

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
CLAIM NO. H504689

BRENDA HORN, EMPLOYEE CLAIMANT

BIRCH TREE COMMUNITIES, INC.,  
EMPLOYER RESPONDENT

ATA WC SI TRUST/RISK MANAGEMENT  
RESOURCES, INC., INSURANCE CARRIER/  
TPA RESPONDENT

OPINION FILED JUNE 25, 2026

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

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

Respondents represented by the HONORABLE MELISSA WOOD, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Claimant appeals an opinion and order of the Administrative Law Judge filed March 10, 2026. In said order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The proposed stipulations set forth above are reasonable and are hereby accepted.

3. The claimant was not performing employment services at the time of her accidental fall of July 21, 2025. All other issues have been rendered moot.
4. This claim is hereby respectfully denied and dismissed in its entirety.

We have carefully conducted a *de novo* review of the entire record herein, and it is our opinion the Administrative Law Judge's 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 of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

Therefore, we affirm and adopt the March 10, 2026 decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

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SCOTTY DALE DOUTHIT, Chairman

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MICHAEL R. MAYTON, Commissioner

Commissioner Willhite dissents

DISSENTING OPINION

The Administrative Law Judge (hereinafter referred to as “ALJ”) found that the Claimant failed to prove that she was performing employment services at the time of her accidental fall on July 21, 2025, and that all other issues raised by the Claimant are rendered moot. After a *de novo* review of the record, I dissent with the majority. I would rule in favor of the Claimant and find that she was performing employment services at the time of her fall, that she sustained compensable injuries to her right elbow and her right knee, and that she is entitled to reasonable and necessary medical treatment for her compensable injuries.

To establish a compensable injury by a preponderance of the evidence the Claimant must prove: (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 Ark. Code Ann. §11-9-102(16), establishing the injury; and (4) that the injury was caused by a specific and identifiable time and place of occurrence. A compensable injury does not include an injury “which was inflicted upon the employee at a time when employment services were not being performed.” Arkansas Code Annotated § 11-9-102(4)(B)(iii).

The pivotal question in this case being whether the Claimant was performing employment services at the time of her fall. The Arkansas Court of Appeals has determined that if the Claimant's injury occurred within the time and space boundaries of their employment, when the employee was carrying out the employer's purpose, or advancing the employer's interest directly or indirectly, the injury is compensable. *Chi St. Vincent Infirmary Med. Ctr. v. McCauley*, 2023 Ark. App. 126, 663 S.W.3d 411 (2023).

The Claimant was employed as a housekeeper for the Respondent. On July 21, 2025, the Claimant was walking down a flight of concrete stairs to "snatch her mail from her car" when she lost her balance and fell forward, injuring both of her knees and her right elbow. The Claimant was on the Respondent's campus at the time of the accident and remained "on duty" during her entire shift. The Claimant's time sheet showed that on July 21, 2025, Claimant clocked in at 7:53 AM and remained on the clock until 3:16 PM. According to the testimony of April D. Eymer, who was Claimant's supervisor on the date of her injury, the Respondent employer did not allow breaks while the employee was on campus. Further, Claimant was on duty or on call and expected to always take her personal phone with her in case Eymer required the Claimant to perform work-related duties. The Claimant was not expected to clock out for her breaks and was required during her 8:00 AM to 4:00 PM shift to perform employment services without exception.

Just prior to the accident, both Claimant and Eymer testified that the Claimant informed Eymer that she was going to go to her car. There is no evidence in the record to suggest that Eymer objected to Claimant going to her car.

Following her work accident, the Claimant was taken to the Saline Memorial Hospital Emergency Department where she was diagnosed with a closed nondisplaced fracture of the right radial head and right knee pain with abrasions. Claimant underwent a subsequent orthopedic evaluation which included an x-ray and MRI for her injuries which showed horizontal tears in both the lateral and medial menisci, a parameniscal cyst, and mild chondral fissuring of the lateral femoral condyle in her right knee.

Based on the facts in the record, I would find that the Claimant proved by a preponderance of the evidence that she was performing employment services at the time of her fall. Claimant was directly or indirectly advancing the interests of the Respondent by the uninterrupted obligation to respond to a call to perform her typical work duties. Claimant's abbreviated and incidental deviation from her duties to go to her car was known by and permitted by her supervisor. Claimant was on the Respondent's premises and compensated during the time of her fall. Lastly, Claimant was expected by her employer to cease her interruption and return from her permitted non-work activity according to Claimant's and Eymer's testimony. Therefore, I find that Claimant was performing

employment services at the time of her fall and suffered a compensable injury on July 21, 2025, when she fell on both of her knees and her right elbow.

An 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). The claimant bears the burden of proving that she is entitled to additional medical treatment. *Dalton v. Allen Eng'g Co.*, 66 Ark. App. 201, 989 S.W.2d 543 (1999). What constitutes reasonable and necessary medical treatment is a question of fact for the Commission. *White Consolidated Indus. v. Galloway*, 74 Ark. App. 13, 45 S.W.3d 396 (2001); *Wackenhut Corp. v. Jones*, 73 Ark. App. 158, 40 S.W.3d 333 (2001).

The Arkansas Court of Appeals has held a claimant may be entitled to additional medical treatment even after the healing period has ended, if said treatment is geared toward management of the injury. *See Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004); *Artex Hydroponics, Inc. v. Pippin*, 8 Ark. App. 200, 649 S.W.2d 845 (1983). Such services can include those for the purpose of diagnosing the nature and extent of the compensable injury; reducing or alleviating symptoms resulting from the compensable injury; maintaining the level of healing achieved; or preventing further deterioration of the damage produced by the compensable

injury. *Jordan v. Tyson Foods, Inc.*, 51 Ark. App. 100, 911 S.W.2d 593 (1995); *Artex*, supra.

Following the Claimant's work-related accident, she received medical treatment from medical providers including Saline Memorial Hospital and Dr. Scott Walsh. On August 6, 2025, Dr. Walsh states that the Claimant was to return to the clinic on August 20, 2025. I find this medical care to be reasonable and necessary and Claimant is entitled to continued medical treatment from Dr. Walsh for the compensable injuries she received on July 15, 2025.

Therefore, I must dissent with the majority.

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M. Scott Willhite, Commissioner