

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G701073

TYRAN HOLLIMAN, EMPLOYEE CLAIMANT

NO WAY PULPWOOD, INC.,  
EMPLOYER RESPONDENT

AMERISAFE RISK SERVICES, INC.,  
INSURANCE CARRIER/TPA RESPONDENT

OPINION FILED APRIL 26, 2021

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

Claimant represented by the HONORABLE ANDY L. CALDWELL, Attorney at Law, Little Rock, Arkansas.

Respondents represented by the HONORABLE MICHAEL E. RYBURN, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Respondents appeal an opinion and order of the Administrative Law Judge filed November 6, 2020. In said order, the Administrative Law Judge

made the following findings of fact and conclusions of law:

1. The Commission has jurisdiction of this claim.
2. The stipulations contained in the Amended Prehearing Order filed March 17, 2020, which the parties modified and affirmed at and during the course of the hearing, are hereby accepted as facts.

3. The claimant's correct AWW is \$692.47, entitling him to weekly indemnity benefit rates of \$462.00 for TTD, and \$347.00 for PPD.
4. The respondents shall pay to the claimant additional TTD benefits based on the AWW and TTD rates stated above in Paragraph 3, in the total amount of the difference between the TTD rate they paid, and the correct TTD rate of \$462.00.
5. The claimant's attorney is entitled to a fee on the amount of the controverted TTD benefits, which is the difference between the total amount of TTD benefits the respondents paid based on their incorrect AWW and TTD calculations, and the correct AWW of \$692.47, and the corresponding correct TTD rate of \$462.00 per week.
6. The claimant has met his burden of proof in demonstrating the additional medical evaluation and treatment he obtained on December 18, 2018 with Dr. Miedema of OrthoArkansas, as well as the additional medical treatment Dr. Miedema has recommended – i.e., a current evaluation and conservative treatment in the form of a steroid injection(s), is related to, and constitutes reasonably necessary treatment for, his compensable neck/cervical spine injury of January 23, 2017.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's November 6, 2020 decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on appeal.

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

For prevailing on this appeal before the Full Commission, claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. § 11-9-715(Repl. 2012). For prevailing on appeal to the Full Commission, the claimant's attorney is entitled to an additional fee of five hundred dollars (\$500), pursuant to Ark. Code Ann. §11-9-715(b)(Repl. 2012).

IT IS SO ORDERED.

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SCOTTY DALE DOUTHIT, Chairman

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M. SCOTT WILLHITE, Commissioner

Commissioner Palmer dissents.

DISSENTING OPINION

I respectfully dissent from the majority opinion finding that Claimant proved by a preponderance of the evidence that he is entitled to additional medical treatment as provided by Dr. Miedema of OrthoArkansas on December 18, 2018, as well as the additional medical treatment recommended by Dr. Miedema. I would find that the treatment he recommends is, as Dr. Miedema himself noted, unrelated to the compensable injuries Claimant sustained on January 23, 2017.

Claimant underwent two electrodiagnostic studies – March 27, 2017 and May 10, 2017. The first study showed increased spontaneous activity in the right C5-C6 cervical paraspinals. The second showed mild right carpal tunnel syndrome but no evidence of a right cervical radiculopathy.

An MRI from April 17, 2017 showed only degenerative changes, most prominent at C4-5 and C5-6.

Dr. Steven L. Cathey opined on April 17, 2017 that Claimant had reached maximum medical improvement “with regard to a cervical strain superimposed on preexisting degenerative cervical disc disease and spondylosis.” Dr. Cathey released Claimant to return to work without restriction as of April 17, 2017.

Dr. Joseph Deluca found that Claimant had reached maximum medical improvement as of May 15, 2017 and released him to return to

work without restrictions. Regarding Claimant's chronic neck pain, Dr. Deluca specifically noted that Claimant's MRI, EMG, and NCT all showed no acute findings and that his symptoms are not consistent with the test results.

Nearly two years after the workplace incident, and a year and a half after two doctors released Claimant without restrictions and found him to be at maximum medical improvement, Claimant was treated by Dr. Miedema. Dr. Miedema noted that the mechanism of his injury does not seem consistent with his MRI findings. In other words, the workplace incident does not seem to be the cause of the injuries revealed by the MRI. Importantly, Dr. Deluca noted this same thing over a year and a half earlier. Dr. Miedema educated Claimant about the following:

more likely than not he had preexistent cervical disc degeneration prior to his work injury. While he has significant cervical disc disease and findings of cervical radiculopathy it is difficult to correlate this directly to his work injury.

Although it appears the workplace incident possibly caused a temporary aggravation of a preexisting condition, by May 2017, Claimant's treating physicians all found that he had reached maximum medical improvement with no permanent impairments or workplace restrictions. All the doctors who have treated Claimant since the incident have noted that his subjective symptoms are inconsistent with the objective medical findings. Even Dr. Miedema, the physician from whom Claimant now seeks

additional medical treatment, believes that the treatment Claimant seeks is the result of degenerative conditions not related to the workplace injury.

Given the undisputed facts set out above, I would find that the treatment Claimant now seeks is not “reasonably necessary in connection with the injury received by the employee” as is required under Section 11-9-508(a) of the Arkansas Code.

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

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CHRISTOPHER L. PALMER, Commissioner