

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H201405

DEFRENCHI B. HARRIS,
EMPLOYEE

CLAIMANT

HALL TANK CO., LLC,
EMPLOYER

RESPONDENT

ACCIDENT FUND GENERAL INSURANCE CO.,
INSURANCE CARRIER/TPA

RESPONDENT

OPINION FILED JUNE 4, 2025

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

Claimant represented by the HONORABLE GARY DAVIS, Attorney at Law, Little Rock, Arkansas.

Respondents represented by the HONORABLE KAREN H. McKINNEY, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Reversed.

OPINION AND ORDER

The claimant appeals an administrative law judge's opinion filed January 8, 2025. The administrative law judge found that the statute of limitations barred the claim. After reviewing the entire record *de novo*, the Full Commission reverses the administrative law judge's opinion. The Full Commission finds that the statute of limitations does not bar the claim, and we find that the claimant proved he was entitled to additional medical treatment.

I. HISTORY

The parties stipulated that the employee-employer relationship existed on November 18, 2021. The claimant testified on direct examination:

Q. You were employed with Hall Tank Company and, on November 18, 2021, you sustained some injuries, did you not?

A. Yes, sir, I did....

Q. How did you get hurt?

A. At the process, it was – it was at – it was going on right to break and working at a – at a pace where we was going to lunch, and this was working with that strap, ratchet strap, and underhand wrenching it so – and like I said, it was time pressure from going on lunch break, and I just felt a ripple effect as I was tightening the – tightening the strap down....I felt it was a whole ripple effect up my arm....

Q. Now, Mr. Harris, you did receive and have received medical treatment as a result of this accident, correct?

A. Correct.

According to the record, the claimant treated at Concentra on November 18, 2021:

The patient presents today with Pain in left humerus from strapping down a load....injured on 11/18/2021.

This is the result of lifting and Loading tanks on a trailer and while securing the tanks, he was pushing down on a ratchet and felt a pop in his left bicep area.

Occurred while at work.

Complaint of shoulder pain....Pain is located in the right anterior shoulder and left biceps tendon....Pain radiates to the left arm and left elbow. Associated symptoms include decreased range of motion, deformity and stiffness, but no numbness in arm, no shoulder bruising and no swelling....

Left Shoulder: Appears with a deformity (long bicep head deformity and deltoid hypertrophy). Tenderness in the AC joint, in the deltoid, in the anterior glenohumeral joint, in the supraspinatus muscle, in the anterior shoulder, in the lateral shoulder and in the posterior shoulder....

Left Upper Arm: Appears with a deformity (volar and mid)....

Miriam Lawrence, NP assessed “1. Left shoulder pain,” “2. Injury of tendon of long head of left biceps,” and “Suspect tendon rupture.”

An x-ray of the claimant’s left shoulder was taken on November 18, 2021 with the impression, “1. No radiographic evidence for left shoulder fracture or dislocation. 2. Other findings, suggestions and discussion as above.”

The parties stipulated that “the claimant’s injury to his left shoulder was accepted as compensable and appropriate benefits were paid.”

The claimant followed up at Concentra on November 22, 2021: “Pain is located in the left anterior shoulder and left biceps area....Pain radiates to the left arm.”

An MRI of the claimant’s left shoulder was taken on November 23, 2021 with the following impression:

1. Posttraumatic strain of the subscapularis and to a lesser extent supraspinatus muscles.
2. Large posterior labral tear.
3. Small amount of fluid in the subacromial subdeltoid bursa, which can be seen with bursitis.
4. Moderate.

An MRI of the claimant’s left humerus was taken on November 23, 2021 with the following impression:

1. Mild to moderate grade strain of the biceps muscle. The distal insertion at the elbow is not included within the field of view.

2. Low-grade strain of the deltoid muscle.

Dr. Philip A. Smith performed surgery on February 9, 2022: “1. Left shoulder arthroscopy with labral debridement and biceps tenodesis. 2. Subacromial decompression with bursectomy and acromioplasty.” Dr. Smith returned the claimant to restricted work on February 18, 2022.

The claimant followed up with Dr. Smith on March 15, 2022:

History: Status post left shoulder arthroscopy with biceps tenodesis. He is almost 6 weeks out from surgery. He has not been in therapy. He has been in a sling his entire time. He says he was in an automobile accident last week but then missed his follow-up appointment. He is very argumentative and combative today. He keeps telling me that his arm is not right....He has atrophy of his left upper extremity due to nonuse. He is able to move his hand and his wrist and his elbow....I told him I saw no structural abnormality today. I told him he needs to get started in therapy....

The claimant was provided physical therapy visits beginning March 25, 2022.

On March 31, 2022, the claimant filed with the Commission a Form AR-C, CLAIM FOR COMPENSATION. The ACCIDENT INFORMATION section of the Form AR-C indicated that the Date of Accident was November 18, 2021, “EMPLOYEE INJURED SHOULDER AND ARM.” The CLAIM INFORMATION section of the Form AR-C indicated that the claim was for “additional benefits,” including “Additional Medical Expenses.”

The claimant followed up with Dr. Smith on April 26, 2022:

History: Status post left shoulder arthroscopy with labral debridement biceps tenodesis. He is 2 and half months out from his surgery. He is still complaining of pain in the left upper extremity. He has been dedicated with therapy. Physical exam: Left upper extremity shows atrophy of the left deltoid and bicep. He states that when he injured his left arm he had a pulling sensation of the left shoulder. It is possible that he could have had a disc herniation that is causing the increasing pain and weakness in his left upper extremity. I would like to order an MRI of his cervical spine to evaluate his left C5 nerve root. He is going to continue in therapy and continue with work restrictions.

Dr. D'Orsay D. Bryant, III reported on June 28, 2022:

The patient is a 47-year-old male with the complaint of a work-related injury to the left shoulder, sustained on 11/18/2021. The patient worked as a "yard truck operator" at Hall Tank Group company, where his major job function was to load and unload tanks. He was putting ratchet straps on a truck, and he severely injured his shoulder and heard a "pop and a ripple" in his left shoulder....

On 02/09/2022, Dr. Smith performed the following surgical procedures:

1. Left shoulder arthroscopy with labral debridement and biceps tenodesis.
2. Subacromial decompression with bursectomy and acromioplasty....

On today's office visit, the patient complains of persistent left shoulder pain, stiffness, and occasional numbness....He experiences left shoulder pain with prolonged walking, and he describes his left shoulder hanging as "dead weight." He stated that despite the physical therapy, he cannot raise the left shoulder fully overhead. He experiences left shoulder night pain, and he has to sleep only on the unaffected right shoulder....

X-rays of the left shoulder were negative for acute bony injury. He has inferior subluxation of the humeral head on the glenoid.

Dr. Bryant assessed "1. Left shoulder posterior labral tear. 2. Status post left shoulder arthroscopy with labral debridement and biceps tenodesis....[A]n EMG/NCS study is indicated and recommended to rule out an axillary nerve injury to the shoulder or other left upper extremity neurological deficit, that causes the patient's left upper extremity numbness and inferior subluxation of the humeral head on the glenoid."

A left shoulder arthrogram was taken on September 13, 2022 with the impression, "No evidence of rotator cuff tear." An MR shoulder with contrast was done on September 13, 2022 with the impression, "Prior biceps tendon tenodesis. Moderate osteoarthritis of the AC joint and glenohumeral joint. Superior labral tear."

The record contains a Neurodiagnostics Laboratory report dated November 8, 2022:

47 y/o Male who has pain in the left shoulder and elbow, prior left shoulder surgery, minor numbness and tingling in the left arm, and neck pain, pt initially injured his left arm while at work about 1 year ago, and no right arm symptoms....
Conclusion: 1. Probable left brachial plexopathy, with severe involvement of the upper trunk, vs. polyradiculopathy. There is minimal residue innervation of the deltoid and infraspinatus muscles. MRI imaging of the cervical spine and brachial plexus are recommended.

Upon Dr. Bryant's recommendation, an MRI of the claimant's cervical spine was taken on December 9, 2022 with the following impression:

Abnormal ventral cord signal bilaterally at C3-4 suspected to reflect myelomalacia, within in the lateral left hemicord at C4-5

suspected to reflect myelomalacia, and in the bilateral ventral C5-6 cord favored to reflect myelomalacia but a component of active impingement related myelopathic changes of the cord at C5-6 not excluded.

C5-6: Moderate central canal and severe neural foraminal stenosis with cord impingement from disc bulging and spondylosis.

C4-5 and C3-4: Mild central canal and severe neural foraminal stenosis from disc bulging and spondylosis.

An MRI of the brachial plexus was done on December 9, 2022 with the impression, "Negative MRI of the left brachial plexus without contrast.

Cervical spine MRI reported separately."

Dr. Bryant reported on December 15, 2022:

The patient is a 48-year-old male who comes in today for a followup of his left shoulder work-related injury on 11/18/2021. The patient underwent a left shoulder surgery at that time, but he has failed to improve following the surgery and postop physical therapy. An EMG/NCS revealed a severe injury to the left shoulder brachial plexus which contributes to the persistent severe left shoulder pain and stiffness following the arthroscopic shoulder procedure. Dr. Michael Chesser who performed the EMG/NCS, recommended cervical spine MRI as well as a left brachial plexus MRI, which have been performed....

The MRIs were discussed in detail with the patient and he was able to read them. The pathology of the cervical spine correlates to the severe brachial shoulder plexopathy found on the EMG/NCS. The patient is a suitable candidate for referral to a neurosurgeon for examination of the cervical spine and myelomalacia and to assess the left shoulder brachial plexopathy. The referral to the cervical spine surgeon will be made when approved by the worker's compensation carrier. This workup definitively explains the patient's claims of persistent left shoulder pain and weakness following his work-related injury of 11/18/2021.

Dr. James Adametz reported on March 14, 2023:

This is a 48-year-old male who was working in October 2021 when he just was tightened (sic) down some ratchet straps and felt a strange sensation on the left side of his shoulder chest and upper arm. He had felt a pop in his shoulder the month before and had reported this. He saw an orthopedic surgeon who ended up doing an MRI scan and find (sic) a labral tear and doing (sic) surgery on his shoulder. He says that he was having symptoms involving everything from the base of the neck on the left side down to the elbow which continued after surgery. He now has significant atrophy of his left deltoid and biceps he saw a neurologist who did an EMG and came to the conclusion that he either had a cervical spine problem or brachial plexus injury. An MRI of the brachial plexus was normal but the cervical spine reveals multiple abnormalities....My assessment is I think that this is more of the cervical spine and spinal cord issue than a brachial plexus injury. Naturally some of it could have been from the shoulder and shoulder surgery but I believe is more extensive than you could explain from that. I can only determine the cause of the problem from his history and he says all of his symptoms started the day that he reported the strange sensations in his left chest and arm. He denies any significant change in his symptoms with the motor vehicle accident. He does have a congenitally small canal which made this more likely to occur. At this point I am not sure anything can be done to really reverse his neurologic symptoms but to prevent further damage he would likely benefit from surgery on the cervical spine.

Dr. Jesse Abeler reported on August 8, 2023:

[DeFrenchi] Harris presents to clinic today for independent medical exam regarding the left shoulder. His initial date of injury was 11/18/2021, he was working to tiedown ratchet straps while he was performing his usual customary work at Hall tank company. He states he felt a sudden pull along the left upper extremity, this radiated pain into his shoulder, across his chest and into his neck....He was taken for left shoulder arthroscopy, subacromial decompression, biceps tenodesis and this was performed on 2/9/2022....An MRI of the brachial plexus is obtained on 12/9/2022, demonstrates no apparent abnormalities. Also on 12/9/2022 he underwent

cervical spine MRI without contrast, this demonstrates severe bilateral neural foraminal stenosis at C3-4, C4-5, C5-6 and C6-7. There is central canal stenosis at these levels as well with cord edema, somewhat concerning for myomalacia. On clinical exam today he demonstrates considerable atrophy of the left upper trapezius, left deltoid, left biceps and triceps. He has abnormal sensation along the shoulder and upper arm, concerning for a neurologic origin to his weakness, mechanical complaints, and abnormal sensation. It is my opinion his cervical findings of foraminal stenosis and canal stenosis are creating these complaints and he would benefit from an evaluation and possible treatment with a neurosurgeon. It is my opinion that his initial injury the "ripple" that he felt along his upper extremity were neurologic in nature at his initial reported injury and related to his initial injury on 11/18/2021. I feel the shoulder treatment has been reasonable, review of the operative note demonstrates an appropriate technique for labrum debridement, biceps tenodesis, and subacromial decompression. This procedure typically does not create the neurologic disorder seen with the patient today. I expect he has reached maximal medical improvement regarding specifically the shoulder biceps tenodesis, and he demonstrates a separate issue regarding the neck related to his initial injury. Due to the physicality of his work, I feel he is unable to use the left upper extremity for heavy gripping, lifting, grasping, pushing, or pulling, or any degree of overhead work due to the weakness and the type of work expected of him. In my expert opinion I feel he would benefit from a neurosurgery evaluation and addressing the multiple level cervical canal and foraminal stenosis, which I feel is leading to his left shoulder and upper arm atrophy and objective weakness.

On July 15, 2024, the claimant filed with the Commission another Form AR-C, CLAIM FOR COMPENSATION. The ACCIDENT INFORMATION section of the Form AR-C indicated that the Date of Accident was November 18, 2021, "Briefly describe the cause of injury and

the part of body injured: Claimant sustained multiple injuries, including his left shoulder and left breast area and neck while tightening a loading strap.” The CLAIM INFORMATION section of the Form AR-C indicated that the claim was for “initial” benefits and “additional” benefits.

A pre-hearing order was filed on August 20, 2024. The claimant contended, “Claimant contends he sustained admitted compensable injuries to his left shoulder, but Respondents have indicated that they are denying compensability and treatment for the left breast and neck area that was also injured in his compensable accident. This matter has been controverted for purposes of attorney’s fees. Claimant’s attorney respectfully requests that any attorney’s fee owed by claimant on controverted benefits paid by award or otherwise be deducted from claimant’s benefits and paid directly to claimant’s attorney by separate check, and that any Commission Order direct the respondent to make payment of attorney’s fees in this manner.”

The respondents contended, “Respondents contend that the claimant sustained a left shoulder, upper arm and elbow injury on November 18, 2021 for which he has received all benefits to which he is entitled. Respondents have not controverted any benefits related to the left shoulder injury. Respondents anticipate accepting an impairment rating and paying permanent partial disability benefits for the impairment once a rating has been assigned.”

The respondents contended, “Respondents contend that the claimant reported an injury to his shoulder from working to tiedown ratchet straps and he felt a ripple or tear in his left shoulder. An MRI revealed an intact rotator cuff but a possible labrum tear. The claimant underwent a left shoulder arthroscopy, subacromial decompression, and biceps tenodesis on February 9, 2022. The claimant was involved in a motor vehicle accident post-surgery. Claimant’s treating surgeon did not note any issues with claimant’s shoulder at his follow up appointment after the MVA. The claimant petitioned for and received a Change of Physician from Dr. Phillip Smith to Dr. D’Orsay Bryant in El Dorado. Dr. Bryant opined that the claimant’s current problems were either related to his cervical spine or a brachial plexus. An MRI of the brachial plexus was normal. Dr. James Adametz performed an IME and opined that the claimant’s issues were not related to the brachial plexus. Dr. Jesse Abler performed an IME of the claimant’s left shoulder and opined that all treatment the claimant has received to date was reasonable. Dr. Abler further opined that surgery performed on the claimant does not typically create the neurologic disorder experienced by the claimant. Dr. Abler found that the claimant had reached maximum medical improvement regarding the shoulder injury.”

The respondents contended, “Claimant has not stated with any specificity in his Prehearing Questionnaire Responses what benefits he is

seeking. If the claimant is asserting a claim for additional TTD benefits, Respondents contend that they at all times offered the claimant light or sedentary duty within his medical restrictions. Claimant initially worked light duty for Respondent employer until such work was no longer available. Claimant was paid TTD until he was again offered work within his restrictions through a Transition Return to Work program, working for a non-profit. The claimant refused this offer of work within his restrictions by failing to report to work as instructed. Respondents contend that the claimant is barred from any additional TTD pursuant to Ark. Code Ann. §11-9-526."

The respondents contended, "The claimant, through his attorney, filed an initial AR-C on March 31, 2022, for an injury to claimant's shoulder and arm. The 3/31/22 AR-C only claimed 'Additional Benefits' for the shoulder injury. The claimant did not file a claim for an injury to the 'left breast and neck' until his current attorney filed an AR-C on July 15, 2024. The alleged neck and breast injuries were never accepted as compensable. The claimant cannot claim additional benefits for injuries that were never accepted or for which benefits were never paid. Therefore, the initial AR-C filed on 3/31/22 requesting only additional benefits, was not and could not have been a claim for initial benefits for the alleged neck and breast injuries. As such the AR-C filed on 3/31/22 for additional benefits for a

shoulder injury did not toll the statute of limitations for an initial injury to the neck or breast. The claimant did not file an AR-C alleging an injury to new body parts until the July 15, 2024, AR-C was filed. This AR-C was filed more than 2 years after the November 18, 2021, injury date. Accordingly, Respondents contend that any claim for an injury to any body part not previously accepted nor previously tolled by the 3/31/22 AR-C is barred by the statute of limitations.”

The parties agreed to litigate the following issues:

1. Compensability of a left breast and neck injury.
2. Medical Benefits.
3. The respondents have raised the defense of the statute of limitations.
4. Attorney fees.

A hearing was held on October 22, 2024. At that time, the claimant testified that he wished to return to Dr. Bryant for additional treatment. The claimant testified, “I’m still feeling burning. It’s like a burning sensation to the shoulder.”

An administrative law judge filed an opinion on January 8, 2025. The administrative law judge found that the statute of limitations barred the claim. The claimant appeals to the Full Commission.

II. ADJUDICATION

A. Medical Treatment

The employer shall promptly provide for an injured employee such medical treatment as may be reasonably necessary in connection with the injury received by the employee. Ark. Code Ann. §11-9-508(a)(Supp. 2024). The employee has the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary. *Stone v. Dollar General Stores*, 91 Ark. App. 260, 209 S.W.3d 445 (2005). Preponderance of the evidence means the evidence having greater weight or convincing force. *Metropolitan Nat'l Bank v. La Sher Oil Co.*, 81 Ark. App. 269, 101 S.W.3d 252 (2003). What constitutes reasonably necessary medical treatment is a question of fact for the Commission. *Wright Contracting Co. v. Randall*, 12 Ark. App. 258, 676 S.W.2d 70 (1984).

In the present matter, the Full Commission finds that the claimant proved he was entitled to additional medical treatment as recommended by Dr. Bryant. The claimant sustained a work-related accidental injury on November 18, 2021. The claimant testified that he felt a “ripple effect” in his left arm and shoulder while performing employment services on November 18, 2021. A Nurse Practitioner’s assessment on November 18, 2021 was “1. Left shoulder pain” and “2. Injury of tendon of long head of left biceps.” The parties stipulated that the claimant sustained a compensable injury to his left shoulder on November 18, 2021.

Dr. Smith performed a left shoulder arthroscopy on February 9, 2022. The claimant subsequently reported that he had been in a nonwork-related motor vehicle accident, but Dr. Smith found “no structural abnormality” on March 15, 2022.

The claimant began treating with Dr. Bryant on June 28, 2022. Dr. Bryant noted that the claimant continued to suffer from chronic pain in his left arm and shoulder following the compensable injury. Dr. Bryant recommended additional diagnostic testing, and abnormalities were revealed in an MRI of the claimant’s cervical spine taken December 9, 2022. Dr. Bryant also reported that electrodiagnostic testing showed “a severe injury to the left shoulder brachial plexus which contributes to the persistent severe left shoulder pain and stiffness following the arthroscopic shoulder procedure.” Dr. Bryant opined, “The pathology of the cervical spine correlates to the severe brachial shoulder plexopathy found on the EMG/NCS.” Dr. Adametz examined the claimant on March 14, 2023 and agreed that “the cervical spine reveals multiple abnormalities....My assessment is I think that this is more of a cervical spine and spinal cord issue than a brachial plexus injury.” Dr. Abeler reported on August 8, 2023, “On clinical exam today he demonstrates considerable atrophy of the left upper trapezius, left deltoid, left biceps and triceps....I expect he has reached maximal medical improvement regarding specifically the shoulder

biceps tenodesis, and he demonstrates a separate issue regarding the neck *related to his initial injury* [emphasis supplied].”

If an injury is compensable, then every natural consequence of that injury is also compensable. *Hubley v. Best Western Governor’s Inn*, 52 Ark. App. 226, 916 S.W.2d 143 (1996). The basic test is whether there is a causal connection between the two episodes. *Jeter v. B.R. McGinty Mechanical*, 62 Ark. App. 53, 968 S.W.2d 645 (1998). The burden is on the claimant to establish the necessary causal connection. *Nichols v. Omaha Sch. Dist.*, 2010 Ark. App. 194, 374 S.W.3d 148. Whether there is a causal connection is a question of fact for the Commission. *Jeter, supra*.

In the present matter, the Full Commission finds that the claimant’s continued symptoms related to his left upper extremity, left brachial plexus, and cervical spine are a natural consequence of the compensable left shoulder injury sustained by the claimant on November 18, 2021. The Commission has the authority to accept or reject medical opinion and the authority to determine its medical soundness and probative force. *Green Bay Packaging v. Bartlett*, 67 Ark. App. 332, 999 S.W.2d 692 (1999). The Full Commission attaches significant evidentiary weight to the opinions of Dr. Bryant, Dr. Adametz, and Dr. Abeler. We interpret the opinions of these treating physicians to indicate that the claimant’s continued symptoms in his left upper extremity, left brachial plexus, and cervical spine were causally

connected to the injury sustained by the claimant on November 18, 2021, which injury was accepted as compensable by the respondents.

B. Filing of claim

Ark. Code Ann. §11-9-702(Supp. 2024) provides, in pertinent part:

- (b) TIME FOR FILING ADDITIONAL COMPENSATION.
- (1) In cases in which any compensation, including disability or medical, has been paid on account of injury, a claim for additional compensation shall be barred unless filed with the commission within one (1) year from the date of the last payment of compensation or two (2) years from the date of the injury, whichever is greater.

An administrative law judge found in part in the present matter, “3. That the claim involving injuries to the neck and left breast are (sic) barred by the statute of limitations.” The Full Commission does not affirm this finding. As we have discussed, the parties stipulated that the claimant sustained a compensable injury to his left shoulder on November 18, 2021. The parties stipulated that “appropriate benefits were paid.” On March 31, 2022, the claimant filed with the Commission a “Form AR-C, CLAIM FOR COMPENSATION.” The CLAIM INFORMATION section of the Form AR-C indicated that the claim was for “additional benefits,” including “Additional Medical Expenses.” The filing of a claim for additional benefits tolls the running of the statute of limitations. *Kent v. Single Source Transp., Inc.*, 103 Ark. App. 151, 287 S.W.3d 619 (2008), citing *Spencer v. Stone Container Corp.*, 72 Ark. App. 450, 38 S.W.3d 909 (2001). In the present

matter, the claimant's claim for additional benefits filed on March 31, 2022 was filed well within the two-year period required by Ark. Code Ann. §11-9-702(b)(1)(Supp. 2024) as well as within the one-year period enumerated in the statute. The applicable statute of limitations does not bar the claim for additional benefits.

After reviewing the entire record *de novo*, the Full Commission finds that the claimant proved he was entitled to additional conservative, non-surgical medical treatment as recommended by Dr. Bryant. We find that the claimant's continued symptoms related to his left upper extremity, left brachial plexus, and cervical spine were a natural consequence of the compensable injury sustained by the claimant on November 18, 2021. We find that said medical treatment is reasonably necessary in accordance with Ark. Code Ann. §11-9-508(a)(Supp. 2024). The Full Commission finds that the claimant timely filed a claim for additional medical treatment, and that the statute of limitations does not bar said claim. For prevailing on appeal, the claimant's attorney is entitled to a fee of five hundred dollars (\$500), pursuant to Ark. Code Ann. §11-9-715(b)(Supp. 2024).

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 statute of limitations does not bar this claim.

The burden of proof is on the claimant to prove by a preponderance of the credible evidence of record that he timely filed his claim within the statutorily mandated time frames. The burden of proof is not on the respondents. *Stewart v. Ark. Glass Container*, 2010 Ark. 198, S.W.3d 359 (2010).

Arkansas Code Annotated § 11-9-702 sets forth the following limitations:

(a) Time for filing additional compensation.

(b) In cases in which compensation, including disability or medical, has been paid on account of an injury, a claim for additional compensation shall be barred unless filed with the commission within one (1) year from the date of the last payment of compensation or two (2) years

from the date of the injury
whichever is greater.

(c) A claim for additional compensation must specifically state that it is a claim for additional compensation. Documents which do not specifically request additional benefits shall not be considered a claim for additional benefits.

In cases where the information contained in an AR-C is vague or insufficient, the Form's filing is insufficient to toll the statute of limitations.

Our Rules require strict construction of the Act. Strict construction is narrow construction and requires that nothing be taken as intended that is not clearly expressed. *Hapney v. Rheem Mfg. Co.*, 341 Ark. 548, 26 S.W.3d 771 (2000). The doctrine of strict construction requires this court to use the plain meaning of the language employed. *White County Judge v. Menser*, 2020 Ark. 140,597 S.W.3d 640 (2020).

Here, the claimant filed his initial AR-C on March 31, 2022, for a shoulder and arm injury. This form clearly states that the claimant sustained an injury to his shoulder and arm and specifically requests additional benefits for that injury. It was not until nearly three years after the date of the accident in question that the claimant filed a second AR-C on July 15, 2024, asserting "multiple injuries, including his left shoulder and left

breast area and neck.” The respondents denied the claim for left breast and neck injuries.

In assessing whether the claimant’s alleged left breast and cervical injuries could be causally related to his compensable shoulder injury, the Majority goes beyond the call of the plain language of Arkansas Code Annotated § 11-9-702. To reach a conclusion on this issue, we are not asked whether the claimant’s request for additional medical treatment is related to his initial injury, but rather whether those injuries were specifically contemplated in his timely AR-C filing. They were not. The claimant never filed a claim for left breast and cervical injuries until July 15, 2024, which was well over two years from the date of the accident in question, November 18, 2021.

Based upon a strict reading of our Rules and the guidelines set forth by our courts, it is clear that the claimant’s March 31, 2022 Form C filing was insufficient to toll the statute of limitations regarding his alleged left breast and neck injuries. For these reasons, the ALJ’s findings should be affirmed.

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

MICHAEL R. MAYTON, Commissioner