do note that the respondent objected to the introduction of Dr. Smith's report based on the fact that a letter prompting the report was not included. In my opinion, this objection is related more to the weight to be given to Dr. Smith's report as opposed to its introduction into evidence. For reasons previously discussed, I find that Dr. Smith's report is credible and supported by the evidence presented.

One might also argue that a rating in this case should have been assigned by Dr. Singh, the claimant's cardiologist, not Dr. Smith, a physician who simply reviewed the medical reports. However, there is no indication that an impairment rating was requested by either party from Dr. Singh. Furthermore, as previously noted, Dr. Smith had reviewed claimant's medical records and his assignment of an impairment rating of 15% to the body as a whole is based upon the criteria set forth in the Fourth Edition of the *AMA Guides* as well as the evidence presented in this case for reasons previously discussed.

I also find based upon the evidence presented that claimant has proven that his compensable injury was the major cause of his impairment. As previously discussed, the assignment of this impairment rating is based upon the fact that claimant has recovered from surgery which was the direct result of a compensable myocardial infarction. Claimant is not being assigned an impairment rating based upon the occlusion that was

present in his arteries, but instead is being assigned an impairment rating based upon his compensable injury and resulting surgery.

Respondent has cited the decision in *Fili v. City of Jacksonville*, 2011 Ark. App. 631 in support of its contention that claimant is not entitled to an impairment rating. In that particular case, the claimant was also a firefighter and suffered a compensable myocardial infarction and underwent a bypass surgery. The administrative law judge and the Full Commission found that claimant had failed to establish that the myocardial infarction was the major cause of claimant's heart-related impairment. The Court of Appeals affirmed that decision; however, there are notable differences in the facts in *Fili* and the present case. In *Fili*, claimant's treating physician had stated that claimant's myocardial infarction was "small". His treating physician also stated that the claimant's myocardial infarction had played less than a 25% role which is less than the 50% required to constitute major cause. Finally, claimant's treating physician also noted that his ischemia, which is the condition that ended his career as a firefighter, did not occur as a result of his myocardial infarction.

None of that evidence is present in this case. Instead, claimant's 15% impairment rating assigned by Dr. Smith places him in Class 2 according to the *AMA Guides* due to his recovery from his surgery, his ability to continue performing ordinary daily activities, and his stress test results. For reasons previously discussed, the 15% impairment rating is not being assigned for claimant's pre-existing occlusion, but instead for his myocardial infarction and the resulting surgery which was the result of a compensable injury.

In summary, I find that claimant has met his burden of proving by a preponderance of the evidence that the 15% impairment rating assigned by Dr. Smith is credible and

entitled to great weight. I also find that claimant's compensable injury was the major cause of his 15% impairment rating.

AWARD

Claimant has met his burden of proving by a preponderance of the evidence that he is entitled to permanent partial disability benefits in an amount equal to 15% to the body as a whole. Respondent has controverted claimant's entitlement to payment of those benefits.

Pursuant to A.C.A. §11-9-715(a)(1)(B), claimant's attorney is entitled to an attorney fee in the amount of 25% of the compensation for indemnity benefits payable to the claimant. Thus, claimant's attorney is entitled to a 25% attorney fee based upon the indemnity benefits awarded. This fee is to be paid one-half by the carrier and one-half by the claimant.

All sums herein accrued are payable in a lump sum and without discount.

IT IS SO ORDERED.

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GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE