

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H300401

TINA JOHNSON, EMPLOYEE

CLAIMANT

CONWAY REGIONAL HEALTH SYSTEM,
EMPLOYER

RESPONDENT

RISK MANAGEMENT RESOURCES, INC.,
TPA

RESPONDENT

OPINION FILED JULY 7, 2026

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

Claimant represented by the HONORABLE LAURA BETH YORK, Attorney, Little Rock, Arkansas.

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

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Respondent appeals an opinion and order of the Administrative Law Judge filed March 4, 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 hereby accepted.
3. The Claimant failed to prove by a preponderance of the credible evidence that her compensable right shoulder injury of September 6, 2022, rendered her permanently and totally disabled from earning meaningful wages in the same and/or other employment. However, the Claimant proved her entitlement to wage-loss disability in the amount of 15% over and above her 21% permanent anatomical impairment rating.
4. All issues not litigated herein or addressed in this Opinion are reserved under the Arkansas Workers' Compensation Act.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's March 4, 2026 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.

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.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

Commissioner Mayton dissents.

DISSENTING OPINION

I respectfully dissent from the majority's opinion. The claimant was injured on September 6, 2022, when she sustained a compensable injury to her right shoulder. She initially had surgery by Dr. Lawrence O'Malley and eventually had a right reverse total shoulder arthroplasty by Dr. Michael Hussey. Dr. Hussey released the claimant at maximum medical improvement with a twenty one percent (21%) impairment rating to the body as a whole on November 22, 2024.

An administrative law judge determined the claimant is entitled to an additional fifteen percent (15%) wage loss in addition to her impairment rating. Respondents appeal.

When a claimant sustains an injury not scheduled in Ark. Code Ann. § 11-9-521, permanent disability benefits are controlled by Ark. Code Ann. § 11-9-522(b)(1), which states:

In considering claims for permanent partial disability benefits in excess of the employee's percentage of permanent physical impairment, the Workers' Compensation Commission may take into account, in addition to the percentage of permanent physical impairment, such factors as the employee's age, education, work experience, and other matters reasonably expected to affect his or her future earning capacity.

Other factors may include but are not limited to motivation to return to work, post-injury earnings, credibility, and demeanor. *Curry v. Franklin Electric*, 32 Ark. App. 168, 798 S.W.2d 130 (1990).

When a claimant has been assigned an anatomical impairment rating to the body as a whole, the Commission may increase the disability rating and find a claimant permanently disabled based upon wage-loss factors. *Lee v. Alcoa Extrusion, Inc.*, 89 Ark. App. 228, 201 S.W.3d 449 (2005).

The wage-loss factor is the extent to which a compensable injury has affected the claimant's ability to earn a livelihood. *Enterprise Products Company v. Leach*, 2009 Ark. App. 148, 316 S.W.3d 253 (2009).

Our courts also consider the claimant's motivation to return to work since lack of interest in pursuing employment impedes the assessment of

the claimant's loss of earning capacity. *Logan County v. McDonald*, 90 Ark. App. 409, 206 S.W.3d 258 (2005).

The Commission may use its own superior knowledge of industrial demands, limitations, and requirements in conjunction with the evidence to determine wage-loss disability. *Taggart v. Mid America Packaging*, 2009 Ark. App. 335, 308 S.W.3d 643 (2009).

Here, the claimant underwent surgery performed by Dr. Michael Hussey and was released at maximum medical improvement on November 22, 2024, with a twenty one percent (21%) permanent impairment rating. Dr. Hussey released the claimant to work in the medium duty classification. The claimant does not currently take any pain medication for her shoulder.

The claimant has an extensive work history. She was 62 years old at the time of the hearing and graduated high school in 1981. She went on to attend technical school for about a year, but did not complete the program. She did, however, attend Eastern College in Little Rock obtaining a medical assistant certificate in 2003 or 2004.

Once entering the workforce, the claimant worked as a machine operator and assembly line leader with Kimberly-Clark for twelve or thirteen years and later worked as a spot welder for AmTran for approximately eighteen (18) months before beginning work on the assembly line with Frigidaire for around a year and a half.

The claimant later moved to Tulsa, Oklahoma where she worked as a mental health technician at the Tulsa Center for Behavioral Health for seven years. She then became a patient representative handling patient admissions at Medical City in Dallas, Texas for approximately two years. Later, the claimant became a mental health technician at Green Oaks for twelve years before beginning work with the respondent employer in 2018.

The respondents hired Cecilia Brunson to conduct a vocational rehabilitation evaluation for the claimant. Ms. Brunson testified she had a master's degree in vocational counseling and had performed job placement since 2013. She has had her own company working as a vocational consultant since 2018. Upon meeting with the claimant and reviewing her records, Ms. Brunson opined:

Mrs. Johnson has twenty-three years of experience as a Patient Care Tech and fifteen years of experience as an Assembly Line Worker. The Patient Care Tech job is a skilled vocation. Some of the skills gained from her previous work experience that can be transferred to other employment include service orientation, social perceptiveness, speaking, active listening, monitoring, critical thinking, active learning, coordination, complex problem solving, instructing, judgment and decision making, reading comprehension, writing, negotiation, persuasion, medical software, electronic mail software, and office suite software.

Ms. Brunson identified sixteen open positions she believed matched the claimant's skills and experience. At the hearing, Ms. Brunson testified

she did not believe the claimant had any barriers to her employment and her shoulder was not preventing the claimant from working.

At the time of her deposition in 2025, the claimant had not applied for any jobs and was considering drawing early retirement. At the hearing, she testified she had applied for multiple jobs and would go back to work if she received an offer, even a full-time job.

Because the claimant's husband is already retired, she spends time with him, her nearby children, and her mother. The claimant and her husband traveled to Florida for several weeks around Christmas and traveled to Memphis for a week and a half. The claimant is involved socially at her church and admits that her right arm is not holding her back at home.

The claimant's extensive work history and education demonstrate she has the experience and skills to return to the work force. She can travel, do housework, and socialize with friends without restriction.

Cecilia Bruson identified numerous jobs for which the claimant is qualified and could accommodate her medium duty restriction. The claimant has simply shown little interest in returning to work. With her husband retired and family nearby, the claimant has shown a clear preference for traveling and spending time with family rather than returning to the workforce.

Because she has the skills and experience to return to work without being limited by her compensable injury and chooses not to do so, the

claimant has failed to prove by a preponderance of the evidence she is entitled to wage loss benefits.

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

Michael R. Mayton, Commissioner