

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. HOO6035

WILLIAM DEAN, EMPLOYEE	CLAIMANT
ROCK REGION METRO, EMPLOYER	RESPONDENT
RISK MANAGEMENT RESOURCES, CARRIER/THIRD PARTY ADMINISTRATOR	RESPONDENT

OPINION FILED MAY 5, 2021

Hearing held before Administrative Law Judge Chandra L. Black, in Little Rock, Pulaski County, Arkansas.

Claimant represented by Mr. Steven McNeely, Attorney at Law, Jacksonville, Arkansas.

Respondents represented by Ms. Melissa Wood, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On March 24, 2021, the above captioned claim came on for a hearing in Little Rock, Arkansas. A Prehearing Telephone Conference was conducted on February 2, 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 time 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 December 8, 2019.
3. The Claimant's average weekly wage at the time of his alleged neck/cervical spine

injury was \$518.99. His weekly temporary total disability rate is \$346.00.

4. The Respondents have controverted this claim in its entirety.

Issues

The parties agreed to litigate the following issues:

1. Whether the Claimant sustained a onset cervical spine/neck injury.
2. Whether this claim is barred by the statute of limitations.
3. Whether the Claimant is entitled to reasonable and necessary medical treatment for his alleged injury.
4. Whether the Claimant is entitled to temporary total disability compensation from December 9, 2019 until March 11, 2021. (Tr. 7)
5. Whether the Claimant's attorney is entitled to a controverted attorney's fee.

Contentions

The parties' respective contentions are as outlined below:

Claimant:

1. The Claimant contends that he worked for the respondent-employer operating a trolley, Claimant contends that years of working the control knob for the trolley coupled with constantly moving his head watching traffic caused him to suffer a gradual on set [sic] cervical injury which caused pain to radiate to his left arm.
2. Claimant contends he is entitled to the payment of reasonable and necessary medical treatment for the above conditions under Rule 30 and surgical intervention in the form of a 3 level ACDF from C4-C7 recommended by Dr. Khaled Krisht MD[sic]
3. Claimant contends he is entitled Temporary Total Disability from: 12/9/20[sic] to a date yet to be determined.

4. Claimant contends the below benefits have been denied and he is entitled to an attorney fee. Claimant is represented by Steven McNeely [sic]

Respondents:

1. The Respondents contend that Claimant did not suffer a specific incident injury on or about 12/8/19. Respondents contend that the medical documentation does not support a gradual onset injury on or about 12/8/19.
2. Respondents contend that Claimant failed to give notice of an alleged injury until 5/18/20. And they would not be liable for benefits until notice of a claimed injury was received in the event compensability is found.
3. Lastly, Respondents contend that Claimant's need for medical treatment, if any, is associated with preexisting and underlying problems and that the statute of limitations has run with regard to any current claimed injury.

Summary of Evidence

The record consists of the hearing transcript of March 24, 2021, and the exhibits contained therein. Specifically, the following exhibits have been made a part of the record: Commission's Exhibit #1 includes the Commission's Prehearing Order of February 2, 2021, and the parties' respective response to the Prehearing Questionnaire. The Claimant offered into evidence, an Index of Claimant's Medical, consisting of twenty-five pages, which has been marked as Claimant's Exhibit #1. Claimant's Non-medicals consist of two pages of photographs of the Trolley Controller; these have been marked as Claimant's Exhibit #2 and #3, respectively. Claimant submitted into evidence an Index of Claimant' Non-medical, consisting of two pages, which has been marked as Claimant's Exhibit No. 4. The Respondents admitted into evidence twenty-two pages of Respondents' Hearing Exhibit Index of Medicals, which has been marked as

Respondents' Exhibit No. 1. Respondents' second exhibit consisted of fourteen pages of Non-Medicals, which has been marked as Respondents' Exhibit #2.

Witnesses

During the hearing, the following witnesses testified: William Dean (the Claimant) and Gwen Armbrust.

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 in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

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. This claim for initial benefits of an alleged gradual onset cervical spine/neck injury is barred by the statute of limitations. As such, all other issues have been rendered moot and not discussed herein.

CASE IN CHIEF

Hearing Testimony

The Claimant, William Dean, now age 71, testified that he dropped out of high school during his senior. Subsequently, the Claimant obtained his GED. He also has two years of college. According to the Claimant, he began working for Rock Region Metro in 2007. When the Claimant first went to work for Rock Region Metro, the company was doing business under the name, Central Arkansas Transit (CAT).

His employment duties from January 7, 2007 until 2020 stayed the same. However, he testified that his route changed. The Claimant denied that before December of 2019, he had any problems performing his job duties. In December 2019, the Claimant drove the morning route from 9:05 a.m. until 2:01 p.m., Monday through Wednesday. According to the Claimant, he worked from 12:05 p.m. until 6:17 p.m. on Sundays. The Claimant testified that he ran the route for two years. He denied having any other work outside of his employment with Rock Region.

Specifically, the Claimant testified regarding the onset of his symptoms:

Q Well, actually it started out Friday before that Sunday. Late Friday afternoon I felt some tingling and numbness in my left arm. I wasn't concerned about it a lot, so I went on Sunday, got in my streetcar, left the barn at 12:05, got to the first stop, which is 7th and Main -- it's right there by the trolley barn -- and I was having a little problem operating the controller. I made my turn, went to 6th and Main, and I was really having problems pulling on the controller. It was a lot of pain in my left arm and a great deal of numbness.

So I -- finally got across the bridge, go across to go to Verizon, and go across the bridge, and I called dispatch and told them I needed to speak to my manager at that time, Virginia Johnson, and I was having problems operating the car. So they contacted her. She got on the phone. She asked what was going on. I told her I had a lot of numbness in my arm and a lot of pain, and I was having problems operating the controller. She stated at that time she thought I might be having a heart attack, I needed to take the car back to the barn, and go to the emergency room; so I did. (It was confirmed that the Claimant was not having a heart attack).

Upon further questioning, the Claimant testified that he continues to have problems with his left arm. He testified that he has problems with numbness; and he is unable to pick up objects using his left arm. The Claimant testified that prior to December 8, 2019, he went to see Dr. Stewart, and received a couple of steroid injections. At that time, the Claimant was having problems with his left shoulder. However, the Claimant denied any problems performing his job duties in 2018.

His last day of work at Rock Region Metro was December 8, 2019. The Claimant maintained that he did not return to work because he was unable to drive the streetcar due to his inability to operate the controller.

Under further questioning, the Claimant essentially testified that he did not recall the first time he reported an injury to management at Rock Region. However, he agreed that the date is on the form is correct. The Claimant confirmed he filed a claim for unemployment benefits. This was done January 21, 2020. According to the Claimant, he was told by Allen Akins to file for unemployment benefits during a conversation that he had with Mr. Akins. The Claimant testified that on February 14, he called Gwen (Armbrust) and told her he was resigning.

The Claimant was shown a photograph of the trolley controller. He was asked to describe his employment duties as a trolley controller. Specifically, he explained how he operated the lever and how often. (Tr. 17) He testified that he would shift from neutral to point five, approximately 40 to 50 times. The Claimant further testified that it took eight pounds of pressure to move from one point to the other. However, this depended on the maintenance of the controller.

With respect to his head movement, the Claimant testified that he had to swivel his head 90 degrees, especially when going through the River Market, Second Avenue, Main Street, and North Little Rock locations. The Claimant confirmed that he is left-hand dominate. He denied engaging in any kind of outside sporting activities, or hobbies that required extensive use of his left arm. The Claimant testified that he previously ran a weed eater, pushed a lawnmower; but is unable to do so now.

He denied that he has worked any place since December 8, 2019. According to the Claimant, he cannot do anything with his left arm now.

On cross-examination, the Claimant confirmed that his deposition was taken on October 13, 2020. He admitted that during his deposition, he talked to guests about the history of the city. The Claimant also confirmed that he drove around North Little Rock, downtown Little Rock, and

the Clinton Library. He admitted that he operated the controller with his left hand and used a foot pedal to operate the speaker.

The Claimant admitted to testifying on direct examination that his problems started on December 8, (2019) which was on a Sunday. However, the Claimant testified during his deposition that his problems started the Friday before December 8th. He confirmed that he would not have been working on December 6, 2019.

He admitted that on the day, he talked with dispatch/Virginia, she suggested he go to the emergency room. The Claimant confirmed that he went to St. Vincent, North Little Rock. The Claimant admitted to testifying during his deposition that his symptoms included “numbness in his left arm and pain in the center part of his neck.” He was also asked if he ever had symptoms of pain previously, and his response was “No.” The Claimant verified that this was correct. He also confirmed that he replied “No,” when asked if he had prior symptoms in his left arm. The Claimant essentially admitted to having testified that there was no particular incident on December 8th that caused his alleged injury.

The Claimant confirmed that he testified during his deposition that he had gotten in over his head monetarily from paying the co-pays for his doctor visits and the MRI. As a result, in May 2020, the Claimant called, the HR director, Greg Williamson, and told him he needed to apply for a workers’ compensation claim. At that point, the Claimant filled out a Form AR-N. The Claimant admitted that surgery had already been recommended. He confirmed that his alleged injury is derived from his neck, and not his shoulder.

Although the Claimant initially testified during his deposition that he had no treatment for his left arm, he later recalled getting an MRI of his left shoulder with Dr. Jason Stewart in 2015. He admitted to not having an injury to his left shoulder in 2015. According to the Claimant, he

initially believed his problem was with his shoulder because the pain was in his shoulder and arm. He admitted that he is no longer claiming a left shoulder injury. The Claimant confirmed that his family doctor (Dr. Ann Layton) sent him to Dr. Stewart in 2015. He admitted that during his deposition he testified that he took himself off work after December 8, 2019.

Under further questioning, the Claimant explained why he resigned on February 14, 2020. The Claimant maintained that he told Gwen he was resigning because of his arm, shoulder, and hand. However, the Claimant admitted that there is documentation in his unemployment records that he was upset because management told him they were thinking about canceling his route.

He admitted to writing on his application for unemployment benefits that he was ready and willing to go to work immediately; and that he had no disabilities to keep him from performing his normal job on a full-time basis. The Claimant admitted that his unemployment claim was denied. He confirmed that he appealed the denial of his claim up to the Court of Appeals.

Under further questioning, the Claimant admitted that medical records correctly reflect that he saw Dr. Jason Stewart on April 29, 2015 for pain in his left shoulder down to his wrist. These symptoms had been present for four months. The Claimant further admitted that he told Dr. Stewart, his pain level was at a level eight out of 10 at the worst. At that time, the Claimant also had numbness in his forearm and wrist. He confirmed that he saw Dr. Layton on January 3, 2019 because he was having shoulder pain and wanted to go back to see an orthopedic specialist.

The following exchange took place:

Q So that is accurate that you would've gone back to Dr. Layton with complaints of shoulder pain in January of '19.

A I don't remember that, but if that's what it says, that's what it was.

Q We have one from Dr. Stewart dated January 14th of '19 saying that you told him that you had continued low shoulder trouble. It had been several years since he had seen you, and you told him that you were doing better at times but lately started to bother again. Does that sound correct?

A Correct.

The Claimant did not recall having returned to Dr. Layton on May 10, 2019. Nor did he remember complaining that the injection he had gotten from Dr. Stewart did not help. The Claimant confirmed that he underwent an EMG and MRI, in January 2020 at the direction of Dr. David Rhodes.

Specifically, the following exchange took place:

Q And then you saw Dr. Krist[sic] on February 17th, and Dr. Krist[sic] reviewed those diagnostic reports at that time. Does that sound right?

A You denied any significant neck pain when you say Dr. Krist[sic]; is that right?

Q Yes, ma'am.

A You denied any significant neck pain when you saw Dr. Krist[sic]; is that right?

Q I'm trying to think. It was a while ago. I went to see him because my shoulder would -- I could not use my left arm, so when he asked me about neck pain, I probably did say no because I couldn't use my left arm. I didn't know the two were related to each other.

On redirect-examination, the Claimant acknowledged that he worked part-time. Although the Claimant did not recall how long he had been performing part-time work, he admitted that it could have been longer than two years.

Gwen Armbrust testified on behalf of the Respondents. Ms. Amrbrust is the HR coordinator for Rock Region METRO. She handles all general HR duties, ranging from payroll to benefits and orientation. Ms. Armbrust has worked three for six years. She explained the company's procedure for an employee to report a work-related injury. (Tr. 39-40)

Ms. Armbrust confirmed that the Claimant was informed of this procedure during orientation. The information concerning workers' compensation information is posted in all their work areas for Rock Region Metro. Counsel for the Respondents handed Ms. Armbrust a copy of Respondents' Exhibit 2, which included pages 12 through 14. Ms. Armbrust confirmed that the photos depict the posters that they are required to post in all work areas. These rules are also posted in the trolley barn area. She denied that the Claimant gave her notice of an injury prior to May 18, 2020.

On cross-examination, Ms. Amrbrust confirmed that she spoke with the Claimant on February 14, 2020 about him resigning. She acknowledged that between February 14 and December 8, she spoke with the Claimant at various times, and he gave her updates on his doctor's appointments. Ms. Armbrust confirmed that the Claimant was off work on medical leave during that time.

She denied having conversations with the Claimant about getting rid of his route. Ms. Armbrust further denied that she was involved in his unemployment case.

On redirect-examination, Ms. Armbrust confirmed that to the best of knowledge, when she started working at Rock Region Metro, the Claimant was part-time.

Medical and Documentary Evidence

Prior medical records show that on April 29, 2015, Dr. Jason G. Stewart evaluated the Claimant. At that time, the Claimant complained of left shoulder and neck pain, for which Dr. Stewart performed a corticosteroid injection. Also, Dr. Stewart wrote:

History of Present Illness:

Mr. Dean is a pleasant 65-year-old, left hand dominant, white male. He is independent, active, and self-reliant. He lets me know that for the past 4 months he has been having pain from his left shoulder all the way down his arm into his wrist. He has pain on the left side of his neck as well. At its worst, the pain is an 8 out 10 on the pain scale, and he feels as though the pain is worsening. He has not had any injury that he can recall, but the daily

use of it on the streetcar that he drives seems to be making it progressively worse. He described the pain as both sharp and dull, starting on the outside of the shoulder. This pain will descend down the arm and into his forearm and wrist. He will experience numbness in his forearm and wrist oftentimes. This pain is also inhibiting from being able to rest well at night. He saw his primary care provider, who ordered an MRI and then sent him to us for further evaluation. He has never had an injection or physical therapy.

MRI IMAGING:

MRI of the left shoulder reveals mild-to-moderate acromioclavicular osteoarthritis with Type-11 acromion. Rotator cuff tendinosis is present without tear noted. Degenerative findings in the labrum without a discrete tear or displacement labral tissue.

ASSESSMENT:

Left shoulder pain with impingement. I also have a high degree of suspicion that his symptoms may possibly be emanating from his cervical as well.

The Claimant returned to see Dr. Stewart on June 8, 2015 for follow-up of his left shoulder and arm pain. He reported that the injection helped significantly, but he still had discomfort down his arm. At that time, the Claimant was feeling a pulling sensation in his upper arm, and he also had tingling all the way down through his elbow and into the forearm. Dr. Stewart assessed the Claimant with “1. Left shoulder impingement syndrome with concomitant left-sided cervical radiculopathy. 2. Synovitis.”

On January 3, 2019, the Claimant underwent follow up evaluation by his primary care physician, Dr. Ann Layton, due to ongoing left shoulder pain. Dr. Layton referred the Claimant to an orthopedic specialist.

Dr. Jason G. Stewart evaluated the Claimant on January 14, 2019 for continued left shoulder trouble. It had been several years since Dr. Stewart had seen the Claimant. At that time, the Claimant reported that he had been doing better at times; but lately it had started to bother him again. Dr. Stewart’s notes reveal that the Claimant had always gotten great relief from corticosteroid injections to the shoulder. The Claimant was assessed with “Left shoulder mild

impingement and bursitis.” Dr. Stewart performed a subacromial space injection and instructed the Claimant follow up with him as needed.

On May 10, 2019, the Claimant saw Dr. Layton for a follow up visit. At that time, the Claimant complained of shoulder pain again. The Claimant reported that he had an injection, and it did not help.

The Claimant sought medical treatment from Dr. David Rhodes, on December 12, 2019. At that time, the Claimant reported that on December 8, 2019, he started to have pain in his arm and numbness in his fingers. The Claimant had been on a Medrol Dosepak without any improvement. The Claimant’s chief complaint was “pain left forearm.” To date, the Claimant had no prior treatment. Dr. Rhodes assessed the Claimant with “left hand pain.” Dr. Rhodes injected the Claimant with a steroid injection-left carpal tunnel and started him on Flexeril as needed. In addition to this, Dr. Rhodes ordered an EMG and nerve conduction study.

On January 10, 2020 a nerve conduction study was conducted of the Claimant left upper extremity. This study was read by Dr. Beverly Beadle. She rendered the following opinion:

Interpretation and Conclusions:

- 1) Normal Nerve Conduction Velocities of all nerves tested in the left upper extremity. Specifically there was no evidence of carpal tunnel syndrome, ulnar nerve entrapment or neuropathy seen.
- 2) EMG of the left upper extremity shows evidence of chronic denervation in the left triceps and left extensor digitorum cummunis [sic] consistent[sic] with chronic left C-7 radiculopathy.

An MRI without contrast was performed of the Claimant’s cervical spine on January 24, 2020. Dr. Devon L. Holder rendered the following IMPRESSION:

At C5-6, a right posterior lateral disc protrusion causes moderate central canal stenosis with with near complete circumferential CSF space effacement with severe right lateral recess narrowing and moderate severe bilateral neural foraminal.

At C4-5, there is moderate-severe left neural foraminal stenosis and moderate right neural foraminal stenosis/nerve impingement.

At C3-4, there is moderate-severe left neural foraminal stenosis due to combination a left posterior lateral/transforaminal disc bulge with moderate left uncovertebral osteophyte formation.

At C6-7, there is mild to moderate bilateral neural foraminal stenosis and moderate-severe central canal stenosis.

Multilevel degenerative disc and facet arthropathy. Disc desiccation noted throughout the cervical spine. Congenital stenosis.

Recommend neurosurgical consultation for further evaluation.

The Claimant underwent evaluation on February 17, 2020 by Dr. Khaled Krisht, due to a chief complaint of neck pain. Dr. Krisht evaluated the Claimant for an opinion regarding surgical intervention. He assessed the Claimant with "1. Cervical spondylosis with radiculopathy-M47.22(Primary). 2. Cervical spinal stenosis – M48.02." Specifically, Dr. Krisht wrote, in relevant part:

Treatment

1. Cervical spondylosis with radiculopathy

Clinical Notes: patient presents with signs symptoms and radiographic findings consistent with chronic nerve compression at the nerve root secondary to multilevel cervical stenosis with large disc osteophyte complexes resulting in compression at the left C7 and C5 nerve root. Patient also has significant compression of the C6 nerve root. [sic] given the evident weakness in his left upper extremity and signs of chronic nerve compression resulting in muscle atrophy I have offered surgical intervention in the form of a 3 level ACDF from C4-C7. Patient was recently diagnosed with COPD and is currently undergoing treatment and would like to hold[sic] off on any immediate surgical intervention until he is more comfortable with his lung condition...

Dr. Ann D. Layton authored the following letter on May 20, 2020:

I am the primary care physician for William Dean (the Claimant) and he was seen in my office on May 18, 2020 for follow up. He was seen on December 9, 2019 and again on December 27 for left arm pain. This was evaluated and was left shoulder impingement with bursitis due to repetitive motion using left arm and shoulder while driving the trolley. Please take this information into consideration.

Specifically, Dr. Layton authored a Physician’s Statement on August 25, 2020. Dr. Layton opined that the major cause (51% or more) of the Claimant’s left shoulder problem is his work-related activities of driving a trolley. Dr. Layton further opined with a reasonable degree of medical certainty, the “objective and measurable findings” related to the above reference injury are “left shoulder nerve impingement that causes pain & numbness in arm(left) & hand & decrease ROM in shoulder. Dr. Layton stated that the Mr. Dean would have work restrictions of no work on trolley, from February 9, 2020 through February 9, 2021.

On March 11, 2021, the Claimant saw Dr. Layton for follow-up care of his shoulder issue:

General

Patient is in for follow up visit and he needs neck surgery. He is at his maximum medical improvement that he is going to get without surgery which leaves him impaired. He has DJD of the neck with nerve impingement that affects his left shoulder. The repetitive motion of operating the streetcar exacerbated the pain in his left shoulde[sc] and arm from his DJD of the spine with nerve compression y causing muscle sprain and spasms. He can no longer perform that job as of 9/2020. He is not able to return to work because he cannot get the neck surgery. His pain relievers help temporarily.

See assessment for details of all further problems.

The Claimant’s Non-Medical Packet included photos of the Trolley Controller. These have been reviewed and considered herein.

In addition, the Respondents introduced a Hearing Exhibit Index of Non-medicals. This evidence includes the CATS Handbook Acknowledgement; records from Workforce Services of the Claimant’s unemployment records; and the agency’s decisions. Of note, said decisions are not binding in this claim for workers’ compensation benefits. However, they have been proper weight. Other records included in this packet are Photograph of the respondent-employer’s required postings of various state and federal laws pertaining to certain employee’s rights.

ADJUDICATION

The Claimant contends that he sustained a gradual onset cervical spine/neck injury, in the course and scope of his employment with the respondent-employer/Rock Region Metro, on or about December 8, 2019.

However, the Respondents have raised as a defense, the statute of limitations. Since Respondents have never paid any benefits on the Claimant's alleged neck injury, this is a claim for initial benefits.

In that regard, the applicable statute of limitations provision is set forth in Ark. Code Ann. §11-9-702(a) (1) (Ark. Repl. 2012), which provides in pertinent part, that a claim for compensation must be filed within two years from the date of the compensable injury. Since the Claimant's alleged neck injury is a gradual onset injury, the standard pronounced in Pina v. Wal-Mart Stores, Inc., 91 Ark. App. 77, 208 S.W. 3d 236 (2005), is controlling. Pursuant to this standard, a gradual onset injury legally commences to run when the injury first becomes apparent to the Claimant.

On the basis of the record as a whole, the preponderance of the credible evidence establishes that the Claimant's cervical spine/neck condition became apparent to him as early as 2015, while working for the respondent-employer. This is established by the medical evidence of record and the testimony elicited from the Claimant.

Specifically, the medical evidence demonstrates that Claimant sought medical care for identical symptoms beginning in 2015, that he now asserts are related to his employment duties. The Claimant received medical treatment and underwent diagnostic tests for these symptoms from various physicians. His prior medical treatment included injections and a medication regimen, which supplied only minimal relief of his symptoms. In fact, on April 29, 2015, Dr. Stewart opined: "Left shoulder impingement. I also have a high degree of suspicion that his symptoms

may possibly be emanating from his cervical as well.” Although the Claimant did not seek continuous treatment for his symptoms from 2015 through December 2019, the medical evidence proves that his cervical/shoulder symptoms continued to get progressively worse during this period of time. This conclusion is based on Dr. Stewart’s report of January 14, 2019, wherein the Claimant reported to Dr. Stewart that he had been doing better at times; but lately it started to bother him again. In addition to this, the objective medical findings of the Claimant’s cervical condition are pre-existing and degenerative in nature. Such findings strongly suggest the continual and progressive nature of the Claimant’s neck and shoulder symptoms, which began in 2015, and continued without any resolution of his symptoms.

To summarize, considering that the Claimant complained of identical symptoms beginning in 2015, and based on the medical records showing that his neck/shoulder symptoms progressively worsened (per Dr. Stewart’s January 14, 2019 report), I am persuaded that the Claimant’s alleged cervical spine injury became apparent to him by at least April 29, 2015, and never resolved. As a result, the statute of limitations for the Claimant’s alleged gradual onset cervical spine injury legally commenced to run in April 2015. However, no documentary evidence has been presented demonstrating that the Claimant filed a claim for benefits within two years from said date; and nor does he assert having done so. In fact, the evidence shows that the Claimant did not file a claim in this matter until May 2020, which is well beyond the two-year statutory provision for filing a timely claim. Therefore, for this reason, the Claimant’s claim for a gradual onset neck injury is barred by the statute of limitations.

Having found that this claim is barred by the statute of limitations, I further find that the remaining issues have been rendered moot and not discussed herein this Opinion.

ORDER

The Claimant's claim for an alleged gradual onset neck injury is time-barred. As such, this claim is hereby respectfully denied and dismissed in its entirety. All other issues have been rendered moot and not discussed herein this Opinion.

IT IS SO ORDERED.

CHANDRA L. BLACK
Administrative Law Judge