BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H502505

ROBERT HENDERSON, EMPLOYEE **CLAIMANT**

VS.

CLASSIC LAWN CARE, LLC, EMPLOYER **RESPONDENT**

SEDGEWICK CLAIMS MANAGEMENT, CARRIER/TPA **RESPONDENT**

OPINION FILED OCTOBER 28, 2026

Hearing before Administrative Law Judge, James D. Kennedy, on the 23RD day of September 2026, in Springdale, Arkansas.

Claimant is represented by Jarrid M. Kinder, Attorney at Law, Fayetteville, Arkansas.

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

STATEMENT OF THE CASE

A hearing was conducted on the 23rd day of September 2026, to determine the issues of compensability for a claimed lower back and spinal injury and medical regarding the injury, additional medical treatment for an accepted left shoulder injury, temporary total disability, a credit for temporary total disability already paid by the respondents, and attorney fees. A copy of the Pre-hearing Order dated July 21, 2026, was made part of the record without objection. The Order provided that the parties stipulated as follows:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.

2. An employee-employer-carrier relationship existed between the parties on August 20, 2024, when the parties agreed that the claimant sustained compensable injuries to his left shoulder.

3. The claimant was earning sufficient wages to entitle him to compensation at the weekly rates of $876.00 for temporary total disability benefits and $657.00 for permanent partial benefits.

The Claimant's and Respondent's contentions were set out in their respective responses to the Pre-hearing questionnaire and made a part of the record without objection. The Claimant contended he suffered a compensable injury to his lower back, spine, and left shoulder on August 20, 2024, while working for Classic Lawn Care in Fayetteville, Arkansas. The claimant further contended that he is entitled to medical benefits in addition to temporary total disability benefits from October 1, 2025, to a date yet to be determined, and that the respondents fully controverted this matter on December 5, 2025. That if the claim is found to be compensable, the respondents are obliged to pay a statutory attorneys fee on both past and future indemnity benefits.

At the time of the hearing, the Respondents amended their contentions and contended claimant had not in fact suffered a compensable neck and lower back injury. Respondents further contended that all appropriate benefits were being paid in regard to the claimant's left shoulder injury sustained on August 20, 2024. The surgery for claimant's shoulder was originally scheduled for October 3, 2025, and then canceled by the claimant, so benefits were suspended due to non-compliance with medical treatment. Respondents acknowledged that they are in fact responsible for the shoulder surgery which has now been performed and that they are in the process of paying for that treatment. Temporary total disability benefits had been paid to the claimant in the amount of $21,024, but the respondents contended that the claimant was paid a regular salary

during the entire time he was receiving temporary total disability, and as such, the respondents were entitled to a credit.

Based upon the above contentions, the issues before the Commission at the time of the hearing were did claimant suffer a compensable lower back and neck injury and was claimant entitled to medical for the treatment of those injuries, was claimant entitled to additional medical treatment for his left shoulder, was claimant entitled to temporary total disability from October 1, 2025, to a date to be determined, were respondents entitled to a credit of $21,024 for the temporary total disability that had been previously paid, and the issue of entitlement to attorney fees.

The claimant submitted 140 pages of medical records that were admitted without objection. Non-medical was also admitted without objection. Additionally, a "log" was admitted into the record as claimant's Exhibit 3 without objection. The respondents submitted 25 pages of records that were admitted without objection. In addition, the respondents submitted the January 15, 2026, deposition of the claimant that was admitted without objection. From a review of the record as a whole, to include medical reports and other matters properly before the Commission and having had an opportunity to observe the testimony and demeanor of the witnesses, the following findings of fact and conclusions of law are made in accordance with Ark. Code Ann. 11-9-704.

FINDINGS OF FACT AND CONCLUSSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. That an employer/employee relationship existed on August 20, 2024, when the claimant sustained compensable injuries to his left shoulder.

3. That claimant earned sufficient wages to entitle him to compensation at the weekly rates of $876.00 for temporary total disability and $657.00 for permanent partial disability benefits.
4. Although the respondents are found to now be paying for the reasonable and necessary medical treatment for the compensable work-related left shoulder injury, the claimant is entitled to both the reasonable and necessary past and future medical treatment for the left shoulder injury.
5. That the claimant has failed to satisfy the required burden of proof to show that he suffered a compensable lower back and spinal (neck) injury
6. That the claimant has failed to satisfy the burden of proof that he is entitled to temporary total disability from October 1, 2025, to a date to be determined and also for the temporary total disability payments made to the claimant in the amount of $21,025, and that consequently, the respondents are entitled to a credit for the amount paid in regard to any future disability payments.
6. That all other issues are moot.
7. That unless already paid, the Respondents are ordered to pay the applicable court reporter fees.

REVIEW OF TESTIMONY AND EVIDENCE

The claimant, Robert Henderson, was the first witness to testify and testified that he was 65 years old at the time of the hearing and 62 years old at the time of the accident and had returned to work for Classic Lawn Care, which he owns. He has owned the business for 25 years and the business basically performs all types of lawn care. The business has maintained workers' compensation insurance for about two years due to a

customer requiring them to obtain the insurance. He stated he injured his shoulder and lower back while performing yard work at the Crain VW dealership. While weed eating, he was attacked by a “bunch of yellow jackets” and retreated backwards after multiple stings and fell off a wall about six and a half feet tall. After the fall, it felt like everything was in pain. (Tr. 7 – 10)

The claimant testified that he first went to Dr. Miedema on August 26, 2024, and he did not disagree he notified his workers’ compensation insurance company, and adjuster Bradley Bliss, about his injury on August 20, 2024, and that the injury was accepted. (Tr. 11) The claimant was questioned about Exhibit 3 which he brought to the hearing, and he described it as a log, which he had obtained from Dr. Miedema. The log provided that the claimant had previously been seen by Dr. Miedema in 2021, for back problems. The claimant denied having back problems four months prior to his fall on August 20, 2024, although it was mentioned in a medical report. He assumed that he had told Dr. Miedema that he started having problems after his fall and that he was provided injections by Dr. Miedema, which helped a little. He also had no objection that the log provided his first visit to Dr. Songy was on September 15, 2025, when he received an MRI, and he understood he had issues with his rotator cuff and biceps. (Tr. 12 – 14) Claimant had no issue that Dr. Songy originally recommended surgery in October of 2025, but testified he disagreed with the date of the surgery, due to the fact his foreman had quit, and he was required to drive his employees to work. The claimant wanted the surgery scheduled in December due to his business slowing down from December to February or March due to the winter. He further testified he was taken off work by a doctor from April 29, 2025, had not worked during that period, and even the company payroll was

performed by accounting. His wife managed the employees, and he returned to work on October 6th, when he notified the adjuster, Mr. Bliss. Mr. Bliss told him that he would have to deny his claim due to him not having the surgery in October. (Tr. 15 – 18) The claimant denied working between the dates of April 29, 2025, and October 6, 2025. He testified that he thought that he had paid for his shoulder surgery but also admitted that they started paying benefits in October of 2025. (Claimant's attorney represented that the adjuster had provided on October 21st, that the benefits would be denied and not reinstated). (Tr. 19)

In regard to the claimant's back issues, claimant testified his back problems were located on his lower back on the left side and admitted that he had problems with his back prior to the incident with a previous surgery in 2021. However, he added that after the surgery in 2021, he "felt like a king." His last visit to his surgeon in regard to the earlier back surgery was to see Dr. Randolph on the date of August 24th, 2021, per the log. After correcting himself, he stated that he did not suffer lower back problems until the incident on August 24, 2024. After the incident, he felt something going on back there, so he got ahold of Dr. Miedema again. He went on to testify that his back had never felt like that before, and that he had pain in his lower back and left leg which was pretty-bad and throbbing. He described the pain as a 10 in a 1 to 10 scale, and the pain was a 10 every day. He was currently treating with Dr. Miedema and felt that he was going to need treatment down the road, which would consist of surgery and placing a metal plate and four screws. (Tr. 20 – 22)

Under cross examination, claimant admitted that Dr. Randolph had previously performed a disc replacement, and that the past injury resulted when he was running

across a field and fell in a hole, while working for his lawn service. He also admitted seeing Dr. Miedema for the previous back injury. He also admitted that his lawn service currently had about sixty customers, that the work was very physical, and that at times he would be required to lift 100 to 200 pounds. At the time of the injury on August 24th, 2024, he fell off a retaining wall when yellow jackets came toward him, and he fell on his left shoulder. His lower back and left shoulder were also injured, and his neck was checked out and an injury to the neck was ruled out. He also agreed that the records provided he had received benefits from April 24th, 2025, through October 1st. He denied that he had indicated in his deposition that while receiving the temporary total disability benefits, he followed his workers around to make sure they were doing things correctly, stating "I did not follow them." At this point the deposition of the claimant was admitted into the record without objection. (Tr. 23 – 26)

In regard to payments from the claimant's company, the claimant stated his company had received payments during that time period and that the back statements from Arvest would show the payments received. The claimant also agreed that his pain was a 10 while he was present in the courtroom. (Tr. 26) The claimant was also questioned about a wage statement provided to the adjuster and was referred to the first page of the respondent's exhibit which showed that he was working 50 hours a week over a period of five days. He also admitted that the statement he was provided showed he was being paid $2850.00 a week but denied that was what he made every week. He also admitted that when the adjuster took his statement on August 20th, of 2024, he provided he was working nine to ten hours a day, working six or seven days a week. He also admitted that he made $29,000 per month. The claimant also admitted he first saw Dr.

Miedema on the 26th of August after his fall, and that the medical records referred to a herniation and spinal stenosis, and lumbar radiculopathy with the onset being October 15th, 2020, and that the claimant had suffered lower back pain with an onset of February 11th, 2021. The claimant also admitted that he had told both Dr. Miedema and Dr. Lee his family doctor, that he had injured himself at work and that he had told Dr. Lee that his left sided back pain had started three weeks ago. (Tr. 27 - 29)

On redirect, the claimant testified his business made around $29,000 a month that varied month to month. The testimony clarified that the $29,000 figure was prior to paying things like salary to his employees. In regard to the claimant's salary, he testified that he paid himself when he needed to collect it. The claimant further agreed that his bank records could not be deciphered to provide a monthly payment to himself but admitted that he would write a check to himself every month. He also agreed he had a foreman from April 29, 2025, through October 6, 2025, who was an individual he paid to perform his job. (Tr. 29 – 31)

On recross examination, the claimant was asked to review page 19 of an exhibit and was referred to the bottom of the page which showed several payments from Classic Lawn Care to the claimant's personal bank account. (Tr. 31, 32)

Claimant then called Ivan Calderon, who testified he was seventeen years old and worked for Robert Henderson and Raising Cane's. He had worked for Robert Henderson for about three years and his job consisted of mowing, trimming, and a lot of physical labor. His job title was "just a worker" but he planned to soon be the foreman. He admitted working for the claimant on April 29, 2025. He did not see the claimant at the job sites between April 29th, 2025, through the date of October 6th, 2025. He also testified that he

had a foreman he reported to, who he called Sebastion. Sebastion was no longer with the company and stopped working for the company about the time that Sebastion was arrested, which was probably in July. (P. 32 – 34)

Under cross examination, Mr. Calderon testified he started working for the claimant when he was 14 and about to turn 15, while in school. He admitted he was not around on school days and worked weekends only. When school was out, he worked full time. He was asked if during that time frame, did the claimant ride around and check to make sure you guys were doing their jobs properly and he responded as follows: “Yeah, like if we had questions or if we just like wanted him to check out something, he would check it out and tell us if it is good or not, if we had to go back and fix something, but that is about it.” He was questioned if the claimant was supervising and responded, “Yes, just there supervising, if we asked to come supervise, yeah.” (Tr. 35, 36)

On redirect, Mr. Calderon testified the claimant only supervised when asked and that this did not often occur. In regard to the claimant’s injuries, “He told us that he wouldn’t be able to work because of his injuries, yeah.” (Tr. 36)

At this point, both party’s rested and closing arguments were requested. The claimant contended there were two main issues facing the Commission. The first issue was whether or not the claimant injured his back or aggravated the previous injury regarding his back, when he fell off the retaining wall. The second issue was whether or not the respondents are owed a credit for the TTD between April 29, 2025, and October 6, 2025. Bank records provided that the claimant took draws during that period of time from a business which he owns, which consistently makes money.

The respondents contended that a printout provided claimant was paid TTD from April 24th, 2025, through October 1st, 2025, in the amount of $21,024.00, and during that time, the claimant paid himself full wages and that was why the respondents were claiming a credit. Temporary total disability is to address an inability to earn wages and inability to work. In regard to the compensability of the lower back, there were no acute objective findings and claimant didn't mention the fall to his doctors.

Claimant submitted 140 pages of medical records without an objection. The first medical record introduced is dated August 26, 2024, when the claimant presented to Dr. Mark Miedema. The report referred to a previous spinal surgery on December 19, 2020. The claimant had been assessed with low back pain and the report provided this was a follow up for four months of low back pain radiating into his left leg. The report also referred to 8 weeks of physical therapy, exercising at home, taking NSAIDs, and IM steroids and tramadol, which provided limited relief. The report also referred to his treatment in 2020. A review of the claimant's lumbar x-rays taken on August 26, 2024, provided for multilevel facet arthropathy with moderate disc degeneration at L4-5 and L5-S1. The MRI on November 23, 2020, was also referred to. The report also provided that "Given the severity of the patients pain and functional limitation and no relief or inability to tolerate conservative measures including completing a six-week course of physical therapy within the last six months, home directed exercises, pharmacotherapy, to rule out a neuro compressive lesion and in preparation for interventions, I would recommend advanced imaging of the lumbar spine with an MRI." (Cl. Ex. 1, P. 1 – 6)

Claimant was seen by Dr. Signe L. Rebolledo on September 4, 2025, for a review of an MRI of the lumbar spine without contrast. The report provided under impression for

multilevel spondylosis of the lumbar spine that had progressed since 2020, was worst at L4-5, where there was moderate canal stenosis, bilateral lateral recess stenosis, with severe left and moderate right foraminal narrowing. (Cl. Ex. 1, P. 7)

Claimant returned to Dr. Miedema of Ozark Orthopedics on September 17, 2024. The report again provided for a follow up for 4 months of low back pain and for lumbar post-laminectomy syndrome along with cervical radiculopathy and again referred to the 2020 laminectomy by Dr. Randolph. (Cl. Ex. 1, P. 8 – 12)

On September 28, 2024, a review of a cervical MRI by Dr. Vanessa Branch of Ozark Orthopedics provided under impression that the claimant suffered multilevel cervical spondylosis with canal narrowing at C3-4 through C6-7, with the worst at C6-7, and with severe foraminal stenosis at C3-4 through C6-7. The report also referred to multi-level facet arthropathy, which resulted in mild to moderate canal narrowing and severe bilateral foraminal stenosis. (Cl. Ex. 1, P. 13)

The claimant presented to Dr. Rod Lee, of Mana Family Medicine on October 2, 2024, for left sided back pain. Claimant requested a steroid shot and Toradol and Dr. Lee suggested he should try to take on a more managerial hands-off role. (Cl. Ex. 1, P. 14 – 18) Claimant then returned to Dr. Miedema on November 5, 2024, for a follow up for his low back pain. The report referred to cervical radiculopathy with weakness and numbness in his arm and multilevel disc degeneration. The report also provided claimant should revisit Dr. Randolph for a surgical opinion. (Cl. Ex. 1, P. 19 – 23).

On December 2, 2024, claimant was seen by Wesley McGehee, P.A. of Ozark Orthopedics. The report provided it was a a follow-up evaluation of 5 months for low back pain radiating into the claimant’s left leg. The report also provided Dr. Miedema, and he

both wanted the claimant to obtain a surgical opinion in regard to his cervical spine, but that claimant was not able to be seen until February of 2025. They were attempting to get the claimant into to see Dr. Shepard at Northwest Arkansas Neuroscience Institute in an attempt to obtain an earlier surgical evaluation. (Cl. Ex. 1, P. 24 – 29) The claimant then returned to Wesley McGehee, P.A., on February 13, 2025, for another follow up. The primary complaint was claimant's shoulder. The report provided for low back pain and cervical radiculopathy with a follow up with Dr. Randolph scheduled for February 25, 2024 (which appeared to be a typo) due to the report mentioning a review of Dr. Randolph's recommendations on a later visit. (Cl. Ex. 1, P. 30 – 35) The claimant again returned to Wesley McGehee, P.A. on March 3, 2025. The report provided claimant saw Dr. Randolph on February 25, 2024, and no surgery was recommended for "her" surgical spine. The claimant was encouraged to work through physical therapy for his left shoulder pain and the report also provided "We are going to turn our attention back to his lumbar spine for now but could revisit targeted interventions for his neck in the future." (Cl. Ex. 1, P. 36 – 41)

Claimant again returned to Wesley McGehee, P.A. on April 8, 2025. The claimant rated his pain at 8. The report again mentioned lumbar post-laminectomy syndrome and cervical radiculopathy. The report mentioned a C7-T1 interlaminar epidural steroid injection on November 27, 2024, that resulted in 0% pain relief. It also referred to chronic pain syndrome and lumbosacral radiculopathy. Medial branch blocks were discussed. (Cl. Ex. 1, P. 42 – 47) Claimant presented again to Wesley McGehee on May 22, 2025, and the report referred to a nine-month history of neck and low back pain. The report again mentioned lumbar post-laminectomy syndrome from the prior L4 laminectomy and further

provided claimant could be a candidate for a spinal cord stimulator. The report also referred to chronic pain syndrome and arthropathy of the lumbar facet joint. Radiofrequency ablation for diagnostic purposes targeting L4-5 and L5-S1, was also mentioned. (Cl. Ex. 1, P. 48 – 53) On July 28, 2025, claimant again returned for a follow up. The report provided claimant was status post medial branch blocks that targeted the bilateral L4-5 and L5 – S1 facets on July 24, 2025. (Cl. Ex. 1, P. 54 – 59)

Claimant returned to Dr. Miedema on August 28, 2025. The report provided he would recommend proceeding with radiofrequency ablation for a more sustained relief and he did not think that the claimant had reached maximum medical improvement. However, in regard to claimant's cervical and lumbar spine, claimant could return to work with no restrictions. A return to work-note provided claimant was seen in the office of Dr. Miedema on August 28, 2025, and he could return to work on August 28, 2025, with no restrictions. (Cl. Ex. 1, P. 60 – 65) The claimant again returned to Dr. Miedema on September 15, 2025, and another return to work-note provided claimant was placed on light duty work restrictions with no bending/lifting/twisting with more than 10 pounds. (Cl. Ex. 1, P. 66, 67)

On September 15, 2025, claimant presented to Dr. Chad Songy at UAMS, for a follow up regarding his left shoulder. The report went on to provide he had sustained an injury in August while weed eating on a retaining wall where he fell off when attacked by yellow jackets. The MRI showed an acute, traumatic rotator cuff tear. The subscapularis also likely had a partial-thickness tear with the long head of the biceps- tendon subluxing medially out of the groove. The plan provided for surgical intervention with an orthoscopic rotator cuff repair and biceps tenodesis. (Cl. Ex. 1, P. 68 – 75)

The claimant returned to Wesley McGhee, P.A. and Ozark Orthopedics on December 1, 2025, and received a refill of hydrocodone. It was recommended he return for a bilateral L4-5 transforaminal epidural steroid injection in hopes of reinstating some degree of pain relief. (Cl. Ex. 1, P. 76 – 81) An office visit with Dr. Chad Songy at UAMS in Little Rock, also occurred on the same date, based upon the medical report. The report referred to Dr. Ron Lee as part of the care team. The report provided it was intended to proceed with surgical intervention and was no longer considered a workers' compensation injury. (Cl. Ex. 1, P. 82 – 90) Claimant then presented to Dr. Lee on December 10, 2025, at MANA Family Medicine for a preoperative clearance. Claimant returned to UAMS and Dr. Songy on December 29, 2025, two weeks out from left arthroscopic rotator cuff repair and open subpectoral bicep tenodesis, and was experiencing significant post-surgery pain, which was interfering with his sleep, but his symptoms were gradually improving. The report further provided that physical therapy would be initiated per the rotator cuff repair protocol. (Cl. Ex. 1, P. 96 – 102) A little over a month later, claimant returned to Dr. Songy on February 2, 2026. The report provided he was 7 weeks out from a left arthroscopic rotator cuff repair with an open subpectoral bicep tenodesis and with his arm in a sling. Claimant was advised not to lift over a pound. The report also provided claimant was suffering from traumatic olecranon bursitis with a large collection of fluid around his elbow due to a recent fall. (Cl. Ex. 1, P. 103 – 110)

The medical records then provided claimant presented to Wesly McGhee, P.A., on February 16, 2026; April 23, 2026; and May 6, 2026; with the final report providing claimant had a two plus year history of neck, shoulder, and low back pain, with a history of an L4 laminectomy by Dr. Randolph in 2020, and shoulder surgery by Dr. Songy in

December of 2025. The report also provided claimant suffered from lumbar post-laminectomy syndrome, cervical radiculopathy, and chronic pain syndrome, secondary to lumbar post laminectomy pain syndrome. Additionally, the claimant had significant pathology to warrant the use of opioid pain medications. Arthropathy of the lumbar facet joints was also noted at L4-5 and L5-S1, and claimant was educated on the radiofrequency ablation procedure and the potential for a post-procedural flare of pain. The report provided claimant was going to proceed with a repeat medial branch RFA in hopes of treating his axial lower back pain again. (Cl. Ex. 1, P. 111 – 128) Claimant then returned to Dr. Miedema on May 11, 2026, and the report again provided for lumbar radiculopathy. (Cl. Ex. 1, P. 129 – 132.)

Claimant received another MRI, and the report generated on May 11, 2026, by Dr. E. Wrenn Worten, MD, PHD, provided under impression, that the claimant had postoperative changes and multilevel degenerative changes with areas of neural compromise and described the worst levels were located at L4/5 and L5/S1 and borderline low lying conus medullaris at L2. A 2 mm symmetric disc bulge with moderate later posterior osteophytosis with severe bilateral facet arthropathy and severe bilateral ligamentum flavum hypertrophy in association with congenitally short pedicles at L4/5. A 2 mm disc bulge with a superimposed central disc extrusion measuring 5 mm anterior to posterior was also noted. (Cl. Ex. 1, P. 133, 134)

Claimant's final medical report dated July 6, 2026, again from Wesley McGehee, P.A., provided that upon a review of the lumbar MRI taken on May 11, 2026, the MRI demonstrated multilevel evidence of spondylosis with post-surgical changes noted from a prior laminectomy at the L4 level. Secondary to degenerative changes, moderate canal

stenosis at the level of L4-5 with moderate to severe foraminal stenosis was observed. L5-S1 had a central disc extrusion that in addition to facet arthropathy contributed to components of a canal lateral recess and foraminal stenosis. (Cl. Ex. 1, P. 135 – 140)

Claimants Exhibit 2 which was also admitted without objection and consisted of eight pages of non-medical records. The first page consisted of payment records for TTD from the date of April 24,2025, until October 1, 2025. (Cl. Ex. 2, P. 1) On September 25, 2025, an email from the adjuster Bradley Bliss of Sedgwick Claims Management Services, Inc., stated that he had reviewed the available options and found that claimant must proceed with surgery consultation as soon as possible. He stated that he understood claimant had concerns about his business. Unfortunately, as indicated at the start, the claimant needed to proceed with the surgery consultation to start the road to recovery. (Cl. Ex. 2, P. 2,3) Multiple emails from the claims adjuster and the attorneys dated October 2, 2025, provided claimant was not continuing with his surgery scheduled for October 3, 2025, and consequently benefits had been stopped. An email dated October 21, 2025, provided claimant's claim would be denied. An email from the respondent's attorney to the claimant's attorney dated July 25, 2026, provided that after the claimant's deposition, the claimant's attorney was okay with the controversion language, and consequently, the claims adjuster would not have to testify. The claimant's attorney responded that as long as the respondents stipulated that the matter was controverted in its entirety, the adjuster was not required to testify. (Cl. Ex. 2, P. 3 – 8) Claimants Exhibit 3 consisted of billing records and a scheduling history and was treated as a log of the activities involving his claim. The log was admitted into the record without objection and was apparently brought to the hearing by the claimant. (Cl. Ex. 3)

The Respondents Hearing Exhibit consisted of 25 pages and was admitted without objection. The Arkansas Form AR-W provided claimant was paid $2850.00 per week for 50 hours a week, while working 5 days a week. A recorded statement of Robert Henderson provided that the adjuster was recording the conversation. The report provided that the claimant had been in the lawn care business for approximately 25 years and admitted he had back surgery four years earlier. Claimant stated he worked an average of 9 to 10 hours a day, six to seven days a week, and felt good in the mornings and then turned into a 95-year-old man by the afternoon. Claimant stated he was short of people, so he had been shoveling, filling up wheelbarrows, trimming hedges, mowing, bagging leaves, weed eating, wearing a backpack blower and performing dirt work. “I just do what my employees do.” He went on to add that he could not currently lift over 30 pounds. He averaged $28,000 to $29,000 a month, and takes some money out, for his own personal use, more or less. “I make more that $1200 a …. a week.” He also stated he had been told he would be down maybe four months after the surgery. The claimant explained how he was injured and what happened to him regarding his left shoulder. He thought he went in about a month following the incident, like the end of September and told “him about my back.” He also stated he was going to surgery the following day at a place called Ozark. (This recorded statement was apparently taken on May 8, 2026, based upon the Certificate of Accuracy) The claimant stated they took the x-rays of his back first because they were concerned about his back due to his previous back surgery. He received a shot in the back, but was told that they did not think that he required back surgery. (Resp. Ex. 1, P. 2 – 17)

A TTD print out was also part of the record and it provided that the claimant received his first temporary total disability payment on April 24, 2025, in the amount of $876.00 with his final payment on October 1, 2025, for the same amount, and that the total paid amount was $21,024.00. (Resp. Ex. 1, P. 18)

An Arvest Bank Statement of claimant's account provided that the temporary total disability payments were deposited in an account for Robert Henderson DBA Classic Lawn Care. (Resp. Ex. 1, P. 19 – 25)

The respondents second exhibit consisted of a twenty-five-page deposition of the claimant taken on January 15, 2026. The claimant testified that he had hurt his back six or seven years earlier, received back surgery, and that he was then in really good shape. He had injured his lower back, and surgery was performed on him for a "hernia disk repairment." He stated that he never had pain again until he fell. (Resp. Ex. 2, P. 9, 10) Claimant further testified that prior to the injury, "I was doing just about anything anybody would do, like weed eating, mow, dig holes, and do just like a normal person would." Currently, he is the owner of the company. "I'm just a person that points. I'm not able to do physical labor right now." (Resp. Ex. 2, P. 12, 13)

Claimant also testified that his surgery on his shoulder after his fall was on December 16, and that he was planning to follow up with injections regarding his back. He injured his lower back and left shoulder in the incident and was placed on hydrocodone for his back pain. Claimant thought his back was his worst problem, due to the fall off the wall. Claimant stated that all he has done since the accident was to supervise his employees. His doctor told him not to lift over 5 pounds and a weed eater weighs fifteen to twenty pounds and a blower probably weighs forty pounds. (Resp. Ex. 2, P. 14 - 16) In

regard to work, the claimant was asked if a doctor took him off work and he responded "They just gave me restrictions not to do any type of work. If you can't lift five pounds, you can't work, ma'am." The claimant admitted that during the time he was receiving money from workers' compensation, he was also receiving pay from his lawn service. Claimant also added he had to hire two employees to replace him. (Resp. Ex. 2, P. 20, 21) Claimant also testified that a problem involving his neck had been pretty much eliminated and that his neck no longer hurt. (Resp. Ex. 2, P. 23)

DISCUSSION AND ADJUDICATION OF ISSUES

In the present matter, the parties agree on many of the facts. An employee-employer-carrier relationship existed on August 20, 2024, when the claimant sustained compensable injuries to his left shoulder after falling off a retaining wall that was standing approximately six and a half feet tall, while weed-eating, and while being attacked by a swarm of yellow jackets. Claimant was sixty-two years of age at the time of this incident and had previously received lower back surgery in 2021. After the fall off the retaining wall, claimant was seen by Dr. Songy who recommended surgery for the claimant's left shoulder and which was initially scheduled in October of 2025, but postponed by the claimant, due to the loss of his foreman, the fact that he was still involved in the operation of the company he owned to some degree, and also due to it being a busy time of the year for the claimant's lawn care company. Consequently, claimant's left shoulder surgery did not occur until December 16, 2025. Claimant received temporary total disability payments of $876.00 a week paid into an Arvest bank account in the name of Robert Henderson dba Classic Lawn Care between the dates of April 29, 2025, through October 1, 2025, but the payments ceased after claimant postponed his shoulder surgery.

Claimant denied working during this time period, and it is clear that claimant did not perform the extreme physical labor that he was performing prior to the incident on August 20th, 2024, but it is also clear from the AR-W Form and the bank records provided that claimant was paid $2850.00 per week for 50 hours of work a week during this period from his lawn care business.

I.

In regard to medical involving the claimant's left shoulder injury, the parties stipulated that Claimant sustained compensable injuries to his left shoulder on or about August 20, 2024. The claimant is therefore not required to establish "objective medical findings" in order to prove he is entitled to additional benefits regarding his left shoulder injury. See *Chamber Door Indus., Inc. v Graham*, 59 Ark. App. 224, 956 S.W.2d 196 (1997) In determining whether the claimant has sustained his required burden of proof regarding his claims, the Commission shall weigh the evidence impartially, without giving the benefit of the doubt to either party. Ark. Code Ann 11-9-704. *Wade v. Mr. Cavananugh's*, 298 Ark. 364, 768 S.W. 2d 521 (1989). Further, the Commission has the duty to translate evidence on all issues before it into findings of fact. *Weldon v. Pierce Brothers Construction Co*., 54 Ark. App. 344, 925 S.W.2d 179 (1996).

Pursuant to Ark. Code Ann. §11-9-509(a), medical benefits owed under the Workers' Compensation Act are only those that are reasonable and necessary. Employers must promptly provide medical services which are reasonably necessary for treatment of compensable injuries. A.C.A. §11-9-508(a). However, injured employees have the burden of proving by a preponderance of the evidence that the medical treatment is reasonably necessary for the treatment of the compensable injury. *Owens Plating Co.*

v. Graham, 102 Ark. App. 299, 284 S.W. 3d 537 (2008). What constitutes reasonable and necessary treatment is a question for the Commission. *Anaya v. Newberry's 3N Mill*, 102 Ark. App. 119, 282 S.W. 3d 269 (2008). Consequently, it is clear the claimant is entitled to the reasonably necessary treatment for the past and future medical treatment involving his left shoulder.

II.

In regard to the issue of the compensability regarding claimant's claimed lower back and spinal injury, the claimant bears the burden of proof in establishing entitlement to benefits under the Arkansas Workers' Compensation Act and must sustain that burden by a preponderance of the evidence. *Dalton v. Allen Engineering Co.*, 66 Ark. App. 201, 635 S.W. 2d 823 (1982). 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. 263, 101 S.W.3d 252 (2003). The medical reports submitted by both the claimant and respondents, provided that the sixty plus year old claimant suffered from various age-related conditions involving his back and spine and had received back surgery a few years prior to the work-related incident on August 20, 2024. A pre-existing disease or infirmity does not disqualify a claim if the employment aggravated, accelerated, or combined with the disease or infirmity to produce the disability for which compensation is sought. See *Nashville Livestock Commission v. Cox*, 302 Ark. 69, 787 S.W.2d 864 (1990); *Conway Convalescent Center v. Murphee*, 266 Ark. 985, 585 S.W.2d 462 (Ark. App. 1979); *St. Vincent Medical Center v. Brown,* 53 Ark. App. 30, 917 S.W2d 550 (1996). The employer takes the employee as finds him. *Murphee, supra*.

A compensable injury to the back and spine must be established by medical evidence supported by objective findings and medical opinions addressing compensability and must be stated within a degree of medical certainty. *Smith-Blair, Inc. v. Jones*, 77 Ark. App. 273, 72 S.W.3d 560 (2002). Speculation and conjecture cannot substitute for credible evidence. *Liaromatis v. Baxter County Regional Hospital*, 95 Ark. App. 296, 236 S.W.3d 524 (2006). More specifically, to prove a compensable injury, the claimant must 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 harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings, as defined in A.C.A. §11-9-102 (16) establishing the injury and (4) that the injury was caused by a specific incident and identifiable by time and place of occurrence. If the claimant fails to establish any of the requirements for establishing the compensability of the claim, compensation must be denied. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997).

Further, it is noted that a claimant is not required in every case to establish the casual connection between a work-related incident and an injury with an expert medical opinion. See *Wal-Mart Stores, Inc. v. VanWagner*, 337 Ark. 443, 990 S.W.2d 522 (1999). Arkansas courts have long recognized that a causal relationship may be established between an employment-related incident and a subsequent physical injury based on evidence that the injury manifested itself within a reasonable period of time following the incident so that the injury is logically attributable to the incident, where there is no other reasonable explanation for the injury. *Hail v. Pitman Construction Co*. 235 Ark. 104, 357 S.W.2d 263 (1962) Here, after a review of all the facts, it is found that the claimant has

failed to satisfy these requirements in regard to his claimed lower back and spinal injuries and consequently, there is no alternative but to find that claimant has failed to satisfy the required burden of proof that he suffered a compensable lower back and spinal related work injury under the Arkansas Workers' Compensation Act on the date of August 20, 2024, and consequently claimant is not entitled to temporary total disability in regard to the lower back and spinal injury.

III.

In regard to the issue of temporary total disability involving the compensable shoulder injury, the claimant contends that he is entitled to TTD (Temporary Total Disability) from October 1, 2025, to a date yet to be determined. Respondents contend that the claimant is not entitled to TTD due to the claimant being paid a regular salary during the entire time and further that that they are entitled to a credit for the TTD benefits they did pay to the claimant from April to October of 2025, in the total amount of $21,024. The parties agree that the claimant suffered an unscheduled shoulder injury, and the law is clear that a workers' compensation claimant must prove by a preponderance of the evidence that he remained within his healing period and suffered a total incapacity to earn wages to receive TTD. See *Lawless v. AT&T Tech Servs. Co*., 2025 Ark. App 67, 705 S.W.3d 888; *Arkansas State Highway & Transportation Dept. v. Breshears, 272 Ark. 244, 613 S.W.2d 392* (1981). The healing period continues until the employee is restored as much as the permanent character of his injury will permit and ends when the underlying condition that caused the disability is stabilized and no additional treatment will improve the condition. The Commission determines as a matter of fact when the healing period

ended. *Hines V. Cent. Ark. Transit Auth. & Risk Management*, 2019 Ark. App. 553, 590 S.W.3d 750.

In the present matter, it is clear the claimant was unable to work at his previous back breaking pace, but he was able to supervise the people working for him in some degree and to advise his workers when requested. Claimant was the owner of the company, but clearly and possibly inadvertently, paid himself a salary after his injury. Consequently, there is no alternative but to find that claimant did not suffer a total incapacity to earn wages during this time period and that the respondents are entitled to a credit for the TTD payments made between April 29, 2025, through October 1, 2025, in regard to any future disability payments. Additionally, there is no alternative but to find that the claimant has failed to satisfy the required burden of proof due to the above stated reasons that he is entitled to TTD from October 1, 2025, to a date to be determined.

IV.

Based upon the above findings, all other issues are moot.

After weighing the evidence impartially, without giving the benefit of the doubt to either party, the claimant is entitled to the reasonably necessary medical care involving his left shoulder, both past and in the future. The claimant has failed to satisfy the required burden of proof to prove by a preponderance of the evidence, that he suffered a compensable back and spinal injury. Additionally, the claimant has failed to satisfy the burden of proof that he is entitled to temporary total disability from October 1, 2025, to a date to be determined and also for the temporary total disability payments already paid to the claimant between April 29, 2025, through October 1, 2025, in the amount of $21,025, and that respondents are entitled to a credit for the amount paid for Temporary

total disability in regard to any future disability payments. All other issues are moot. If not already paid, the respondents are ordered to pay the cost of the transcript forthwith.

IT IS SO ORDERED.

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JAMES D. KENNEDY
Administrative Law Judge