

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. **G908247**

DAKOTA J. HUMPHREY-FRIEND, EMPLOYEE	CLAIMANT
BEST BUY STORES LP, EMPLOYER	RESPONDENT
SEDGWICK CLAIMS MANAGEMENT SERVICES INC., CARRIER/TPA	RESPONDENT

OPINION FILED **NOVEMBER 21, 2025**

Hearing before ADMINISTRATIVE LAW JUDGE JOSEPH C. SELF in Springdale, Washington County, Arkansas.

Claimant represented by JASON M. HATFIELD, Attorney, Springdale, Arkansas.

Respondents represented by JARROD S. PARRISH, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On August 14, 2025, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on May 19, 2025, and a pre-hearing order was filed on that same date. A copy of the pre-hearing order has been marked as Commission's Exhibit #1 and made a part of the record without objection.

At the pre-hearing conference the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The employee/employer/carrier relationship existed on December 3, 2019.
3. The claimant sustained a compensable injury on December 3, 2019.
4. The compensation rates are \$626.00 for temporary total disability and \$470.00 for permanent partial disability.

By agreement of the parties, the issues to be litigated and resolved at the forthcoming hearing were limited to the following:

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- 1 Whether claimant is entitled to temporary total disability benefits from April 21, 2025, to a date yet to be determined.
- 2 Whether claimant is entitled to additional medical treatment as recommended by Dr. Blankenship and Dr. Knox.
- 3 Attorney's fee.

All other issues are reserved by the parties.

The claimant contends that “He sustained a compensable injury while working for respondent on or about December 3, 2019. At that time, claimant was in the course and scope of his employment with respondent, when he injured his back lifting a TV resulting in thoracic spine protrusions at T5-6 and T6-7. Claimant attempted conservative treatment including pain medication, physical therapy, intramuscular steroid injections, and epidural steroid injections. This conservative treatment initially offered claimant temporary pain relief, but injections have become less and less effective. Dr. Jason Holt at Interventional Pain Specialist was the authorized treating physician. Dr. Holt increased claimant's pain medication and performed an ultrasound-guided trigger point injection, longissimus thoracis left on April 12, 2024, and an ultrasound-guided trigger point injection, longissimus thoracis bilateral on May 24, 2024. These offered a short amount of pain relief.

Claimant was employed with respondent for more than a decade prior to his work injury, and claimant had no pre-injury impairments, restrictions, or limitations. Claimant worked with accommodations up to April 2024 when his employment was terminated. Claimant has not found work since that time. Claimant was evaluated by Dr. Luke Knox on November 4, 2024, at the request of the respondents. Dr. Knox changed claimant's pain medication and ordered a new thoracic MRI scan. Claimant was to return to the office in 1 month for follow-up. To date, respondents have not approved the MRI scan ordered by Dr. Knox. Dr. Holt left his practice and is now at the Veterans

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Administration and is unavailable to treat claimant. Subsequently, claimant was granted a second change of physician to Dr. James Blankenship. Dr. Blankenship, like Dr. Knox, has recommended a new MRI along with physical therapy and a transforaminal epidural steroid injection. Respondents have denied treatment.”

The respondents contend that “All appropriate benefits have been and are continuing to be paid with regard to this matter. The claimant recently underwent a change of physician evaluation and additional diagnostic testing was recommended and approved. Respondents have no medical documentation indicating the claimant is in an off-work status and entitled to temporary disability benefits.”

From a review of the entire record including medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witnesses and to observe their demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

#### FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at a pre-hearing conference conducted on May 19, 2025, and contained in a pre-hearing order filed on that same date are hereby accepted as fact.
2. Claimant has met his burden of proof by a preponderance of the evidence that he is entitled to additional medical benefits as recommended by Dr. James Blankenship for his compensable thoracic back injury.
3. Claimant has failed to prove by a preponderance of the evidence that he is entitled to temporary total disability benefits from April 21, 2025, to the date of the hearing.

#### FACTUAL BACKGROUND

At the prehearing conference, the parties announced a stipulation that claimant has suffered a

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compensable injury on December 3, 2019. The stipulation did not specify what part of claimant's body was involved in the compensable injury. However, claimant's contentions contained this allegation: "He suffered a compensable injury while working for respondent on or about December 3, 2019. At that time, claimant was in the course and scope of his employment for respondent when he injured his back lifting a TV, resulting in thoracic spine protrusions at T5-6 and T6-7. (Commission Exhibit, page 2) (Emphasis added). Respondent's stipulation as to a compensable injury must be read in light of claimant's contention. Respondents were entitled to rely upon the contentions set forth in the prehearing order in its defense of this claim. As such, I find the parties stipulated only to a thoracic spine injury. Claimant's brief recited what Dr. Blankenship said about neck and low back pain but put on no testimony about either of those conditions. Any issues regarding any possible injury other than to the thoracic spine are neither awarded nor denied but rather are reserved.

#### HEARING TESTIMONY

Claimant was the only witness called by either party. He began working at Best Buy in 2011, first as a field helper and then as field leader, which consisted of home installations of whatever Best Buy sold. He sustained a mid-back injury on December 3, 2019, while removing a tube television during a Best Buy installation. Claimant estimated the television weighed at least 200 pounds and stated that as he carried it down a ladder, he experienced a sharp pain in his back. Following the injury, claimant received conservative treatment, including physical therapy and epidural steroid injections administered by Dr. David Benson. He remained off work for approximately six months and received temporary total disability (TTD) benefits during that time. He was among the Best Buy employees laid off during the early months of the COVID-19 pandemic.

Claimant returned to work in the summer of 2020 but was having the same problems with his mid-back. Best Buy accommodated his restrictions by assigning additional personnel to assist with

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physically demanding tasks and eventually transitioning him into a supervisory role. He continued receiving epidural injections until Dr. Benson determined that sedation should be discontinued, which made the injections unsafe due to claimant's muscle spasms and involuntary movement. After the epidural injections were discontinued, claimant obtained a change of physician and began treating with Dr. Jason Holt. Dr. Holt administered trigger point injections, which claimant testified were less effective than the epidural injections and that his condition worsened. He continued working under accommodations until his employment ended in April 2024.

Dr. Holt left private practice, and claimant received another change of physician order to Dr. James Blankenship. Claimant testified that at his initial visit on March 31, 2025, Dr. Blankenship recommended renewed epidural injections, pool therapy, and prescribed medications. Claimant testified that none of the treatment recommended by Dr. Blankenship or Dr. Knox, a prior treating neurosurgeon, had been approved or paid for by the workers' compensation carrier.

Claimant stated that he attempted to use his workers' compensation pharmacy card to pay for prescriptions written by Dr. Knox and Dr. Blankenship; the card was denied, and he paid for the medications out of pocket. Since his last trigger point injection in late 2024, claimant had received no other treatment aside from medication and testified that his condition had worsened.

Dr. Blankenship issued restrictions including a 25-pound lifting limit and prohibitions on excessive climbing, bending, crawling, and stooping. Claimant stated that no physician had ever removed all restrictions and that these limitations were consistent with those under which he had worked for four years at Best Buy. He has not worked or earned income since April 21, 2024, when he was laid off. Claimant testified that he is ready and willing to return to work once medically able.

On cross-examination claimant confirmed that he carried the television down a ladder and maintained that it weighed at least 200 pounds. He acknowledged that he had previously testified in

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deposition that he had no prior spine-related symptoms or injuries before December 3, 2019. However, chiropractic records from 2017 and 2018 documented low back pain rated at 8 out of 10. Claimant stated that he misunderstood the deposition question and believed it referred to a specific injury rather than general symptoms.

Claimant conceded he did not achieve complete relief from physical therapy. He acknowledged that he had informed providers in late 2023 and early 2024 that the effectiveness of epidural injections was tapering.

Claimant confirmed that he applied for unemployment benefits after his injury and before returning to work in 2020. In his application for those benefits, he stated he was being truthful when he represented he had no disabilities preventing him from working and that he was available for full-time employment. Claimant returned to work in early summer 2020 and remained employed continually with Best Buy until April 2024, aside from a brief unrelated foot injury.

Claimant clarified on redirect examination that he had previously received chiropractic adjustments from Dr. Smith, a chiropractor he met while performing installations. Dr. Smith invited him for adjustments, and claimant confirmed that he completed a pain index form in April 2018 indicating mild, intermittent pain that did not interfere with daily activities. He stated that occasional soreness from physical labor was relieved by adjustments and that he never missed work due to back pain prior to the December 2019 injury. Claimant reaffirmed that the television involved in his injury weighed at least 200 pounds and described that estimate as conservative.

On recross-examination, claimant acknowledged that the chiropractic records from 2017 and 2018 reflected pain levels of 8 out of 10. He explained that those ratings represented the worst pain he experienced at the time and that his symptoms varied. He testified that his current pain level related to the claim was a 10 out of 10.

REVIEW OF THE EXHIBITS

In addition to the Prehearing Order discussed above, the exhibits admitted into evidence in this case were Claimant's Exhibit 1, a compilation of his medical records, consisting of five index pages and 353 numbered pages thereafter; Claimant's Exhibit 2, consisting of one index page and 11 pages of employment evaluations thereafter; Claimant's Exhibit 3, consisting of one index page and 7 pages of itemization of claimant's prescriptions thereafter; Claimant's Exhibit 4, consisting of one index page and 8 pages of chiropractic records that predated claimant's compensable injury; Respondents' Exhibit 1, another compilation of Claimant's medical records, consisting of two index pages and 32 numbered pages thereafter, including a peer review by Dr. Terry Lictor; and Respondents' Exhibit 2, non-medical records, consisting of one index page and 43 numbered pages thereafter, which includes claimant's severance package from Best Buy and the payment record of temporary total disability from December 7, 2019, through May 5, 2020.

The medical records are too voluminous for a detailed summary, but the course of treatment was recounted adequately by claimant in his testimony. The records from Smith Family Chiropractic (Cl. X. 4) are of no relevance to the issue in this matter, as claimant was treated for a neck and low back injury by Dr. Smith, with the last date of treatment being April 16, 2018; as recited above, the compensable injury in this case is to claimant's thoracic spine. Claimant underwent extensive physical therapy treatment, received several epidural steroid injections and trigger point injections, and was given medication for his pain.

The most relevant records to the issues before me are those of Dr. Blankenship, whom claimant began seeing on March 31, 2025. The chief complaint was "mid back pain," although as set above, Dr. Blankenship also mentioned claimant's complaints of neck and low back pain. An MRI for the lumbar spine was ordered, because Dr. Blankenship wanted to see the results of that MRI before

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recommending further TESI injections. He recommended that claimant start on pool therapy, and then active physical therapy at Trinity Rehabilitation, turned claimant over to Dr. Robert Cannon for pain management, and prescribed trazodone to aid claimant in sleeping. When claimant returned on April 21, 2025, Dr. Blankenship restated the same recommendations but added to the care plan “(1) acute low back pain and (2) cervicalgia/neck pain.”

On May 22, 2025, Dr. Blankenship wrote a “to whom it may concern” note, restricting claimant to “no lifting over 25 pounds, no excessive twisting, bending, stooping and no crawling, climbing, pushing or pulling. Patient will need to continue restrictions until he follows up from his injection and therapy.” Dr. Blankenship next saw claimant on July 3, 2025. The impression in his office notes of that day expressed his frustration with the workers’ compensation carrier:

“Dakota is back in the office today. We saw the patient in April of this year. I'd recommend starting the gentleman on Celebrex and Lyrica and get him doing pool therapy with the folks at Trinity. I'd also recommended a TESI. I recommended we start him on Trazodone, we did. He paid out of pocket for this. His workers comp carrier would not start any of his treatment process without me seeing him back and reviewing his MRI. First of all, this is ridiculous. Dr. Cannon had agreed to do a TESI under conscious sedation. His thoracic spine has absolutely nothing to do with lumbar spine. Starting his medications have nothing to do with his lumbar spine. Really, the only thing I needed to review was a lumbar MRI, and they had basically denied treatment.”  
(Cl. X.1, page 350)

Respondent submitted a peer review report prepared by Dr. Terry Lichtor, who reviewed the records and expressed his opinion that aqua therapy was unlikely to provide much benefit and would not be considered a necessity. (R. X. 1, pages 26-32).

### ADJUDICATION

There are two issues to be decided: First, if claimant is entitled to additional medical treatment as directed by Dr. Blankenship for his compensable injury, and second, whether claimant is entitled to temporary total disability benefits at this time.

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1. Did claimant prove he was entitled to additional medical treatment for his thoracic spine injury?

A claimant bears the burden of proving entitlement to additional medical treatment for a compensable injury. *LVL, Inc. v. Ragsdale*, 2011 Ark. App. 144, 381 S.W.3d 869. Once it has been established that a claimant has sustained a compensable injury, he is not required to offer objective medical evidence to prove entitlement to additional benefits, *Ark. Health Ctr. v. Burnett*, 2018 Ark. App. 427, at 9, 558. S.W.3d 408, 414. As was the situation in *Burnett*, the parties stipulated that claimant suffered a compensable injury, and as only the thoracic spine injury was the subject of the stipulation, I will apply the *Burnett* standard to that injury. All other claims of physical injury are reserved.

In his brief, claimant specifically asked for “additional medical treatment, specifically the authorized treating physician’s prescribed medications, referral for pool therapy, [and] authorization of epidural injections...” While Dr. Blankenship mingled remarks about the treatment of the thoracic spine with his proposed treatment of claimant’s lumbar and cervical spine in his notes for his examination of claimant in March and April 2025, he clarified in his July 3, 2025, chart entry that the medication, pool therapy and epidural injections had been recommended for the thoracic spine. Respondent questioned claimant about a notation in his chart that he had told a physician that the injections were not working any more (T.35, Cl.X 1, page 282); claimant testified that he meant the treatment was not working as well. (T.35). That he was willing to go through those injections again is a clear indication that he believes the pain of the procedure is worth the relief, however limited, he expects to receive.

I find Dr. Blankenship’s recommendations to be more credible in light of the course of treatment claimant has received to this time than that of the peer review physician who only spoke to the single issue of the usefulness of pool therapy. As discussed below, there is a question as to whether

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claimant had reached maximum medical improvement (MMI) at some point in his treatment; that is irrelevant to his entitlement to medical benefits now: “An injured party can continue to receive medical treatment for a compensable injury after she has been declared to have reach maximum medical improvement, *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004).

Therefore, claimant's proof is sufficient to support his request for continued medical treatment as recommended by Dr. Blankenship for his compensable thoracic spine injury. Claimant should be reimbursed for any out-of-pocket expenses for medications prescribed for treatment of his thoracic spine.

2. Did claimant prove he was entitled to TTD benefits from April 21, 2025, to a date to be determined?

Claimant’s thoracic spine injury is an unscheduled injury. To be entitled to TTD benefits for an unscheduled injury, a claimant must prove by a preponderance of the evidence that he remains within his healing period and suffers a total incapacity to earn wages. *Allen Canning Co. v. Woodruff*, 92 Ark. App. 237, 212 S.W.3d 25 (2005). Claimant argued in the alternative that claimant was either in his first healing period or had entered a second healing period (Cl. Brief, page 10). This injury happened almost six years ago; in my review of the records, I did not see any notation that a medical provider had been asked to express an opinion as to whether claimant had reached MMI. However, I find it unnecessary to determine if claimant remained in his healing period for this length of time or had reached MMI and then entered a second healing period, because I do not find he proved he suffers the necessary incapacity to earn wages.

Following his injury on December 3, 2019, and several weeks of medical treatment, claimant was given modified duty on February 10, 2020 (Cl. X. 1, page 46). On February 24, 2020, his work status was changed to “unable to work” (Cl. X. 1, page 68). Respondents began paying TTD benefits

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on February 14, 2020, before claimant was deemed to be unable to work, and continued to pay them until May 7, 2020. Claimant testified, and I accept as true, that he was instructed by his employer to file for unemployment benefits due to the COVID shutdown; the review claim transactions submitted by respondent shows he filed for those benefits on April 20, 2020, and received his last payment on June 20, 2020. (R.X 2, pages 10-17). Claimant testified that he returned to work when he was called back by Best Buy, which appears to be in early June 2020, under the same restrictions that Dr. Blankenship assessed in April 2025 (Tr. 28-29). Claimant continued to work there for almost four years until he was laid off as part of a companywide reduction in force (claimant did not believe there was such a reduction, but there were media reports about such in April 2024). He signed a severance and general release agreement on May 22, 2024, receiving an undisclosed monetary sum as part of the severance agreement (R. X.2, page 19-39).

After he was terminated from his employment, he continued to see Dr. Holt and then Dr. Jared Ennis at Interventional Pain Specialist for the rest of 2024, neither of whom stated claimant was totally incapacitated from employment. Dr. Blankenship did not say claimant was totally unable to work, but rather gave the physical restrictions listed above, which were consistent with the restrictions claimant said he worked under for Best Buy for years. There was no explanation as what part of those restrictions were for the compensable thoracic injury as opposed to the lumber and neck pain claimant presented. Claimant cited *McDonald's & AR McDonald's Self-Insured Trust/Risk Mgmt. Res. v. Key*, 2023 Ark. App. 396 for the proposition that if during the period that the body is healing, the employee is unable to perform remunerative labor with reasonable consistency and without pain and discomfort, his temporary disability is deemed total. I find *McDonald's* is not applicable to this case. Claimant failed to show there has been a change in his condition that caused him now to have a full incapacity to work that he did not have before he was laid off from Best Buy. He alleged in his post-hearing brief

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that he “has been unable to earn any other income” since he was terminated (Cl. Brief, page 8), but there was no testimony that claimant has attempted to find work within his restrictions. I agree with respondent that claimant failed to meet his burden of proof that he was totally incapacitated from working due to his compensable injury.

ORDER

Claimant has met his burden of proving by a preponderance of the evidence that he is entitled to additional medical treatment as recommended by Dr. Blankenship for his compensable thoracic spine injury.

Claimant has failed to prove by a preponderance of the evidence that he is entitled to temporary total disability benefits from April 21, 2025, to the date of the hearing.

Pursuant to A.C.A. § 11-9-715(a)(1)(B)(ii), attorney fees are awarded "only on the amount of compensation for indemnity benefits controverted and awarded." Here, no indemnity benefits were awarded; therefore, no attorney fee has been awarded. Instead, claimant's attorney is free to voluntarily contract with the medical providers pursuant to A.C.A. § 11-9-715(a)(4).

Respondent is responsible for paying the court reporter's charges for preparation of the hearing transcript.

**IT IS SO ORDERED.**

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JOSEPH C. SELF  
ADMINISTRATIVE LAW JUDGE