

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H408000

CARLOS REINA GOMEZ,
EMPLOYEE

CLAIMANT

C M CONSTRUCTION, LLC,
EMPLOYER

RESPONDENT

WELLFLEET NEW YORK INS. CO, CARRIER

RESPONDENT

OPINION FILED APRIL 30, 2026

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

Claimant represented by the HONORABLE AARON L. MARTIN, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE MELISSA WOOD, 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 October 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 6, 2025, 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 suffered a compensable injury to his low back and right hip on December 5, 2024.
3. Respondent is liable for payment of all reasonable and necessary medical treatment provided to claimant for his compensable injuries.

4. Claimant has met his burden of proving by a preponderance of the evidence that he is entitled to payment of one day of temporary total disability benefits.
5. Claimant's attorney is entitled to an attorney fee on all unpaid indemnity 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 October 15, 2025 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.

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).

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

Commissioner Mayton dissents.

DISSENTING OPINION

I must respectfully dissent from the majority opinion finding that the claimant suffered a compensable injury on December 5, 2024.

The claimant contends that he was injured when he tripped and fell approximately 12 feet to the ground while employed by CM Construction, LLC on December 5, 2024. The claimant was taken to the emergency room at Northwest Medical Center Springdale where he was hospitalized from December 5, 2024, through December 13, 2024. Claimant's primary complaints immediately after the accident included severe back pain and right ankle pain.

While hospitalized, the claimant underwent CT scans of the brain, cervical spine, chest, abdomen, pelvis and MRIs of the pelvis, cervical

spine, thoracic spine, and lumbar spine. None of these tests revealed any acute findings.

Upon release from Northwest Medical, the claimant began outpatient physical therapy and follow-up care at Community Clinic in Springdale. Due to claimant's continued complaints of pain, Kathy L. Mayhew, D.O. at Community Clinic recommended that claimant undergo an evaluation by an orthopedic specialist.

On March 5, 2025, claimant was evaluated by Dr. Marcus Heim, D.O. at the Orthopedic Center of Northwest Arkansas who ordered an MRI of the right hip and an EMG/NCV electrodiagnostic study of the right lower extremity. Dr. Heim assessed claimant's condition at that time as right hip pain and right lumbar radiculopathy.

Following these tests, claimant returned to Dr. Heim. In his report of May 14, 2025, Dr. Heim stated that the MRI scan of the hip showed early degenerative changes but no evidence of acute osseous pathology or avascular necrosis. He also noted that the EMG/NCV was essentially normal with the exception of the "lack of recruitment of fibers to the EHL."

After a hearing, an ALJ opined the claimant had met his burden of proving he sustained a compensable injury, and he was entitled to reasonable and necessary medical treatment and one day of temporary total disability benefits.

Arkansas Code Annotated section 11-9-102 (4)(A)(i) provides that a compensable injury includes “[a]n accidental injury causing internal or external physical harm to the body. . . An injury is ‘accidental’ only if it is caused by a specific incident and is identifiable by time and place of occurrence.”

Generally, a specific incident injury is an accidental injury arising out of the course and scope of employment caused by a specific incident identifiable by time and place of an occurrence. Ark. Code Ann. § 11-9-102(4)(A)(i). This, therefore, requires that a claimant establish by a preponderance of the evidence: (1) an injury arising out of and in the course of employment; (2) that the injury caused internal or external physical harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings establishing an injury as defined in Ark. Code Ann. § 11-9-102(16) and; (4) that the injury was caused by a specific incident identifiable by time and place of occurrence. Ark. Code Ann. § 11-9-102(4)(A)(i).

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).

In the present matter, the claimant fell approximately twelve feet from a roof. Despite an eight day stay at Northwest Medical Center in Springdale, doctors were unable to find any objective signs of injury. Between the date of claimant's injury and March 31, 2025, the claimant underwent a multitude of testing, including multiple MRIs, CT scans, multiple X-rays, and electrodiagnostic testing, all of which revealed only degenerative changes or pre-existing conditions.

A CT scan on the date of claimant's injury was unremarkable. It revealed "[t]horacic vertebral body heights are preserved. No displaced sternal or rib fracture. No chest wall hematoma." According to the CT scan report, the claimant's liver, spleen, left kidney, adrenals and pancreas were

normal. A CT of the cervical spine was negative for acute findings. CT scans of the claimant's legs showed "[n]o acute findings in either leg. Old posttraumatic and degenerative changes were present in the right ankle." A head CT revealed "[n]o acute intracranial abnormality."

An MRI of the claimant's pelvis dated December 11, 2024, showed no acute findings. An MRI of the cervical spine dated December 9, 2024, found:

Alignment of the craniocervical junction is maintained. No evidence of craniocervical or cervical ligament injury. Straightening of the normal cervical lordosis. No acute cervical fracture. Vertebral body heights are maintained. Multilevel disc desiccation and disc height loss.

Cervical cord is normal in caliber and signal.

Paraspinal soft tissues are normal. Included posterior fossa structures are normal.

C2-C3: No canal or neural foraminal stenosis.

C3-C4: No canal or neuroforaminal stenosis.

C4-C5: Disc osteophyte complex asymmetric to the right, facet osteoarthritis and uncovertebral hypertrophy. Findings results (sic) in mild bilateral neural foraminal stenosis. Disc bulge effaces the anterior thecal sac and results in mild flattening of the right hemicord.

C5-C6: Disc osteophyte complex, facet osteoarthritis and uncovertebral hypertrophy results in moderate left and mild right neural foraminal stenosis. Moderate canal stenosis.

C6-C7: Disc bulge and uncovertebral hypertrophy results in mild bilateral neural foraminal stenosis. No canal stenosis.

C7-T1: No canal or neural foraminal stenosis.

IMPRESSION:

1. Multilevel degenerative disc disease of the cervical spine most pronounced at C5-C6 where there is moderate canal, moderate left and mild right neural foraminal stenosis.
2. Level by level findings as above.

An MRI of the claimant's lumbar and thoracic spine taken the same day revealed that "alignment is normal of the lumbar vertebral bodies. No compression fractures are seen," and "alignment of the thoracic spine is normal." A right hip MRI showed "mild fraying of the anterior superior right labrum" and bilateral degenerative joint disease.

Pelvic and chest x-rays revealed "no acute findings," and an X-ray of the right ankle and foot showed no acute fracture or dislocation but revealed a healed right fibular fracture.

The claimant underwent electrodiagnostic testing on March 31, 2025. Testing showed "[e]ssentially normal electrodiagnostic study of the right lower extremity except for the diffusely decreased interference pattern and no active function noted in the right EHL". These types of findings could be seen secondary to pain or lack of effort. There are no findings to support

radiculopathy, plexopathy, generalized peripheral neuropathy or peripheral nerve entrapment syndrome or injury.

The administrative law judge agreed with these facts in his opinion stating, “the claimant underwent multiple tests at the emergency room and during his hospitalization that were interpreted as negative.” The sole basis for the ALJ’s findings that the claimant suffered a compensable injury is “numerous notations of claimant being given Flexeril for muscle spasms,” lumbar radiculopathy, and mild fraying of the anterior superior right labrum. From the outset, no practitioner who treated the claimant has related the right labral fraying to the claimant’s fall.

While Dr. John Marcus Heim assessed the claimant with right lumbar radiculopathy at a March 5, 2025 visit, after reviewing the March 31, 2025 electrodiagnostic testing performed by Dr. Miles Johnson, Dr. Heim removed that assessment from the claimant’s records and advised the EMG/NCV was essentially normal.

Dr. Heim’s report agrees with the position of the respondents that the MRI of claimant’s hip “reveals some early degenerative changes but no evidence of acute osseous pathology or AVN. With respect to his EMG/NCV it is essentially normal.”

The ALJ reasons that the claimant’s prescription for Flexeril for muscle spasms is sufficient to establish an objective finding based upon the

results of *Nucor Yamato Steel Co. v. Shelton*, 2025 Ark. App. 249, 713 S.W.3d 494 (2025). The Arkansas Court of Appeals declined to overrule its prior opinion that a diagnosis of lumbar sprain along with prescribed treatment of medication for “muscle spasms” is sufficient to establish objective findings of a compensable injury.

However, a claimant who has received a prescription “as needed for muscle spasms” has not established objective findings of injury. *Howell v. Arkadelphia Human Development Center*, 2023 Ark. App. 441, 675 S.W.3d 925 (2023). The Court of Appeals affirmed the Commission’s findings that complaints of muscle spasms did not constitute objective findings, stating:

Howell's treating physician's notes from his examination of Howell specifically state, "No Palpable spasm noted." That is, it is clear from these notes that Dr. Larey did not prescribe Celebrex, Flexeril, and Ultracet for muscle spasms. And if there was any confusion about this, Dr. Larey confirmed it in his response to the carrier's request for information, stating that he "did not palpate/observe muscle spasms" or diagnose or observe any other "acute objective findings of an injury." And finally, Howell's two lumbar MRIs were normal. Id.

The court of appeals in *Howell* deferred to the Commission’s findings of the weight and credibility of the medical evidence, stating: [t]he Commission interpreted and weighed the medical evidence and concluded that the prescription for muscle spasms was not an objective finding of an injury in light of all the evidence. The Commission specifically found

Howell's testimony that she suffered from muscle spasms as a result of the July 8 injury not credible and found "no probative evidence of record demonstrating that the claimant was suffering from muscle spasms. Id

Respondents contend that these cases, read together, create a rebuttable presumption that a prescription for a muscle relaxer is an objective finding of spasms. In this case, there is no mention of the claimant complaining of muscle spasms throughout his treatment.

A thorough review of the record reveals no instance of a doctor, nurse, or physical therapist observing a muscle spasm. In fact, the ALJ neglects to mention that Flexeril, as with the majority of the medications prescribed while in the hospital, was ordered *pro re nata* – as needed. A review of the medical records reveals that the order for “Flexeril: 0 mg, Oral, TID, PRN: spasm” is simply placed in the event that a spasm occurred, not necessarily because it had occurred.

There is no evidence that any Flexeril was ever administered, that the claimant requested it, or that the claimant made any complaint of muscle spasms. It is clear from the record that no muscle spasm was ever documented by any medical provider that treated the claimant.

Our caselaw does not support a finding that the claimant sustained a compensable injury. Extensive testing over the course of approximately six months revealed no objective findings, the claimant never complained of

muscle spasms and no medical provider ever documented a muscle spasm.

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

MICHAEL R. MAYTON, Commissioner