

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G901935

JONATHAN LOWE, EMPLOYEE

CLAIMANT

AT&T SERVICES, INC., EMPLOYER

RESPONDENT

**OLD REPUBLIC INSURANCE COMPANY;
SEDGWICK CLAIMS MANAGEMENT
SERVICES, INC., CARRIER/TPA**

RESPONDENT

OPINION FILED FEBRUARY 4, 2021

An opinion was rendered by Administrative Law Judge Katie Anderson in Pulaski County, Little Rock, Arkansas.

Claimant, Mr. Jonathan Lowe, was represented by Mr. Eddie H. Walker, Jr., Attorney at Law, Fort Smith, Arkansas, at the hearing.

Respondents were represented by Mr. David C. Jones, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above-styled case before Administrative Law Judge Amy Grimes on October 27, 2020, in Fort Smith, Arkansas. A Pre-Hearing Order was previously entered in this case on September 3, 2020.

The following stipulations were submitted by the parties, either pursuant to the Pre-Hearing Order, or at the start of the hearing. I hereby accept the following proposed stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The employee/employer/carrier relationship existed on March 18, 2019.
3. The Claimant sustained a compensable injury on March 18, 2019 to his back.
4. The compensation rates are the maximum.

5. There is no dispute over medical through January 16, 2020.
6. The Claimant was assessed a seven percent (7%) permanent partial rating to the body as a whole, which has been paid.
7. The Claimant was awarded a change of physician on February 27, 2020.

By agreement of the parties, the issues to be litigated and resolved at the hearing were limited to the following:

1. Whether Claimant is entitled to additional temporary total disability benefits.
2. Whether Claimant is entitled to additional medical benefits, specifically, surgery recommended by Dr. Blankenship.
3. Attorney's fees.

CONTENTIONS

Claimant:

1. The Claimant contends that although Dr. Cheyne released him on January 29, 2020, the Claimant was still in need of additional treatment and had not reached maximum medical improvement. The Claimant contends that he exercised his one time to change physicians and as a result of being evaluated by Dr. Blankenship was determined to be unable to work and in need of surgery. Accordingly, the Claimant contends that he is entitled to temporary total disability benefits from on or about January 29, 2020 until a date yet to be determined.
2. The Claimant contends that the surgery recommended by Dr. Blankenship is reasonably necessary and that the Respondents should be ordered to pay for that surgery.
3. The Claimant contends that his attorney is entitled to an appropriate attorney's fee based upon any additional temporary total disability benefits the Claimant receives and any permanent disability benefits over and above 7% to the body as a whole.

Respondents:

1. The Respondents contend that all appropriate benefits have been paid to date. Specifically, the Respondents accepted the Claimant's back injury as compensable and have paid for all reasonably necessary medical treatment to date.

2. The Respondents contend that all appropriate temporary total disability benefits have been paid to date. In that regard, the Respondents paid the Claimant temporary total disability during the entire duration of his healing period until he was placed on maximum improvement by Dr. Cheyne on or about January 16, 2020.
3. The Respondents contend that they appropriately accepted the 7% permanent partial disability rating to the body as a whole assigned by Dr. Cheyne and initiated the permanent partial disability benefits when the Claimant was placed at maximum improvement.
4. The Respondents contend that the surgery recommended by Dr. Blankenship is not reasonably necessary in relation to the injury sustained in the current claim. Specifically, the Respondents contend that two separate specialists, Dr. Cheyne and Dr. Knox, have both appropriately opined that based upon the extent of the injury sustained and the disc issues involved, surgery would not result in any type of significant improvement for the Claimant's current condition.
5. The Respondents would also reserve the right to contend that the incident and injury sustained herein was simply a temporary aggravation of the Claimant's preexisting condition. Therefore, the surgery recommended is not reasonably necessary and related to the incident in the current claim.
6. The Respondents contend that they would be entitled to any group health, short term or long-term benefits paid to or on behalf of the Claimant. Further, the Respondents contend they would also be entitled to an offset for any unemployment benefits paid to the Claimant, should the Claimant have applied for and received said benefits.
7. Respondents would reserve the right to amend and supplement their contentions after the discovery has been completed.

The record consists of the hearing transcript of October 27, 2020, and the documents contained therein.

DISCUSSION

During the hearing, Mr. Lowe, ("Claimant," used interchangeably herein) testified on his own behalf.

Claimant was thirty-two (32) years old at the time of the hearing and was working at AT&T on March 18, 2019. He described his job title as a "premises technician," which included installing

internet, satellite television, and phone service for residential customers. He described his position as physically demanding, and his job duties included a great deal of bending, stooping, crawling under houses, climbing into attics, climbing ladders, and lifting ladders weighing approximately sixty to seventy pounds.

Claimant testified that on March 18, 2019, he was installing internet and television services in a house in Van Buren. Claimant said he was outside the home at a terminal, which was located on another street. As he prepared to work at the terminal, he placed two large cones on the ground around the area as a safety measure. When Claimant finished his second trip to the terminal, he walked back to his vehicle and as he tossed the cones into the bay of his truck, he felt a “twinge” in his back. Claimant then contacted his manager to report the incident. Claimant explained that his symptoms included muscle spasms, “tingling” in his legs, and a “twinge” in his back. With respect to the “twinge” in his back, he stated that it was causing a lot of pain “to where it would be pretty much paralyzed for a good, few weeks after that, after the twinge that is.” He stated that, “My entire body would lock up.”

Claimant briefly testified that he had also injured his back in 2017 when pulling cinder blocks. Claimant underwent medical treatment for that injury in July and August of 2017. Claimant agreed that he did not receive any further medical treatment until March of 2019, which was more than a year and a half after he received treatment for the 2017 injury. He testified that the day before he went to work on March 18, 2019, he did not have any reason to believe that he needed any type of medical treatment.

Claimant stated that he saw Dr. Thomas Cheyne for treatment after his March 18, 2019, injury. Claimant stated that Dr. Cheyne released him in January of 2020, placed permanent restrictions on him of no repetitive bending, stooping, and twisting, and assessed him with a seven

percent (7%) impairment rating. After Dr. Cheyne told Claimant that he had no further treatment options for him, Claimant requested another opinion because he was still having back pain and could not return to work in his current condition.

Claimant then saw Dr. Blankenship, who ordered a more current MRI and ultimately recommended surgery. Because Claimant had not seen any improvement after he was treated by Dr. Cheyne, he elected to proceed with Dr. Blankenship's surgical recommendation.

As for returning to work after the 2019 injury, Claimant testified that AT&T provided light duty work for him for ninety days. He was not able to go back to work for AT&T after the ninety-day period, and he began receiving temporary disability benefits. Claimant also testified that AT&T had an accommodation policy where the company would attempt to return employees to work if possible. However, after the ninety-day period ended, AT&T was not able to find work for Claimant within the permanent restrictions imposed by Dr. Cheyne.

Claimant also testified that he had not worked since he last saw Dr. Cheyne for treatment, and he did not feel that he would be able to hold down a job in his current condition. He did not recall any previous work that he could do within his permanent restrictions. He felt that he had no other option but to have the surgery recommended by Dr. Blankenship, as he had undergone conservative treatment without much improvement.

Claimant testified on cross-examination that he saw Dr. Cheyne once more, on January 29, 2020; however, Dr. Cheyne had previously released him with an impairment rating and told him to return only if he had increased symptoms that would require further treatment. On cross-examination, Claimant also testified that he saw Dr. Knox for an IME and that Dr. Knox did not think surgery was reasonably necessary. He further confirmed that all his doctors, including Dr. Blankenship, had explained that it was unusual for someone his age to experience back issues of

this nature. Dr. Blankenship further noted that Claimant was very young to undergo the recommended surgical procedure.

Further, Claimant testified that during the ninety-day period with AT&T, he was able to complete the light work, which included some sweeping in the garage and “a little bit” of yardwork. As for daily activities, Claimant said he was able to do some household chores “to a limited degree,” such as washing, cleaning, and cooking.

As for his past work, Claimant testified on cross-examination that he had previously done sedentary computer (software repair) work for an insurance company. Claimant admitted that he was able to stand or sit as required for that type of work. Claimant also testified that he had previous work experience building computers, installing hard drives, and setting up operating systems, but he had not searched for employment in either area since he had worked at AT&T.

Claimant testified that he had spoken with a friend who had previously undergone a similar surgical procedure on his back. That friend shared with Claimant that even after surgery he continued to require treatment for his back, including a spinal cord stimulator.

On re-direct examination, Claimant testified that he had not looked for employment, nor did he think he would have many opportunities for employment because of Dr. Blankenship’s clinic note stating that he would not be able to return to work until after he had undergone surgery.

On re-cross examination, Claimant further explained that he had not formally been terminated by AT&T; thus, he was unsure if he was free to find other employment.

Medical Exhibits:

After a thorough review of the medical exhibits, the relevant medical records are summarized below.

Medical records showed that Claimant received medical treatment for a previous low back injury on July 20, 2017 at MedExpress in Fort Smith. Upon examination, Dr. Judith Grimm noted low back pain with range of motion, tenderness to the low back, and muscle spasms in the low back. She assessed Claimant with muscle spasms. Dr. Grimm suggested using heat and ice for the muscle spasms in the low back, to refrain from heavy lifting, and to take medication as prescribed.

Claimant returned to MedExpress on July 24, 2017, and on August 17, 2017, for follow-up appointments. Claimant reported continued symptoms and an increase in symptoms after lifting a ladder at work. Ultimately, Claimant was instructed to remain off work until August 21, 2017. Claimant was given a referral to an orthopedist. On August 21, 2017, Dr. Grimm noted that Claimant's musculoskeletal examination was normal and offered discharge instructions of no heavy lifting and heat and ice to treat. She also suggested light duty until Claimant was cleared by an orthopedist.

There were no additional medical records until March of 2019. Claimant was first seen at MedExpress in Fort Smith on March 22, 2019. Claimant reported an injury to his low back on March 18, 2019, "after lifting objects at work x 4 days ago." Claimant also reported that he had spoken with "Doctors on Demand" earlier and he was currently taking a muscle relaxer. Claimant was diagnosed with muscle spasms of the low back, and he was instructed to soak the low back in warm water four times a day and to take his medication as prescribed.

On April 10, 2019, Claimant saw Dr. Thomas E. Cheyne at Mercy Sports Medicine Clinic in Fort Smith. Dr. Cheyne's clinic notes indicated that he had seen Claimant previously for an injury; however, Claimant was presenting that day for a new injury. Claimant's symptoms included low back pain, discomfort in his thighs, and some tingling in his lower legs; however,

Dr. Cheyne noted that those symptoms had “for the most part” resolved. He noted that Claimant was previously prescribed a muscle relaxer and a steroid pack. Dr. Cheyne noted tenderness in Claimant’s low back, and Claimant’s ability to bend over only to the point of touching his knees. Claimant had good muscle strength and tone in his legs, full range of motion in his lower extremities, and negative straight leg raise bilaterally. Claimant’s x-ray imaging was within normal limits. Dr. Cheyne assessed Claimant with acute lumbar strain with possible bilateral radiculopathy. He was prescribed an anti-inflammatory medication. Claimant was instructed to take hot showers twice daily, stay at light activity, perform a stretching exercise program, attend physical therapy, and return for a follow-up in one month. Claimant was also given work restrictions.

Claimant returned to Dr. Cheyne on May 20, 2019. Dr. Cheyne’s notes indicated that Claimant had participated in physical therapy and had taken his medication as prescribed. However, Claimant had not seen much improvement, and the light work he was performing for AT&T was continuing to aggravate his back. Dr. Cheyne continued Claimant’s work restrictions; instructed him to continue the stretching program and physical therapy; and ordered a MRI of Claimant’s lumbar spine.

A June 4, 2019, MRI revealed an L5-S1 degenerative disc with small broad-based central disc protrusion, degenerative disc, and degenerative change in facets.

Follow-up clinic notes from Dr. Cheyne on June 7, 2019, showed that he discussed the MRI findings with Claimant, which showed an annular tear at L5-S1 with broad-based central disc protrusion slightly eccentric to the left. Dr. Cheyne noted, however, that he did not recommend that Claimant see a surgeon. Rather, he advised Claimant to not return to work requiring any heavy

lifting. Dr. Cheyne recommended continuing work restrictions, treatment of two lumbar epidural steroid injections, and continuing his oral medication and heat therapy.

At a follow-up appointment with Dr. Cheyne on July 23, 2019, clinic notes indicated that Claimant had mild tenderness in the low back; that he could still bend only so far as to touch his knees; that he could heel/toe walk without difficulty; that he had normal sensation in lower extremities; that he had good strength and muscle tone in lower extremities; and that he had mildly positive straight leg raise bilaterally. Dr. Cheyne noted that Claimant's injections were scheduled, and in the meantime, he should maintain the job restrictions, use heat therapy, and stay at light activity.

Claimant's steroid injections were administered on July 29, 2019 and on August 29, 2019. At a September 30, 2019, follow-up appointment with Dr. Cheyne, clinic notes indicated that Claimant had seen some relief from the injections. Dr. Cheyne recommended continuing with the injections. In the meantime, he was instructed to remain on light activity and continue his medication and physical therapy.

On October 16, 2019, Claimant received a third epidural steroid injection to the lumbar spine.

Claimant returned to Dr. Cheyne on November 26, 2019, where clinic notes indicated that Claimant was "doing significantly better" after his third injection. However, Claimant was still mildly symptomatic. He was allowed to return to work but with permanent restrictions of twenty-pound weight limit with no repetitive twisting, bending, and lifting. He was instructed to take his anti-inflammatory medication for the next few months to alleviate his remaining symptoms.

On January 16, 2020,¹ Dr. Cheyne authored a letter to Respondents wherein he stated that he had treated Claimant for his March 18, 2019, work injury and that after conservative treatment, including epidural steroid injections, he was “doing significantly better.” He stated that he released Claimant to return to work with permanent restrictions of no lifting more than twenty pounds and no repetitive bending, twisting, or lifting. He opined that Claimant had a seven percent (7%) permanent impairment rating of the body as a whole as a result of his L5-S1 disc protrusion.

On January 29, 2020, Dr. Cheyne’s clinic notes indicated that Claimant was “doing pretty well” since his last clinic visit and that he did not need to return unless he had an increase in symptoms that would require additional treatment. He also stated that Claimant’s previous work restrictions remained in place.

A March 12, 2020, MRI of Claimant’s lumbar spine showed lumbosacral disc space degeneration with a posterior disc herniation in the midline eccentric off to the left with severe left lateral recess stenosis and proximal L5 foraminal stenosis. It also revealed sagittal plane malalignment with retrolisthesis and compensatory flattening of the lumbar spine and multilevel facet arthropathy above the site.

On March 16, 2020, Claimant saw Dr. James B. Blankenship at The Neurosurgery Spine Center.² Claimant reported pain in his low back and bilateral hips that increased with bending. He reported that after undergoing conservative treatment consisting of physical therapy and steroid injections, and after being off work since July of 2019, he was still having back pain, bilateral hip pain, and pain radiating down his leg down to the knee. Dr. Blankenship noted that Claimant’s

¹ At the hearing, Respondents’ Counsel brought to the Commission’s attention the fact that the January 16, 2019, date on Dr. Cheyne’s letter was incorrect. As there was no objection by either party, the correct date of January 16, 2020, was noted on the exhibit.

² The Commission approved Claimant’s request for a Change of Physician from Dr. Cheyne to Dr. James B. Blankenship on February 27, 2020.

pain actually began six to eight months prior to March 18, 2019 when he was crawling underneath a house, but that pain improved. Dr. Blankenship observed that Claimant's gait was normal; that he ambulated without assistance; and that his muscle strength was 5/5 throughout. However, his range of motion in the lumbar spine was restricted, and his straight leg raise test was positive with back pain only. Radiographs from that day showed a fairly large posterior disc protrusion at the lumbosacrum at L5-S1; marked segmental instability at the L5-S1 level with retrolisthesis that moved in flexion and extension; and a gross annular fissure in addition to the disc protrusion. Dr. Blankenship diagnosed Claimant with other intervertebral disc displacement in the lumbar region, fibromyalgia, and dislocation of unspecified lumbar vertebra. Dr. Blankenship discussed the diagnosis with Claimant and suggested additional conservative treatment or, in the alternative, surgery consisting of an anterior lumbar interbody arthrodesis at the lumbosacrum with posterior decompression, discectomy, and pedicular fixation. Per Dr. Blankenship's notes, after a thorough discussion of Claimant's options, he elected to proceed with surgery.

On April 1, 2020, Dr. Richard E. Manos, Board Certified in Orthopaedic Surgery, conducted a Peer Review Report, wherein he determined that an anterior lumbar arthrodesis surgical procedure at Claimant's lumbosacrum, as well as a same day "staged procedure of Posterolateral/posterolateral interbody arthrodesis, L5-S1 Left extreme lateral disc resection along with primary discectomy," were not medically necessary. He further opined that a bone stimulator and a lumbar brace were also not medically necessary.

A second Peer Review Report was conducted by Dr. James T. Tran, Board Certified in Neurological Surgery, on April 8, 2020. Dr. Tran's conclusions aligned with those of Dr. Manos, in that the surgical procedures recommended by Dr. Blankenship were not medically necessary.

Claimant returned to Dr. Blankenship on May 14, 2020. Dr. Blankenship's notes indicated that Claimant had obtained a second opinion on surgery; that he was still experiencing pain in the low back that radiated to the hips and bilateral buttocks; and that his pain level remained the same which was a "40 to 50% toward the worst pain imaginable." Dr. Blankenship restated that surgery was a reasonable option for Claimant.

On June 18, 2020, Dr. Blankenship's chart note showed that Claimant spoke with Nurse Findley the day before and conveyed to her that his pain was getting significantly worse.³ The notes also stated that Claimant's pain and symptoms were related to his work injury. The chart notes further revealed that with Claimant's worsening pain, he would not be able to return to "any type of employment" until he underwent surgery.

Dr. Luke Knox, at Northwest Arkansas Neurosurgery Clinic, performed an Independent Medical Examination on August 19, 2020. Dr. Knox reviewed Claimant's file and noted that in comparing Claimant's June 2019 MRI to his March 2020 MRI, the most recent MRI showed significant change of the underlying disc herniation. Dr. Knox concluded that although Claimant had undergone various conservative treatment measures, including physical therapy and epidural steroid injections, he agreed with Dr. Cheyne that surgical options would not benefit Claimant, as Claimant's clinical complaints were primarily related to back pain and did not correlate with the herniated disc at L5-S1. Dr. Knox further stated that had Claimant presented with primary complaints of leg pain, then a decompression could be considered. Dr. Knox agreed with Dr. Cheyne that Claimant qualified for a seven percent (7%) permanent partial disability and that his permanent restrictions were appropriate as well.

³ An issue was raised at the hearing as to whether the opinions in the chart note were those of Dr. Blankenship or Nurse Findley. However, I find that Claimant saw Dr. Blankenship on June 18, 2020, after previously speaking to Nurse Findley, and the opinions expressed in the notes were, in fact, Dr. Blankenship's opinions.

ADJUDICATION

A. Reasonable and Necessary Medical Treatment:

Respondents No. 1 accepted the Claimant's March 18, 2019, back injury as compensable, paid for Claimant's medical treatment, and paid temporary total disability compensation as a result of the March 2019 injury until approximately January 16, 2020, when Dr. Cheyne found Claimant to be at maximum medical improvement. However, Respondents have since controverted Claimant's entitlement to additional medical treatment, including surgery recommended by Dr. Blankenship. Claimant asserts that he is entitled to additional reasonable and necessary medical treatment in the form of treatment, specifically surgery by Dr. Blankenship, and additional temporary total disability benefits from January 29, 2020, to a date yet to be determined.

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 he is entitled to additional medical treatment. Dalton v. Allen Eng'g Co., 66 Ark. App. 201, 989 S.W. 2d 543 (1999). What constitutes reasonably necessary medical treatment is a question of fact for the Commission. Wright Contracting Co. v. Randall, 12 Ark. App. 358, 676 S.W.2d 750 (1984); Air Compressor Equipment v. Sword, 69 Ark. App. 162, 11 S.W. 3d 1 (2000).

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that the Claimant proved by a preponderance of the credible evidence that the additional medical treatment, specifically surgery by Dr. Blankenship, is reasonably necessary in connection with his compensable back injury of March 18, 2019.

Here, it is undisputed that Claimant suffered a prior back injury in July of 2017. The medical evidence presented at the hearing shows that the 2017 injury was a minor back injury in

the form of muscle spasms. Claimant was seen on only three occasions at MedExpress, the last date being August 17, 2017, and he was prescribed medication for the spasms. During that time, no imaging or further treatment options were recommended. Claimant's testimony shows that he did not receive any additional medical care between August 17, 2017, and March 18, 2019, the date of his compensable injury of March 2019. His testimony is corroborated by the medical records. Furthermore, Claimant testified that he did not have any reason to believe that he would need medical treatment for his back as he began his workday on March 18, 2019. I find Claimant's testimony to be credible, particularly given the lack of medical evidence to the contrary.

Evidence also shows that just prior to his 2019 work incident, he was able to perform his job duties, which Claimant described as "physically demanding." However, since the 2019 injury, despite undergoing months of conservative treatment in the form of medication, physical therapy, and three steroid injections, Claimant continued to present with complaints of pain while bending in his low back and bilateral hips. While I acknowledge Dr. Cheyne's notes that Claimant saw some improvement from the injections, Claimant credibly testified, and medical records show, that his symptoms were not completely alleviated after conservative treatment. Claimant credibly testified that his back symptoms prevented him from working within his restrictions and limited his activities of daily living.

Claimant's March 12, 2020, MRI results yielded significant results, including lumbosacral disc space degeneration with herniation, severe left lateral recess stenosis, proximal L5 foraminal stenosis, sagittal plane malalignment with retrolisthesis and compensatory flattening of the lumbar spine, and multilevel facet arthropathy above the site. Further imaging done at Claimant's first visit with Dr. Blankenship on March 16, 2020, revealed a large posterior disc protrusion at L5-S1,

marked segmental instability at L5-S1 level with retrolisthesis, and a gross annular fissure in addition to the disc protrusion.

While I realize that Claimant's treating physician (Dr. Cheyne), as well as a non-treating physician (Dr. Knox), have opined that surgery was not warranted, I am giving those opinions minimal weight, considering the following: that Claimant has had ongoing symptoms since his work incident; that conservative treatment has provided minimal relief of Claimant's symptoms; that objective findings showed a large posterior disc protrusion at L5-S1, marked segmental instability at L5-S1 level with retrolisthesis, and a gross annular fissure in addition to the disc protrusion; that Dr. Blankenship opined that Claimant's pain and symptoms, which were significantly worse as of June of 2020, were related to his work injury and would necessitate surgery; and that Dr. Blankenship opined that Claimant would not be able to return to "any type of employment" until he underwent surgery.

I find Claimant's testimony credible that even after he had completed months of conservative treatment, he continued to have ongoing back pain and could not return to work; that his back pain resulted in restrictions of his activities of daily living, which he stated he could do only "to a limited degree;" and that at his age and under his current circumstances, Claimant felt he had no other choice but to follow Dr. Blankenship's recommendation and proceed with surgery.

In sum, based on the record before me, I find that Claimant has established by a preponderance of the evidence that additional medical treatment, specifically surgery by Dr. Blankenship, was reasonably necessary to treat his compensable back injury of March 18, 2019.

B. Temporary Total Disability from January 29, 2020, to a date yet to be determined:

Claimant asserts that he is entitled to additional temporary total disability compensation from January 29, 2020, to a date yet to be determined as a result of his March 18, 2019, back injury.

An injured employee who suffers an unscheduled injury is entitled to temporary total disability compensation during the time that he is within his healing period and totally incapacitated to earn wages. Arkansas State Highway and Transportation Department v. Breshears, 272 Ark. 244, 613 S.W. 2d 392 (1981).

In this matter, all of the foregoing shows that Claimant has remained within his healing period and unable to work since the date of his compensable injury on March 18, 2019. Therefore, Claimant is entitled to temporary total disability compensation from January 29, 2020, until the end of a reasonable healing period after recovery from surgery when he is released at maximum medical improvement by Dr. Blankenship.

C. Attorney's Fee:

Respondents have controverted Claimant's entitlement to additional temporary total disability benefits from January 29, 2020, to a date yet to be determined. Therefore, I find that the Claimant's attorney is entitled to a controverted attorney's fee on all indemnity benefits awarded herein to Claimant, pursuant to Ark. Code Ann. § 11-9-715.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On the basis of the record as a whole, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. § 11-9-704.

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The employee/employer/carrier relationship existed on March 18, 2019.

3. The remaining stipulations set forth above are hereby accepted.
4. Claimant has established by a preponderance of the evidence that the additional medical treatment, specifically surgery by Dr. Blankenship, is reasonably necessary to treat his compensable back injury of March 18, 2019.
5. Claimant has proved his entitlement to temporary total disability compensation from January 29, 2020, until the end of a reasonable healing period after recovery from surgery and release to maximum medical improvement by Dr. Blankenship.
6. Claimant's attorney is entitled to a controverted attorney's fee on the indemnity benefits awarded herein.

AWARD

Respondents are directed to pay benefits in accordance with the findings of fact set forth in this Opinion.

All accrued sums shall be paid in lump sum without discount, and this award shall earn interest at the legal rate until paid, pursuant to Ark. Code. Ann. § 11-9-809.

Pursuant to Ark. Code Ann. § 11-9-715, Claimant's attorney is entitled to a twenty-five percent (25%) attorney's fee on the indemnity benefits awarded herein. This fee is to be paid one-half by the carrier and one-half by the Claimant.

IT IS SO ORDERED.

KATIE ANDERSON
ADMINISTRATIVE LAW JUDGE