

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H401401

CRISTINA GARCIA-LOPEZ, EMPLOYEE CLAIMANT

GEORGE'S PROCESSING, INC., EMPLOYER RESPONDENT

CORVEL ENTERPRISE CLAIMS INC.,
INSURANCE CARRIER/TPA RESPONDENT

OPINION FILED MAY 28, 2026

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

Claimant represented by the HONORABLE EVELYN E. BROOKS, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE R. SCOTT ZUERKER, Attorney at Law, Fort Smith, 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 31, 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 a pre-hearing conference conducted on February 20, 2025, and contained in a Pre-hearing Order filed February 24, 2025, are hereby accepted as fact.
2. Claimant has met her burden of proving that she suffered a compensable injury to her left shoulder on or about June 1, 2023, and is entitled to reasonable and

necessary medical treatment for that injury as recommended by her treating physicians.

3. Claimant has met her burden of proving she is entitled to temporary total disability from October 15, 2024, until January 6, 2025.
4. Claimant's compensation rate is based on her average weekly wage of \$728.21, yielding a temporary total disability rate of \$485.00 per week.

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

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2012).

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 (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).

Therefore, we affirm and adopt the December 31, 2025 decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

Commissioner Mayton dissents.

DISSENTING OPINION

I must respectfully dissent from the Majority's finding that the claimant has met her burden of proving by the preponderance of the evidence that she sustained a compensable injury to the left shoulder on June 1, 2023, and is entitled to reasonable and necessary medical treatment and temporary total disability benefits.

Arkansas Code Annotated section 11-9-102 (4)(A)(ii) provides that a compensable injury includes "(ii) An injury causing internal or external

physical harm to the body and arising out of and in the course of employment if it is not caused by a specific incident or is not identifiable by time and place of occurrence, if the injury is: (a) Caused by rapid repetitive motion.”

The Arkansas Supreme Court in *Malone v. Texarkana Public Schools.*, 333 Ark. 343, 969 S.W.2d 644 (1998), noted the legislature did not establish guidelines as to what constitutes "rapid repetitive motion" and as a result, that determination has been made by the fact-finder in each case. After reviewing rapid repetitive motion cases, the Court in *Malone*, *supra*, established a test for analyzing whether an injury is caused by rapid repetitive motion: "The standard is a two-pronged test: (1) the tasks must be repetitive, and (2) the repetitive motion must be rapid. As a threshold issue, the tasks must be repetitive, or the rapidity element is not reached. Arguably, even repetitive tasks and rapid work, standing alone, do not satisfy the definition. The repetitive tasks must be completed rapidly." *Id.*

The facts of *High Capacity Products v. Moore*, 61 Ark. App. 1, 962 S.W.2d 831 (1998), present a compelling picture of what constitutes rapid repetitive motion. The claimant used an airgun to assemble blocks by attaching two nuts to each block with a quota of one thousand units per day. Her assembly duties required her to attach a nut every fifteen seconds. This required three maneuvers to be repeated in succession all day:

assembling the separate parts, using the air-compressor equipment to attach the parts together with nuts, and throwing the units in a box *Id.*

A compensable injury must be established by medical evidence supported by "objective findings." Ark. Code Ann. § 11-9-102(4)(D). Objective findings cannot come under the voluntary control of the patient. Ark. Code Ann. § 11-9-102(16).

It is within the Commission's province to weigh all the medical evidence, to determine what is most credible, and to determine its medical soundness and probative force. *Sheridan Sch. Dist. v. Wise*, 2021 Ark. App. 459, 637 S.W.3d 280 (2021). In weighing the evidence, the Commission may not arbitrarily disregard medical evidence or the testimony of any witness. *Id.* The Commission is not required to believe the testimony of the claimant or any other witness but may accept and translate into findings of fact only those portions of the testimony that it deems worthy of belief. *White v. Gregg Agricultural Ent.*, 72 Ark. App. 309, 37 S.W.3d 649 (2001).

This case turns on the credibility of the claimant as a witness and as a patient. While the claimant initially alleged a specific incident injury, on the day of the hearing, her attorney requested that a gradual onset origin be considered.

From the outset, the claimant's testimony was unreliable and changed based on whatever narrative she was alleging. The claimant

reported her injury three months after the fact, stating “her shoulder has been bothering her since June of 2023 and has been accumulating ever since.”

At the hearing, the claimant testified her job duties required her to “cut very hard chicken” and lift heavy trays. She testified she would fill boxes with meat and “stack box on top of the box on top of a box on top of a box. And I had to do it repetitively. And I was not able to reach. And I had to do it very quickly.” However, the claimant later admitted, “I don’t take them when they’re full. I take them when they’re empty. I couldn’t take them when they’re full. I would have to take several – carry several in a hurry.” In the next breath, the claimant contended she stacked full boxes of meat all around her, needing to use a stool at times to stack them and stacking them five boxes, or ten feet, high. This assertion was so ludicrous that three pages of the transcript were taken up with the parties determining that the claimant could not have possibly stacked totes ten feet high. This testimony was also provided to Dr. Christopher Dougherty who relied upon this history in determining that the claimant’s injuries were work related.

The claimant’s first treating physician, Dr. Robert MacLeod, opined that a left shoulder MRI revealed a small loose body with no evidence of a rotator cuff tear and the claimant “does not have the classic mechanism for loose body with any reported history of fall or trauma to the shoulder from

the work...". Dr. MacLeod's opinion is based not only on his conversations with the claimant, but also upon his review of a video of the claimant's work. Dr. MacLeod ultimately stated, "she does not, again, have the normal mechanism for a loose body and considering her work duties and job description with prior video reviewed, I do not think it is more than 51% likely that the foreign body is a result of her work as there is no one specific incident that seems to have started the pain... I think [it] is reasonable to have her proceed through her regular private insurance if not approved through work comp."

The ALJ and the Majority have concluded that the claimant proved by a preponderance of the evidence she suffered a compensable injury to her left shoulder. This gives unreasonable weight to Dr. Dougherty's opinion on the nature of claimant's injury considering her inaccurate and misleading testimony and arbitrarily disregards Dr. MacLeod's reasoning that a singular event rather than a gradual onset would be the expected source of such an injury. Dr. MacLeod's opinion is unassailable considering it is based on video evidence of the claimant's work rather than her own dubious statements. For these reasons, Dr. MacLeod's opinion should bear greater weight.

Accordingly, for the reasons stated above, I respectfully dissent.

MICHAEL R. MAYTON, Commissioner