

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H400417

KENNETH CYPERT (DEC'D), EMPLOYEE	CLAIMANT
DAVIS IRON & METAL, INC., EMPLOYER	RESPONDENT
SUMMIT CONSULTING, LLC, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED MAY 15, 2026

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

Claimant represented by the HONORABLE GARY DAVIS, Attorney at Law, Little Rock, Arkansas.

Respondents represented by the HONORABLE ZACHARY F. RYBURN, 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 December 15, 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 the pre-hearing conference conducted on August 20, 2025, and contained in a pre-hearing order filed that same date are hereby accepted as fact.
2. The parties' stipulation that claimant earned an average weekly wage of \$689.60 is also hereby accepted as fact.
3. Claimant's death was causally related to his compensable burn injury.

4. Respondent is liable for payment of funeral expenses in the amount of \$6,000.00.
5. Mary Cypert, claimant's mother, has met her burden of proving by a preponderance of the evidence that she was partially dependent upon claimant's earnings for support at the time of his death.
6. Mary Cypert is entitled to dependent benefits in the amount of \$34.48 per week.
7. Respondent has controverted payment of dependency benefits.

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 made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on appeal.

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(a)(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).

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

Commissioner Mayton dissents.

DISSENTING OPINION

I respectfully dissent from the majority's opinion that the claimant's death was causally related to his compensable burn injury.

Claimant was 58 years old when he suffered a burn injury to his low back while working for the respondent employer on January 9, 2024. He was taken to the Arkansas Children's Burn Center where he was hospitalized for burns involving approximately 20-29% of his body.

The claimant underwent surgery for burn wound excision and allograft placement. While hospitalized, the claimant began showing symptoms of alcohol withdrawal, and his team began treatment for the alcohol withdrawal. On the morning of January 17, 2024, claimant was found to be unresponsive and ultimately died.

At the time of his injury, claimant was living with his mother, Mary Edith Cypert, who contends that her son's death was a result of his compensable injury and is requesting payment of dependent benefits. After a hearing, an ALJ ruled in favor of the claimant. Respondents appeal.

To sustain a compensable injury, one must prove by a preponderance of the evidence that (1) the injury arose out of and in the course of the employment, (2) the injury caused internal or external physical harm to the body that required medical services or resulted in disability or death, and (3) the injury was a major cause of the disability or need for treatment. *Smith-Blair, Inc. v. Jones*, 77 Ark. App. 273, 72 S.W.3d 560 (2002).

The determination of whether there is a causal connection between the injury and disability is a question of fact for the Commission to determine. *Oak Grove Lumber v. Highfill*, 62 Ark. App. 42, 968 S.W.2d 637 (1998). The determination of the existence of an independent intervening cause is a question of fact for the Commission to determine. *Id.* Further, a compensable injury must be established by medical evidence supported by objective findings. *Freeman v. Con-Agra Frozen Foods*, 344 Ark. 296, 40 S.W.3d 760 (2001).

Medical opinions addressing compensability must be stated within a reasonable degree of medical certainty. *Crudup v. Regal Ware, Inc.*, 341

Ark. 804, 20 S.W.3d 900 (2000). 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 suffered a burn injury covering approximately twenty to twenty-nine percent of his body. The claimant remained in the hospital for several weeks after his injury and was tested for lung and heart issues that could arise from severe burns. Doctors determined that the claimant was not at risk for heart or lung conditions; however, the claimant began suffering from severe alcohol withdrawal during this time. The claimant ultimately died during his hospitalization.

An associate medical examiner completed the claimant's death certificate, listing "Complications of Thermal Injury" as the immediate cause of death with "Hepatic Steatosis and Fibrosis" as a contributing factor. There are no records or testimony that support or explain this finding, nor has any expert stated within a reasonable degree of medical certainty that it is more likely than not that the claimant succumbed to his burn injuries rather than alcohol withdrawal or pre-existing severe liver disease. In fact, the notes submitted by the parties regarding the claimant's ultimate death do not speculate as to the cause of death.

Neither party submitted any records of an autopsy to confirm the medical examiner's findings. A death certificate prepared without full

knowledge of the decedent's medical condition cannot be treated as prima facie evidence. See *Generally Farm Bureau Mut. Ins. Co. v. Fuqua*, 269 Ark. 574, 599 S.W.2d 427 (1980).

The claimant's medical history is too complex for the Commission to find that his work-related injury was the cause of his death by the preponderance of the evidence. The medical examiner's findings, while inconclusive at best, also reflect that the decedent's liver condition and alcoholism were significant contributing factors in his death.

There is no testimony or evidence reflecting how the claimant's burns may have resulted in his death, whether by shock, infection, heart failure, or any other cause, nor are there any attempts by his medical team to establish the cause. There is insufficient evidence to make the claimant's case in this matter. For these reasons, it is clear that the claimant has failed in meeting his burden of proof and the ALJ's findings should be reversed.

Our rules provide that "compensation for the death of an employee shall be paid to those persons who were wholly and actually dependent upon the deceased employee." Ark. Code Ann. § 11-9-527(c) "If the employee leaves dependents who are only partially dependent upon his or her earnings for support at the time of injury, the compensation payable for partial dependency shall be in the proportion that the partial dependency

bears to total dependency.” Ark. Code Ann. § 11-9-527(i)(1). An important consideration here is Ms. Cypert’s “reasonable expectation of future support.” *Roach Mfg. Co. v. Cole*, 265 Ark. 908, 582 S.W.2d 268 (1979).

“Partial dependency may be found when, although the claimant may have other substantial sources of support from his own work, from property, or from other persons on whom the claimant is also dependent, the contributions made by the decedent were looked to by the claimant for the maintenance of his accustomed standard of living.” *Williams v. Cypress Creek Drainage*, 5 Ark. App. 256, 635 S.W.2d 282 (1982).

In this case, the only evidence that the claimant’s mother, Mary Cypert, was dependent on the claimant is her own self-serving testimony. There is no record or evidence that the claimant ever made these purported cash payments to Ms. Cypert. Further, the claimant’s mother owns the home in which the two of them lived and has a monthly disability income of approximately \$1,600. Any payments from the claimant, which Ms. Cypert has claimed at different times to be \$200 to now \$300 weekly, would merely cover the claimant’s living expenses.

Ms. Cypert has produced no evidence that she actually relied on payments made by the claimant or that payments ever occurred. The claimant was living with Ms. Cypert and, it would seem, simply paid her for his own living expenses. There is no evidence in the record that reflects a

finding that Ms. Cypert was dependent on the claimant's income or that she is worse off without it. For these reasons, she has failed to establish her burden of proof.

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

MICHAEL R. MAYTON, Commissioner