

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G806765

SERENA DODSON,
EMPLOYEE

CLAIMANT

VALLEY BEHAVIORAL HEALTH SYSTEMS, LLC, EMPLOYER RESPONDENT NO. 1

ESIS, INC., INSURANCE CARRIER/TPA RESPONDENT NO. 1

DEATH & PERMANENT TOTAL DISABILITY TRUST FUND RESPONDENT NO. 2

OPINION FILED MAY 4, 2021

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

Claimant represented by the HONORABLE EDDIE H. WALKER, JR., Attorney at Law, Fort Smith, Arkansas.

Respondents No. 1 represented by the HONORABLE ERIC NEWKIRK, Attorney at Law, Little Rock, Arkansas.

Respondents No. 2 represented by the HONORABLE DAVID L. PAKE, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed in part as modified, reversed in part .

OPINION AND ORDER

The respondents appeal an administrative law judge's opinion filed October 15, 2020. The administrative law judge found that the claimant proved she was entitled to temporary partial disability benefits. The administrative law judge found that the claimant proved she was entitled to additional medical treatment, "specifically the referral to Dr. White and any recommendations that may result from the referral." After reviewing the

entire record *de novo*, the Full Commission finds that the claimant did not prove she was entitled to temporary partial disability benefits. We find that the claimant proved she was entitled to an evaluation by Dr. White for consideration of additional pain management.

I. HISTORY

Serena Joy Dodson, now age 55, testified that she had received a spinal cord stimulator in approximately 1998 as the result of a work-related injury to her left foot. The claimant treated at Kansas Surgery and Recovery Center on December 19, 2005:

The patient is a 40-year-old female who has a history of reflex sympathetic dystrophy and has an indwelling spinal cord stimulator to treat her pain. The patient has recently had trouble with the functioning of her spinal cord stimulator and came in last month for analysis. The analysis showed several impedances, which were indicating broken leads, and the battery is close to end-of-life. She presents today for revision and/or replacement of spinal cord stimulator leads and placement of a rechargeable IPG battery.

Dr. Ronald L. Brown's diagnostic impression at that time was "Reflex sympathetic dystrophy with spinal cord stimulator, which is not functioning." Dr. Brown performed a "Revision and replacement of spinal cord stimulator leads and replacement of IPG battery with a Restore rechargeable battery." The pre- and post-operative diagnosis was "Reflex sympathetic dystrophy."

The claimant treated at Rowe Chiropractic and Acupuncture beginning May 2, 2014 at which time she complained of "Sharp pain in

lower right side of back.” Dr. Evan Rowe noted, “Ms. Serena Thorne was seen in our office today 5/2/14 concerning her lower back.” The claimant followed up at Rowe Chiropractic and Acupuncture on April 22, 2015, February 27, 2016, October 7, 2016, October 12, 2016, and December 28, 2016.

The claimant testified that she became employed with the respondents, Valley Behavioral Health System, LLC in about January 2017. The claimant testified, “My job at Valley Behavioral Health, I ran the children’s unit on the weekends. I pulled 16 hours. I did the medications. I did the charting. I worked with when they did the groups. I did rounds checking on the children.” The claimant described her work for the respondents as “physically demanding,” which duties included walking, standing, and lifting. The claimant followed up at Rowe Chiropractic on August 4, 2017, September 15, 2017, and September 20, 2017.

The parties stipulated that the employee/employer/carrier relationship existed on September 9, 2018 and that the claimant “sustained a compensable injury” on that date. The claimant testified on direct examination:

Q. Ms. Dodson, would you briefly explain how you got injured back in September of 2018?

A. I was working on a children’s unit. During that time I pulled two sixteens on the weekends. There was a lot of altercation going on that weekend and in the process of breaking up a fight, I – the child lunged forward after I had already had a

hold of the child. I wound up backwards and hit the outer corner of the wall and went out. Code Blue was called. I was sent via ambulance to the Mercy Hospital.

According to the record, a Fort Smith Emergency Medical Services Patient Care Report on September 9, 2018 indicated, “52 year old female reporting upper and lower right sided back pain after fall. Pt reports attempting to break up a fight between residents at Valley when she fell into the corner of a wall....Pt found laying on side with facility staff and FSFD at side. Pt is in no distress and has no imminent life threats. Pt able to sit up with minimal assistance....Pt able to stand and pivot to stretcher with minimal assistance.”

The claimant was transported to Mercy Hospital Fort Smith on September 9, 2018 where it was noted, “States broke up a fight at work and slipped and fell, hit right side of back.” An emergency physician’s diagnosis included “Thoracic back strain, initial encounter.” A CT of the claimant’s cervical, thoracic, and lumbar spine was taken on September 9, 2018:

CT cervical spine impression: 1. Degenerative changes noted with no acute fractures.
2. Right thyroid mass. Ultrasound correlation recommended. Findings discussed with Dr. Wooley in the emergency room.

CT thoracic spine impression: 1. Degenerative changes with no acute fractures. Thoracic stimulator device noted.

CT lumbar spine impression: 1. Multilevel degenerative changes as above with no acute fractures.

Dr. Keith Holder examined the claimant on September 11, 2018:

Serena was breaking up a fight and slipped on something on the floor hitting the right side of her back on the corner of a wall....

Serena's primary problem is pain located in the back, right side. She describes it as stabbing, sharp. She considers it to be diffuse, deep. The problem began on 9/9/2018....Went to Mercy ER and they did an xray and CT of her back. Records requested. Everything normal....

Dr. Holder diagnosed "1. Strain of muscle and tendon of back wall of thorax, initial encounter. 2. Contusion of right back wall of thorax, initial encounter." Dr. Holder discussed, "This is the first examination for this back strain. She was provided Mobic and Baclofen for the pain. She should stop the Ibuprofen. She will follow up in 7-10 days." Dr. Holder stated, "The cause of this problem is related to work activities....Serena's recommended work status is Restricted Duty. The effective date for this work status is 9/11/2018."

The claimant followed up with Dr. Holder on September 18, 2018 and September 25, 2018. Dr. Holder noted on September 25, 2018, "She will be referred to therapy. I have recommended a case manager for this patient with significant reported pain and prior treatment for reflex sympathetic dystrophy."

Dr. Holder reported on October 9, 2018, "Her battery on her spinal cord stimulator has stopped discharging. It was put in for her left foot reflex sympathetic dystrophy. She has not changed her activities. Her therapy has been denied." Dr. Holder discussed, "This is the last examination for

this back strain. She will follow up in the pain clinic. I have recommended a case manager for this patient with significant reported pain and prior treatment for reflex sympathetic dystrophy....Serena's recommended work status is Restricted Duty."

Dr. Brian Goodman provided a PAIN CLINIC CONSULTATION on November 6, 2018:

Ms. Dodson is a 52 y.o. female who presents to the pain clinic with back pain which has been gradually worsening over time. Possible accident or event leading to this pain: she fell in Sep 2018 against a wall after breaking up a fight between patients. She hit her back. She has a spinal cord stimulator in place that was placed in 1998 for a nerve injury to her foot. The foot no longer gives her pain. The battery is dead, and she would like a new system placed to take care of her back pain. The pain is described as constant aching in the mid back. Radiation: upper and lower back.

Spinal Procedures: SCS placement 20 yrs ago....

Imaging reviewed today: Cerv/Thor/Lumbar CT from 2018, pertinent findings:
Mild disc bulge, L4, L5. Other areas with mild degeneration.

Dr. Goodman assessed "1. Lumbago, acute, from hitting wall. 2. Musculoskeletal origin of pain. 3. SCS IPG end of life, wants replacement."

Dr. Goodman planned, "1. Refer to Dr. Johnson for IPG replacement eval/discussion. I advised her that a SCS system probably would not cover her upper back musculoskeletal pain very well. 2. If no help w/SCS route, can return here for some TPI's. 3. Medication prescribed today: none. 4. Thoracic XR today to eval stim wire." Dr. Goodman diagnosed "Acute

midline low back pain without sciatica” and “Battery end of life of spinal cord stimulator.”

The claimant testified on direct examination:

Q. Now, let's go back to the referral that Dr. Goodman made to Dr. Johnson. Did you ever see Dr. Johnson?

A. I made an appointment. I arrived and then the nurse came out and said that my appointment was canceled because workers' comp refused.

Q. So you never got to see Dr. Johnson?

A. No.

Dr. D. Luke Knox noted on January 2, 2019:

HPI: Ms. Serena Dodson was seen in the Northwest Arkansas Neurosurgery Clinic on 01/02/19 for consultation of right hemi-back pain.

As you are familiar with her history, I will suffice it to say that Ms. Dodson is a 53-year-old, right-handed white female who has had right-sided thoracic pain following a fall occurring on 09/09/18. Apparently, she was trying to break up a fight between two patients that were 10 and 11 years of age. She grabbed one of the patients and he lunged forward and, at that time, she slipped back on something on the floor and landed on the corner of the wall, striking her right back. She thinks she did lose consciousness for a few moments.

Apparently, her fellow nurses called a code on her and she was sent to the Emergency Room by ambulance. She underwent a work-up with CT scanning, which was completely negative, demonstrating no evidence of fracture. She was sent to the Occupational Clinic and was placed on muscle relaxers and Neurontin. She has been told that she needs a spinal cord stimulator. She has an old stimulator from previous issues. She got it back in the early 1990's and had it redone in 2005. It has not worked in the past many years. It is Medtronic and is not MRI compatible.

She has tried physical therapy, but was told that this was a nerve issue and it would not help. She has a TENS unit that is not affording much benefit....

RADIOGRAPHS/IMAGING STUDIES: Reviewing her x-rays, both the lumbar and thoracic, demonstrate no evidence of acute fracture. Reviewing the CT scan of her cervical spine demonstrate no fracture. The report of the thoracic and lumbar spine demonstrated no fracture.

IMPRESSION: I informed the patient that she is suffering from the effects of a soft tissue injury and has no evidence of spinal injury and/or nerve issue. There is no surgery that would afford any benefit to her continuing complaints.

She is four months into her continuing difficulties and I do not believe it would be worthwhile for her to pursue a Functional Capacity Evaluation as it will be invalid. She should be able to tolerate a sit-down, light-duty job. I would be happy to reevaluate her in the future to release her from her job duty restrictions.

Accordingly, she would qualify for zero (0%) permanent partial disability as this is a soft tissue injury and there is no evidence of acute bony injury. There are degenerative changes noted on the CT scan that would be preexisting to her current trauma. She has a preexisting history, obviously, of back issues that were treated with the spinal cord stimulator that has been nonfunctional for many years.

SUMMARY: To summarize, I do not believe there are any other treatment avenues available. I would recommend that she get back to restricted job requirements to a sit-down, secretarial-type job. Again, she would qualify for zero (0%) permanent partial disability. I would recommend no other treatment options at this time.

Thank you again for allowing us to take part in this patient's care. If you have any further questions, do not hesitate to contact my office.

Dr. Knox further noted on January 2, 2019:

Serena Dodson has been under my professional care, and has required time off due to his/her illness. As of January 2, 2019, she may return to work with the following limitations:
Restricted Duty: Sit down/desk job....

Dr. Knox and Michael Valentine, P.A.-C signed the following note on
January 15, 2019:

I saw Serena Dodson on January 2, 2019 for an evaluation, at that time I had released her to restricted work to a sit down desk type of job. The job restriction was for the injury that occurred on September 9, 2018. It is my recommendation she return in 2 months to be released to full duty. If you have any further questions please do not hesitate to contact our office.

The claimant's testimony indicated that she received a statutory Change of Physician to Dr. Kyle Mangels. Although there is not a Change of Physician Order in the record before the Commission, the claimant consulted with Dr. Mangels on April 17, 2019:

CHIEF COMPLAINT: Lower back pain with right leg pain occasionally and right side of her back all the way down hurting with right shoulder blade pain and right buttock pain after an on-the-job injury on 09/09/18....She does work at a pediatric unit on the weekends and two younger boys who were 10 or 11 years old were fighting and she pulled them and slipped. She hit her back on the corner of a wall.... She is not working. Her employer won't accept her restrictions. I feel like she can definitely work a desk job only at this point. She can lift only 10 pounds. These restrictions are temporary. She needs to have a thoracic and lumbar myelogram done. She dribbles urine occasionally without really knowing it. She has burning and stabbing pain and muscle spasms....She has not had a lumbar injection. She had physical therapy for her back for six weeks in October and November including aquatic therapy. This included electrical stimulation and infrared treatment. She has a neurostimulator and had RSD for a crush injury before. This was for a left foot injury which is better now. She is not able to have an MRI scan. She is obese. She appears to be neurologically intact....We are going to do a thoracic and lumbar myelogram and see what this reveals....She is not working....

Dr. Mangels gave the following impression: “History of on-the-job injury last September with resulting lower back pain and right leg pain as well as right buttock pain and right side of her back hurting all the way down.” Dr. Mangels planned, “I think she needs to consider a thoracic and lumbar myelogram. We will get this done at Tulsa Spine and Specialty Hospital if this can be approved. She can lift up to 10 pounds. I would like her to work only a desk job and desk work only for now still. It doesn’t sound like her employer is going to accept this though based on what she told me. These restrictions are temporary and effective today.”

Dr. Mangels reported on August 5, 2019:

Chief Complaint: Lower back pain with right leg pain occasionally and right side of her back hurting all the way down with right shoulder pain and right buttock pain after an on-the-job injury almost a year ago now....
She came in to have a myelogram done of the thoracic and lumbar spine. This was reviewed as far as the films. She tolerated it well. She is using a cane. She has been working a desk job only although she struggles with working a desk job after about five hours. I don’t want her working more than five hours a day, although she is not working daily at the desk job. She only works when they have something available for her to do at a desk job. I would like her to avoid working more than five hours a day, even at a desk job, because of this....
Her myelogram results were reviewed. I don’t have the report from the radiologist as the myelogram was just done. You can see her spinal cord stimulator going to the canal. She has a single percutaneous lead that goes into the thoracic area. This spans from T10 to T12. There is a small disk protrusion at L3-4. I don’t see a fracture, severe facet disease, or any stenosis. There is some disk disease in the lower lumbar spine at multiple levels. The thoracic myelogram looks less abnormal than the lumbar myelogram.

I think doing surgery is not appropriate or indicated. She has seen Dr. Goodman for an opinion with regards to her stimulator. I think she needs to see Dr. Goodman for consideration of some injections in her back to see if this helps. She can work light duty. She can work a desk job but only five hours a day. I spent about 40 minutes with her today with her friend going over the myelogram results. I gave her no new prescriptions today. I would like her to see Dr. Goodman for pain management basically and consider steroid injections in her back to see if these help her. She needs to lose some weight as well. Changing out her stimulator to a paddle lead might be indicated as well potentially. We did talk about this as well. This will be up to Dr. Goodman though. I am going to keep her on the same restrictions that she has been on. I will see her back after she sees Dr. Goodman. She cannot work regular duty yet, in my opinion, as a nurse.

Dr. Mangels also reported on August 5, 2019:

Mrs. Dodson asked me in the office today whether or not she could ride her motorcycle. She enjoys riding motorcycles normally evidently. She is working a desk job only, so I really feel like her riding a motorcycle would not be consistent with her work restrictions, and I don't feel comfortable releasing her to ride her motorcycle at this point. She understands. In addition, when she was leaving the office today, she told my office staff that she would rather see a pain management doctor in Tulsa now instead of the ones in Ft. Smith, Arkansas. We can get her set up once approved for an evaluation by one of the Tulsa pain management doctors such as Dr. Revelis, Dr. Martucci, Dr. Torgerson, Dr. Wallace, Dr. Anthony, or Dr. Traci White potentially. It sounds like she doesn't want to go back to see Dr. Goodman at this point. I am not sure why, although this would be much closer for her where she lives.

Dr. Goodman noted on September 10, 2019:

Ms. Dodson is a 53 y.o. year-old female who presents to the pain clinic for follow up.

1. Returns after consult with Dr. [Mangels], no surgery indicated, he requests LESI.

2. She still hurts in her upper back and lower back....

Possible accident or event leading to this pain: she fell in Sep 2018 against a wall after breaking up a fight between patients. She hit her back. She has a spinal cord stimulator in place that was placed in 1998 for a nerve injury to her foot. The foot no longer gives her pain. The battery is dead, and she would like a new system placed to take care of her back pain. The pain is described as constant aching in the mid and low back. Radiation: upper and lower back....

Assessment/Active Problems:

1. Lumbago, chronic, from hitting wall.
2. Musculoskeletal pain.
3. Lumbar radicular pain.
4. Chronic pain syndrome.
5. Sciatica.
6. SCS IPG end of life, wants replacement.

Dr. Goodman planned “1. LESI x2 as requested by Dr. [Mangels] w/neurosurgery for her lumbar radicular pains – L4 midline. 2. FU w/Dr. [Mangels] after.” Dr. Goodman performed a lumbar epidural steroid injection on September 27, 2019.

The claimant followed up with Dr. Mangels on October 16, 2019:

Mrs. Dodson returns to see me today in my Sallisaw office with her friend again. Her friend has had back surgery in my hands in the last few weeks. I think we need to send her to Dr. Traci White, who is a pain doctor who her friend sees. Dr. Traci White is pain doctor in Tulsa. She ended up having an injection by Dr. Goodman about a month ago and she feels worse after that injection. She is on baclofen. She uses a cane. She does have a spinal cord stimulator which may need to be interrogated and/or change the paddle lead possibly. Evidently, Dr. Goodman does not take care of spinal cord stimulators or revisions, so I think she needs to see Dr. Traci White for further pain management treatment. This will be in Tulsa. I did not change her restrictions today. They are the same as they were before....

I told her that I don't really treat patients with spinal cord stimulators as far as surgery for spinal cord stimulators unless a paddle lead is needed and then I could place that, but basically I don't treat patients with stimulators or evaluate or exchange stimulators unless a paddle lead is needed. I would like her to see Dr. Traci White at this point who can interrogate the system and see if she needs the stimulator revised or changed out or a paddle lead placed and then I can get further involved at that time. I don't think she needs to have lumbar surgery proper. The injection did not help her. She is basically off work. Her restrictions are not any different than when I last saw her.

I gave her no new prescriptions today. I spent about 40 minutes with her today in my Sallisaw office. We deferred new imaging today. She did have a lumbar injection done at the end of September by Dr. Goodman but, unfortunately, it did not help her and made her somewhat worse. I am not really sure why she is worse from that.

Dr. Mangels apparently signed a Physician Recommendation Report on October 16, 2019 and checked "No" following the statement, "Pt. has reached MMI."

A pre-hearing order was filed on February 11, 2020. According to the pre-hearing order, the claimant contended, "The claimant contends that her authorized treating physician has her on temporary restricted duty and that as a result she is losing wages. The claimant contends that she is entitled to temporary partial disability benefits from September 29, 2019 until a date yet to be determined. The claimant contends that her authorized treating physician has recommended that she be treated by Dr. Traci White, a pain management physician; however, the respondents have refused that treatment. The claimant contends that the recommended

treatment is reasonably necessary and that therefore, the respondents should be ordered to pay for said treatment. The claimant contends that her attorney is entitled to an appropriate attorney's fee."

Respondent No. 1 contended, "Respondents No. 1 contend that the claimant has been restored to her baseline condition as it existed prior to the temporary aggravation which occurred on September 9, 2018. To the extent any further medical treatment or indemnity benefits are owed, those benefits would be traceable to the claimant's pre-existing abnormalities, inclusive of the previous placement of a stimulator that was in no way connected to the underlying work incident or event. Indeed, the current proposed treatment is for replacement of or installation of new batteries into that stimulator, and such treatment was needed before the work aggravation ever occurred on September 9, 2018. Further treatment is not reasonable or necessary in connection with the temporary aggravation, and the claimant has reached the end of her healing period. The claimant had extensive pre-existing spinal issues and related pain complaints prior to September 9, 2018, and she has been restored to the baseline condition as of September 29, 2019. Thus, no additional benefits are owed.

Respondents No. 1 assert an offset for any group medical or disability benefits paid to or on behalf of the claimant, as well as an offset for any unemployment benefits paid to the claimant, to the extent allowed under

Arkansas law. Respondents reserve the right to supplement their proposed contentions upon completion of the pre-trial discovery process and in compliance with and Prehearing Order entered herein.”

Respondent No. 2, Death & Permanent Total Disability Trust Fund, contended, “The Trust Fund defers to litigation on issues No. 2(2)-(b) above. Since Respondent No. 1 and the Trust Fund agree on an average weekly wage of \$1001.00, the Trust Fund will defer to any litigation regarding average weekly wage. The Trust Fund waives its appearance at the next hearing.”

The parties agreed to litigate the following issues:

1. Whether the claimant is entitled to temporary partial disability benefits.
2. Whether the claimant is entitled to medical benefits.
3. Fees for legal services.

Dr. Mangels apparently signed another Physician Recommendation Report on July 21, 2020 and again opined that the claimant had not reached Maximum Medical Improvement.

After a hearing, an administrative law judge filed an opinion on October 15, 2020. The administrative law judge found that the claimant proved she was entitled to temporary partial disability benefits beginning September 29, 2019 to a date yet to be determined. The administrative law judge determined that the claimant proved she was “entitled to the requested additional medical treatment, specifically the referral to Dr. White

and any recommendations that result from the referral.” Respondent No. 1 appeals to the Full Commission.

II. ADJUDICATION

A. Medical Treatment

The employer shall promptly provide for an injured employee such medical treatment as may be reasonably necessary in connection with the injury received by the employee. Ark. Code Ann. §11-9-508(a)(Repl. 2012). The employee has the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary. *Stone v. Dollar General Stores*, 91 Ark. App. 260, 209 S.W.3d 445 (2002). Preponderance of the evidence means the evidence having greater weight or convincing force. *Metropolitan Nat’l Bank v. La Sher Oil Co.*, 81 Ark. App. 269, 101 S.W.3d 252 (2003). What constitutes reasonably necessary medical treatment is a question of fact for the Commission. *Wright Contracting Co. v. Randall*, 12 Ark. App. 358, 676 S.W.2d 750 (1984).

An administrative law judge found in the present matter, “4. The claimant has further proven by the same standard that she is entitled to the requested additional medical treatment, specifically the referral to Dr. White and any recommendations that may result from that referral.” The Full Commission finds that the claimant proved she was entitled to an evaluation by Dr. White for consideration of additional pain management.

The claimant testified that she received a spinal cord stimulator in approximately 1998 following a work-related injury to her left foot, well before the claimant became employed with the respondents. Dr. Brown's impression in December 2005 was "Reflex sympathetic dystrophy with spinal cord stimulator, which is not functioning." Dr. Brown performed a "Revision and replacement of spinal cord stimulator leads and replacement of IPG battery with a Restore rechargeable battery."

The claimant testified that she became employed with the respondents in about January 2017. The claimant testified that she worked in the respondent-employer's Children's Unit on weekends, and that her work was often physically demanding. The parties stipulated that the claimant "sustained a compensable injury" on September 9, 2018. The claimant testified that, while breaking up a fight, she was pushed backwards into the outer corner of a wall and "went out." The claimant was transported to Mercy Hospital Fort Smith on September 9, 2018, at which time a physician diagnosed "Thoracic back strain, initial encounter." Diagnostic imaging of the claimant's cervical, thoracic, and lumbar spine showed degenerative changes, and a "thoracic stimulator device" was noted in the claimant's thoracic spine. The evidence does not demonstrate that the September 9, 2018 compensable injury altered placement of the spinal cord stimulator or aggravated use of the spinal cord stimulator in any way.

The claimant began treating with Dr. Holder on September 11, 2018. Dr. Holder diagnosed “1. Strain of muscle and tendon of back wall of thorax, initial encounter. 2. Contusion of right back wall of thorax, initial encounter.” Dr. Holder noted, “This is the first examination for this *back strain* [emphasis supplied].” Dr. Holder treated the claimant conservatively. Dr. Goodman provided pain management beginning November 6, 2018 and reported, “She has a spinal cord stimulator in place that was placed in 1998 for a nerve injury to her foot. The foot no longer gives her pain. The battery is dead, and she would like a new system placed to take care of her back pain.” Again, the evidence does not demonstrate that the September 9, 2018 compensable injury had affected the battery in the spinal cord stimulator or that the compensable injury had otherwise affected use of the stimulator to any degree. Dr. Goodman planned a referral to Dr. Johnson “for IPG replacement eval/discussion.” However, the claimant testified that the respondent-carrier would not allow her to treat with Dr. Johnson as recommended by Dr. Goodman.

Dr. Knox examined the claimant on January 2, 2019 and stated in part, “I informed the patient that she is suffering from the effects of a soft tissue injury and has no evidence of spinal injury and/or nerve issue. There is no surgery that would afford any benefit to her continuing complaints....She has a preexisting history, obviously, of back issue that

were treated with the spinal cord stimulator that has been nonfunctional for many years....I would recommend no other treatment options at this time.” Like the other examining physicians, Dr. Knox did not opine that a revision or replacement of the spinal cord stimulator was reasonably necessary in connection with the September 9, 2018 compensable injury. The claimant testified that she subsequently received a Change of Physician to Dr. Mangels, although there is not a Change of Physician Order in the record before the Commission.

The claimant began treating with Dr. Mangels on April 17, 2019. Dr. Mangels noted the history of the claimant’s compensable injury and recommended additional diagnostic testing. Dr. Mangels reported on August 5, 2019, “I think doing surgery is not appropriate or indicated.” Dr. Mangels stated, “Changing out her stimulator to a paddle lead might be indicated as well potentially.... *This will be up to Dr. Goodman though* [emphasis supplied].” Dr. Goodman noted on September 10, 2019, “She has a spinal cord stimulator in place that was placed in 1998 for a nerve injury to her foot. The foot no longer gives her pain. The battery is dead, and she would like a new system placed to take care of her back pain.” Dr. Goodman did not opine, however, that a spinal cord stimulator replacement was reasonably necessary in connection with the September 9, 2018 compensable injury. Dr. Mangels reported on October 16, 2019, “Evidently,

Dr. Goodman does not take care of spinal cord stimulators or revisions, so I think she needs to see Dr. Traci White for further pain management treatment.”

The Full Commission finds that an evaluation by Dr. White is reasonably necessary in accordance with Ark. Code Ann. §11-9-508(a)(Repl. 2012). The Full Commission notes that Dr. Goodman planned a referral to Dr. Johnson “for IPG replacement eval/discussion” in November 2018, but the respondent-carrier denied this referral. The Full Commission finds that the claimant proved she was entitled to an evaluation by Dr. White for consideration of additional pain management. Dr. White may recommend revision or replacement of the spinal cord stimulator, but there is no indication in the record currently before the Commission that a revision or replacement of the spinal cord stimulator would be reasonably necessary in connection with the September 9, 2018 compensable injury. The Full Commission otherwise finds that at least one evaluation by Dr. White is reasonably necessary in connection with the compensable injury.

B. Temporary Disability

Temporary total disability is that period within the healing period in which the employee suffers a total incapacity to earn wages, whereas temporary partial disability is that period within the healing period in which

the employee suffers only a decrease in her capacity to earn the wages she was receiving at the time of the injury. *Ark. State Hwy. Dept. v. Breshears*, 272 Ark. 244, 613 S.W.2d 392 (1981). “Healing period” means “that period for healing of an injury resulting from an accident.” Ark. Code Ann. §11-9-102(12)(Repl. 2012). The healing period is that period for healing of the injury which continues until the employee is as far restored as the permanent character of the injury will permit. *Roberson v. Waste Management*, 58 Ark. App. 11, 944 S.W.2d 858 (1997). Whether a claimant’s healing period has ended is a question of fact for the Commission. *TJX Cos., Inc. v. Lopez*, 2019 Ark. App. 233, 574 S.W.3d 230.

An administrative law judge found in the present matter, “3. The claimant has proven by a preponderance [of the evidence] that she is entitled to temporary partial disability from September 29, 2019 to a date yet to be determined.” The Full Commission does not affirm this finding. As we have discussed, the parties stipulated that the claimant sustained a compensable injury on September 9, 2018. The claimant testified that she injured her back while breaking up a fight between children. A CT of the claimant’s cervical, thoracic, and lumbar spine on September 9, 2018 showed multilevel degenerative changes. No treating physician has recommended that the claimant is a candidate for surgery. Dr. Holder’s

diagnosis on September 11, 2018 was “1. Strain of muscle and tendon of back wall of thorax, initial encounter. 2. Contusion of right back wall of thorax, initial encounter.” Dr. Holder treated the claimant conservative for the claimant’s back strain and contusion. The claimant subsequently treated conservatively with Dr. Goodman.

Dr. Knox examined the claimant on January 2, 2019. Dr. Knox opined in part, “she would qualify for zero (0%) permanent partial disability as this is a soft tissue injury and there is no evidence of acute bony injury....I do not believe there are any other treatment avenues available. I would recommend that she get back to restricted job requirements to a sit-down, secretarial-type job. Again, she would qualify for zero (0%) permanent partial disability. I would recommend no other treatment options at this time.” The Commission has the authority to accept or reject a medical opinion and the authority to determine its probative value. *Poulan Weed Eater v. Marshall*, 79 Ark. App. 129, 84 S.W.3d 878 (2002). In the present matter, the Full Commission finds that Dr. Knox’s opinion is corroborated by the probative evidence and is entitled to significant evidentiary weight. The evidence demonstrates that, although he did not assign a percentage of permanent anatomical impairment, Dr. Knox considered the claimant’s condition to be permanent no later than January 2, 2019. Permanent impairment has been defined as any permanent

functional or anatomical loss remaining after the healing period has ended. *Main v. Metals*, 2010 Ark. App. 585, 377 S.W.3d 506 (Ark. App. 2010), citing *Johnson v. General Dynamics*, 46 Ark. App. 188, 878 S.W.2d 411 (1984).

The Full Commission finds in the present matter that the claimant's healing period for her compensable back strain and contusion ended no later than January 2, 2019. Temporary disability benefits cannot be awarded after a claimant's healing period has ended. *Elk Roofing Co. v. Pinson*, 22 Ark. App. 191, 737 S.W.2d 661 (1997). A claimant's complaints of pain are not sufficient to extend the healing period. *Mad Butcher, Inc. v. Parker*, 4 Ark. App. 124, 628 S.W.2d 582 (1982). We find that the claimant did not prove she was entitled to temporary total or temporary partial disability benefits after January 2, 2019. The Full Commission recognizes that Dr. Mangels opined on October 16, 2019 and July 21, 2020 that the claimant had not yet reached maximum medical improvement. It is within the Commission's province to weigh all of the medical evidence and to determine what is most credible. *Minnesota Mining & Mfg. v. Baker*, 337 Ark. 94, 989 S.W.2d 151 (1999). In the present matter, the Full Commission finds that Dr. Knox's opinion is more credible than Dr. Mangels' opinion. The evidence does not demonstrate that the claimant re-

entered a healing period for her back strain and contusion at any time after January 2, 2019.

Additionally, the Full Commission's award of an evaluation for pain management by Dr. White is not inconsistent with our finding that the claimant reached the end of her healing period no later than January 2, 2019. It is well-settled that a claimant may be entitled to ongoing medical treatment after the healing period has ended, if the medical treatment is geared toward management of the claimant's injury. *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004), citing *Hydroponics, Inc. v. Pippin*, 8 Ark. App. 200, 649 S.W.2d 845 (1983).

After reviewing the entire record *de novo*, the Full Commission finds that the claimant did not prove she was entitled to temporary partial disability benefits. The Full Commission finds that the claimant reached the end of the healing period for her compensable injury no later than January 2, 2019. We find that an evaluation by Dr. White for consideration of additional pain management is reasonably necessary in accordance with Ark. Code Ann. §11-9-508(a)(Repl. 2012). Based on the record currently before us, the Full Commission makes no finding with regard to whether revision or replacement of a spinal cord stimulator is reasonably necessary in connection with the September 9, 2018 compensable injury. For prevailing in part on appeal, the claimant's attorney is entitled to a 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

CHRISTOPHER L. PALMER, Commissioner

M. SCOTT WILLHITE, Commissioner