

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G904652

NELA JIKATAKE, Employee	CLAIMANT
CARGILL, INC., Employer	RESPONDENT
SEDGWICK CLAIMS MANAGEMENT, Carrier/TPA	RESPONDENT

OPINION FILED MAY 26, 2021

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

Claimant represented by EVELYN E. BROOKS, Attorney, Fayetteville, Arkansas.

Respondents represented by LAURA J. PEARN, Attorney, Fort Smith, Arkansas.

STATEMENT OF THE CASE

On May 13, 2021, the above captioned claim came on for hearing at Springdale, Arkansas. A pre-hearing conference was conducted on March 31, 2021 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 the within claim.
2. The employee/employer/carrier relationship existed among the parties at all relevant times.
3. The claimant sustained a compensable injury to her left shoulder on June 11,

2019.

At the pre-hearing conference the parties agreed to litigate the following issues:

1. Claimant's entitlement to additional medical treatment recommended by Dr. Arnold.

The claimant contends she is entitled to the additional medical treatment as recommended by Dr. Chris Arnold. Claimant reserves all other issues.

The respondents contend this claim was accepted as compensable and benefits were paid. Claimant was provided treatment for this injury, which resulted in Dr. Heim performing an arthroscopic procedure on her left shoulder. She was released from his care at MMI on November 30, 2019 with a 4% whole body impairment. The rating was paid out to the claimant via a check for \$4500 in November of 2019. Respondents have provided claimant with all reasonably necessary evaluation and treatment and claimant is not entitled to additional benefits.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witness and to observe her 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 March 31, 2021 and contained in a pre-hearing order filed that same date are hereby accepted as fact.

2. Claimant has failed to meet her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment in the form of surgery by Dr. Arnold.

### FACTUAL BACKGROUND

The claimant is a 51-year-old woman who began working for respondent in October 2015, deboning chicken. Claimant suffered an admittedly compensable injury to her left shoulder when she tripped on a pallet on June 11, 2019.

Claimant reported her injury and was sent by respondent for medical treatment. Claimant eventually came under the care of Dr. Heim who diagnosed claimant's condition as adhesive capsulitis and he performed an arthroscopic procedure on claimant's shoulder on September 23, 2019. Following this surgery claimant underwent therapy and on October 30, 2019, Dr. Heim opined that claimant had reached maximum medical improvement and assigned her a 4% impairment rating to the body as a whole.

Claimant filed for and received a change of physician to Dr. Arnold who evaluated claimant on January 21, 2020. Dr. Arnold believed that claimant suffered from a partial tear of the rotator cuff and indicated that further recommendations would be made after he reviewed Dr. Heim's medical reports. In a report dated February 4, 2020, Dr. Arnold indicated that claimant's examination showed a probable rotator cuff tear and adhesive capsulitis and he ordered an MRI scan to evaluate the extent of her tear.

Claimant underwent an MRI scan of her left shoulder on February 19, 2020, and was read as showing as no rotator cuff tear. Nevertheless, in his report of March 3, 2020, Dr. Arnold indicated that claimant had a partial rotator cuff tear and discussed various options. On that date he gave claimant an injection in her left shoulder. Claimant returned

to Dr. Arnold on April 7, 2020 and he noted that the injection did not help claimant's condition. As a result he recommended an arthroscopic procedure and a possible cuff repair.

Respondent has denied liability for the surgical treatment recommended by Dr. Arnold and as a result claimant has filed this claim.

### ADJUDICATION

Claimant has the burden of proving by a preponderance of the evidence that medical treatment is reasonable and necessary. *Patchell v. Walmart Stores, Inc.*, 86 Ark. App. 230, 184 S.W. 3d 32 (2004). After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that claimant has failed to meet her burden of proof.

In support of her contention, claimant relies upon the opinion of Dr. Arnold that she is in need of his recommended treatment in the form of surgery on her left shoulder. Since the time of claimant's initial visit with Dr. Arnold, he has been of the opinion that claimant suffers from a torn rotator cuff which needs to be surgically repaired. In fact, Dr. Arnold ordered an MRI scan of claimant's left shoulder to determine the extent of the tear.

However, the diagnostic testing does not support Dr. Arnold's opinion that claimant has a torn rotator cuff. Claimant initially underwent an MRI scan of her left shoulder which was ready by Dr. Shawn Marvin on August 1, 2019. That report indicates that no torn rotator cuff tendon tear was present. Likewise, Dr. Heim's operative report of September 23, 2019 indicates the following notation:

I looked at her MRI and she shows no evidence of

cuff tear.

On that date, Dr. Heim performed an arthroscopic procedure and eventually released claimant as having reached maximum medical improvement on October 30, 2019. Thereafter, claimant began treating with Dr. Arnold and as previously noted, he ordered a second MRI scan of claimant's left shoulder.

The second MRI scan of claimant's left shoulder was performed on February 19, 2020 and was again read by Dr. Shawn Marvin. Dr. Marvin not only noted that no rotator cuff tear was present, but he also noted that when compared to claimant's prior MRI scan the findings were improved.

There is mild increased signal within the conjoined tendon of the rotator cuff, which may represent residual minimal tendinosis. This appearance is improved compared to 9/6/2019. No rotator cuff tear is present. No rotator cuff muscle atrophy or tendon retraction is present.

In response to Dr. Arnold's recommendation for surgery, respondent introduced a follow-up letter from Dr. Heim dated May 13, 2020. In that report, he stated:

The claimant developed an adhesive capsulitis of her left shoulder resulting in arthroscopic adhesiolysis and manipulation under anesthesia. She received post-operative physical therapy and despite inconsistent participation her results were good. She was released at MMI and was provided an impairment rating on 10/30/19. As often is the case, with this diagnosis, patients rarely fully recover to their pre-injury state. This is the purpose of the impairment rating.

It is my medical opinion that Ms. Jikatake does not need further treatment or diagnostic studies which is why I released her at maximum medical improvement.

In short, claimant has the burden of proving by a preponderance of the evidence that the surgery recommended by Dr. Arnold is reasonable and necessary medical treatment for her compensable injury. It is the opinion of Dr. Arnold that claimant suffers from at least a partial torn rotator cuff. However, both of the MRI scans, including the MRI scan which Dr. Arnold ordered, were read as showing no rotator cuff tear. Likewise, Dr. Heim also indicated that his review of the claimant's MRI scan did not reveal a torn rotator cuff and significantly, Dr. Heim does not note any torn rotator cuff in his operative report of September 23, 2019. I find that the MRI scan results as well as the opinion of Dr. Heim are entitled to greater weight than the opinion of Dr. Arnold. Accordingly, I find that claimant has failed to meet her burden of proving by a preponderance of the evidence that the surgery proposed by Dr. Arnold is reasonable and necessary medical treatment for her compensable injury.

ORDER

Claimant has failed to meet her burden of proving by a preponderance of the evidence that surgery recommended by Dr. Arnold is reasonable and necessary medical treatment for her compensable left shoulder injury. Therefore, her claim for additional compensation benefits is hereby denied and dismissed.

Respondent is responsible for paying the court reporter her charges for preparation of the hearing transcript in the amount of \$375.30.

IT IS SO ORDERED.

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GREGORY K. STEWART  
ADMINISTRATIVE LAW JUDGE