BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H506026

TERRY LOGGAINS, EMPLOYEE	CLAIMANT
MERCY HEALTH, EMPLOYER	RESPONDENT
MERCY HEALTH, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED OCTOBER 20, 2026

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

Claimant represented by the HONORABLE EDDIE H. WALKER, JR., Attorney at Law, Fort Smith, Arkansas.

Respondents represented by the HONORABLE RANDY P. MURPHY, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed.

OPINION AND ORDER

The respondents appeal an administrative law judge's opinion filed June 10, 2026. The administrative law judge found that the claimant was performing employment services at the time of the injury, making her claim compensable. The administrative law judge awarded reasonable and necessary medical treatment and temporary total disability benefits from the date following the injury up to April 5, 2026, and attorney fees. After a *de novo* review of the entire record, the Full Commission affirms the Administrative Law Judge's opinion. The Full Commission finds that the claimant was performing employment services at the time of the injury, the

injury is compensable, and the claimant is entitled to reasonable and necessary medical treatment as well as temporary total disability benefits from the date following the injury up to April 5, 2026, and attorney fees.

I. HISTORY

A hearing was held on April 6, 2026. The claimant, Terry Loggains, was the only witness to testify. The injuries occurred on September 17, 2025. The claimant testified on direct, when asked if anything unusual had occurred on this morning: "I went to clock in and I on my way back to go to my desk and proceed to work, I fell." The claimant further testified that she had been working at Mercy Hospital for about 23 years. The claimant described her job duties as: "It's an answering service—it's a glorified answering service. If a doctor in the ER wants a surgeon, he's got one of his patients and they think he's got a gallbladder attack and they need to get him in surgery, if he's on call. If he's not, we get his partner that is on call." The claimant stated that she had arrived at her office, placed her bag and stuff down and put her food in the refrigerator. She then went to clock in, mindful that she had a seven-minute window to be considered neither early nor late, and potentially penalized. As to the specifics of what happened, the claimant testified: "…I left and went downstairs to the floor where the time clock is, clocked in, turned around, came back up the ramp to the door, swiped my badge and fell there at the door." The claimant

testified that she uses a cane but was not using it at the time of the fall, testifying that she uses it in areas of the hospital that have levels of steps. The claimant said "…once I got in on a level-type area I didn't need it." The claimant also testified as to the location of the clock-in area relative to her office: "You went out the door, made a few feet to your right. There was another hall, turn left. And then made another right at the top of the ramp. Went a few feet down. There was a badge monitor. You would clock in. It would open the door for you to go down. Then you make another right, go a few more feet, and clock in on the badge." The claimant testified that she was not having any problems with her hip, either on her way into the building when she used the cane, or on her trip to and from the time clock. The claimant testified that she was not having any issues with her femur or her pelvis. On direct examination, the client went into a little more detail about what happened after she clocked in: "I clocked in. I turn around, go eight feet, maybe, take a left and go up the ramp. There was a place where I could swipe my badge, opened the door and go up, take another left on a straight floor, take a right, and barely take the right and open the door to go into the office." Claimant was questioned about at which door the fall occurred. Claimant testified that it was the door in the middle of the ramp: "They call it a fire door. It has got a big, metal handle that you push, and the door is heavy. It is designed to block fire." The claimant testified that the

door monitoring system had been put in place due to security concerns. The claimant described that in order to open the door, a badge has to be clicked on a wall monitor that was on the right-hand side of the door. The claimant testified that the fall happened while she was swiping the badge on the right side of the door with her right hand and pushing open the door with the left hand. The claimant testified that when she pulled the door open, she fell to her left, landing on her left hip. She testified: "…when I hit the concrete ramp floor, I heard my leg break. I heard the snap and then the pain."

At the time of the hearing, the claimant was eighty years old. She was seventy-nine on the date of injury. She has osteoporosis but testified that she has no medical restrictions due to the osteoporosis and that it doesn't interfere with performing her job duties. The claimant agreed that her medical history shows that she has fallen in the past, but testified that when those falls occurred, she could identify that she had stepped in a hole or tripped on a cord. In this fall, claimant stated that the floor was concrete covered with a commercial carpet, and she does not think she tripped on the carpet. The claimant testifies that she has "foot drop" in both feet, but that condition has never caused her to fall. The essence of claimant's testimony about why she fell, is that all she knows is she was opening the door, and then she was on the ground, in pain.

The claimant was immediately assisted by security guards, and was taken to the Mercy emergency department, where she was assessed for left hip and leg pain and evaluated for head trauma. An x-ray provided that the claimant suffered from an angulated oblique fracture involving the left femoral trochanter and proximal shaft. A CT of her head provided for no acute cranial process. Mild degenerative changes were noted involving her bilateral hips. The report mentioned claimant's bilateral foot drop and provided a finding of no acute osseous abnormality involving the right femur.

The claimant underwent surgery on September 17, 2025, a nailing of the femur due to a closed displaced fracture of the greater trochanter of the left femur. A clinic note dated September 17, 2025, provided that a CT of her head provided for no acute fracture. Upon release from Mercy, client was sent to a skilled nursing facility for continued subacute rehabilitation and physical therapy. Physical therapy documented persistent left lower extremity weakness, impaired mobility, and a high fall risk with a gradual improvement in sitting and standing.

A report from Ashton Place Physical Therapy provided a Discharge Summary for the period between September 30, 2025, through October 14, 2025, which showed that the claimant had made consistent progress with skilled interventions. A report from Ashton Place Occupational Therapy for

the period between September 30, 2025, through October 29, 2025, provided that the claimant was referred due to a mechanical fall on a ramp where she suffered a left femur fracture. The therapy was recommended due to the complexities and comorbidities that impact treatment such as age, multiple diagnosis, and the need for multiple therapies, pain severity levels, and the severity of functional limitations.

Progress notes dated October 19, 2025, from Mercy River Valley Clinic, provided that there was good alignment and positioning of the femur with the fracture fragment aligned. A report from Mercy Clinic Imaging Services dated October 29, 2025, provided x-rays of the left femur nailing looked excellent and that the claimant could progress to weightbearing. A progress note from Dr. Timothy Garlow dated December 15, 2025, stated that x-rays of the left femur provided for an excellent reduction of the long subtrochanteric fracture, and the hardware was without failure. The fracture could just barely be seen at the lateral cortex. A final imaging report dated February 18, 2026, indicated that x-rays of the left femur showed that the femoral nail was in good position and that the fracture line could only slightly be seen along the lateral cortex. The report also provided that the claimant also suffered from left shoulder arthritic pain.

A “To Whom it May Concern” note dated March 30, 2026, from Dr. Timothy J. Garlow, of Mercy Clinic Orthopedics, provided that the claimant

had been off work since September 17, 2025, and would return to work without restrictions on April 6, 2026, due to a fall with injury and a left hip fracture requiring surgery. Medical leave has been necessary to facilitate recovery, rest, pain control, physical therapy and office visits.

The respondent submitted a report from the Mercy Hospital Emergency Room dated September 17, 2025, as well as related reports from the tests run at the direction of the Emergency Room, including a copy of the CT scan and x-ray reports that mentioned a left knee arthroplasty and degenerative changes in the left hip as well as chronic low back pain with right sided sciatica, osteoarthritis of the left knee, foot drop, and generalized anxiety disorder.

II. ADJUDICATION

Act 796 of 1993, as codified at Ark. Code Ann. §11-9-102(4) (Repl. 2012), provides, in pertinent part:

> (A) "Compensable injury" means:
> (i) An accidental injury causing internal or external physical harm to the body…arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is "accidental" only if it is caused by a specific incident and is identifiable by time and place of occurrence[.]…
> (B) "Compensable injury" does not include:
> (iii) Injury which was inflicted upon the employee at a time when employment services were not being performed or before the employee was hired or after the employment relationship was terminated[.]

An employee is performing employment services when he is doing something that is generally required by his employer. *Dairy Farmers of America v. Coker*, 98 Ark. App. 400, 255 S.W. 3d 905. The Arkansas Court of Appeals uses the same test to determine whether an employee is performing employment services as it does when determining whether an employee is acting within the course and scope of employment. *Pifer v. Single Source Transp*., 347 Ark. 851, 69 S.W. 3d 1 (2002). The test is whether the injury occurred within the time and space boundaries of the employment, when the employee was carrying out the employer's purpose or advancing the employer's interest, directly or indirectly. *Id*.

The employee has the burden of proving by a preponderance of the evidence that he sustained a compensable injury. Ark. Code Ann. §11-9-102(4)(E)(i) (Repl. 2012). Preponderance of the evidence means the evidence having greater weight or convincing force. *Metropolitan Nat'l Bank v. La Sher Oil Co.,* 81 Ark. App. 269, 101 S.W. 3d 252 (2003).

The critical inquiry in accordance with Act 796 is whether the claimant was performing employment services when the injury occurred. *See Parker v. Comcast Cable Corp.,* 100 Ark. App. 400, 269 S.W. 3d 391 (2007), citing *Moncus v. Billingsley Logging*, 366 Ark. 383, 235 S.W. 3d 877 (2006). The Commission must strictly construe the provisions of Act 796 of 1993. *See* Ark. Code Ann. §11-9-704(c)(3) (Repl. 2012). The doctrine of

strict construction requires use of the plain meaning of the statutory language. *Edens v. Superior Marble & Glass*, 346 Ark. 487, 58 S.W. 3d 369 (2001). The Commission is bound to examine the activity the claimant was engaged in *at the time of the accident* in determining whether or not he was performing employment services. *Hill v. LDA Leasing*, 2010 Ark. App. 271, 374 S.W.3d 268 (2010).

After a *de novo* review, the Full Commission finds that the preponderance of the evidence is that the claimant was performing employment services at the time the injuries occurred, because she, at the moment she was injured, was using an employer required badge to open a security door to access her work area. The act of using a badge to open a security door, is an employer requirement, and an activity the claimant had to perform to access her workstation. The injury occurred within the time and space boundaries of the employment. The employer benefits both directly and indirectly from the claimant's actions, from the standpoint of security and restricting access to various parts of the hospital, which is the hospital's purpose in requiring the employee to use the badge system. *See Pifer, supra.*

As for reasonably necessary medical treatment and TTD benefits, as the claimant had a compensable injury, she is entitled to both. Ark. Code Ann. §11-9-102 (4) (F) (i). The law is clear that employers must promptly

provide medical services which are reasonably necessary for treatment of compensable injuries. Ark. Code Ann. §11-0-508 (a). After a *de novo* review of the medical record, the Full Commission finds that the evidence preponderates that the treatment the claimant received for her left leg injury is reasonable and necessary. The claimant suffered from various arthritic and degenerative conditions along with other medical issues prior to the fall at the door. However, the law is clear that a pre-existing disease or infirmity does not disqualify a claim if the employment aggravated, accelerated, or combined with the disease or infirmity to produce the disability for which the compensation is sought. *See Nashville Livestock Commission v. Cox*, 302 Ark. 69, 787 S.W. 2d 864 (1990); *Conway Convalescent Center v. Murphee*, 266 Ark. 985, 585 S.W. 2d 462 (Ark. App. 1979); *St. Vincent Medical Center v. Brown*, 53 Ark. App. 30, 917 S.W. 2d 550 (1996). The employer takes the employee as it finds him. *See Murphee*, supra.

The claimant suffered a left leg injury, which is a scheduled injury. An employee who suffers a compensable scheduled injury is entitled to temporary total disability compensation “during the healing period or until they return to work, whichever comes first.” Ark. Code Ann. §11-9-521 (a). The injured employee does not have to show an incapacity to earn wages as a requirement for receiving temporary total disability benefits. Incapacity is presumed for a scheduled injury. *See Wheeler Construction Co. v.*

Armstrong, 73 Ark. App. 146, 41 S.W. 3d 822 (2001). The healing period ends when the underlying condition causing the disability has become stable and nothing further in the way of treatment will improve the condition. *Mad Butcher Inc. v. Parker*, 4 Ark. App. 124, 628 S.W. 2d 582 (1982). Because of her injury, the claimant did not return to work from the date of the fall until April 6, 2026. Dr. Garlow opined on March 30, 2026, that the medical leave had been necessary to facilitate recovery, rest, pain control, physical therapy, and office visits and that the claimant would return to work April 6, 2006, without restrictions. Therefore, the claimant is entitled to temporary total disability benefits from September 18, 2025, through April 5, 2026.

After reviewing the entire record *de novo*, the Full Commission affirms the opinion of the Administrative Law Judge. The Full Commission finds that the claimant was performing employment services at the time of the injury, the injury is compensable, and the claimant is entitled to reasonable and necessary medical treatment as well as temporary total disability benefits from the date following the injury up to April 5, 2026, and attorney fees. For prevailing on appeal to the Full Commission, the claimant's attorney is entitled to a 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 Mayton dissents.

DISSENTING OPINION

I respectfully dissent from the majority's opinion finding the claimant was performing employment services at the time of the injury, the injury is compensable, and the claimant is entitled to reasonable and necessary medical treatment as well as temporary total disability benefits from the date following the injury up to April 5, 2026, and attorney fees.

The claimant worked for respondent employer when she swiped her badge to clock in and fell on September 17, 2025. The claimant testified at the hearing she was not doing any work-related activities at the time of her fall.

Our rules define a compensable injury as "[a]n accidental injury . . . arising out of and in the course of employment." Ark. Code Ann. § 11-9-102(4)(A)(i). A compensable injury does not include an "[i]njury which was inflicted upon the employee at a time when employment services were not being performed." Ark. Code Ann. § 11-9-102(4)(B)(iii). The Act, however,

fails to define the phrase "in the course of employment" or the term "employment services." *Wood v. Wendy's Old Fashioned Hamburgers*, 2010 Ark. App. 307, 374 S.W.3d 785 (2010).

Our Supreme Court has held that an employee is performing "employment services" when he or she "is doing something that is generally required by his or her employer." T*exarkana Sch. Dist. v. Conner*, 373 Ark. 372, 284 S.W.3d 57 (2008). We use the same test to determine whether an employee was performing employment services as we do when determining whether an employee was acting within the course of employment. *Id*.

Specifically, it has been held that the test is whether the injury occurred "within the time and space boundaries of the employment, when the employee [was] carrying out the employer's purpose or advancing the employer's interest directly or indirectly." *Id*. When a claimant is merely “en route” to her workstation but has not begun any work activities, nor are there any work activities to be expected, such as picking up mail invoices or other business papers on their way to their office, they are not performing employment services. *Parker v. Comcast Cable Corp*., 100 Ark. App. 400, 269 S.W.3d 391 (2007). The fact that a claimant may be required to enter or exit her workstation by swiping a key card to unlock a door is not evidence of performing employment services. *Id*.

"Indirectly benefiting [an] employer because [claimant] was going to work despite the inclement weather; was wearing her uniform; was paid for her entire shift; and could have been required to assist with prisoners in the parking lot even though she was not clocked in" does not amount to performing employment services. *Webster v. Arkansas Department of Corr*ections, 2017 Ark. App. 558, 537 S.W.3d 731 (2017). The issue of whether a claimant has clocked in or out at the time of an injury is not dispositive of the issue of whether the claimant was performing employment service at the time of the injury. *Hudak-Lee v. Baxter County Regional Hospital and Risk Management Resources*, 2011 Ark. 31, 378 S.W.3d 77 (2011).

In the present case, under the guise of "common knowledge," the ALJ asserts that requiring the claimant to clock in within a particular seven-minute window is a "is a small but necessary requirement for assisting the hospital" in maintaining its budget.

> Consequently, the claimant was clearly carrying out the respondent employer's purposes and advancing the respondent employer's interests when she clocked in within the seven-minute window at the location provided by the respondent and then engaging in the process to walk to her work-station when she fell at the fire door, which very likely existed due to other requirements that the hospital had to meet to satisfy its operating guidelines. It is apparent that the respondent employer clearly benefitted from the requirement that it's employee's clock in within the seven-minute window.

In doing so, the ALJ attempts to supplement a lack of factual evidence with speculation. Speculation and conjecture cannot substitute for credible evidence. *Smith-Blair, Inc. v. Jones*, 77 Ark. App. 273, 72 S.W.3d 560 (2002).

At the hearing, the claimant testified that at the time of her fall, she was “fixin’ to go to work.” She also testified she had not actually begun her job that day. The claimant had not yet returned to her workstation and was not engaged in any employment activities.

While it is undisputed the claimant had clocked in when she fell, the claimant was clear in her testimony she had not begun any work-related activities. She testified she had not done anything employment-wise when she fell. It is clearly established that being clocked in is not dispositive since the claimant admitted several times during her testimony, she was not providing any employment related services at the time of her fall. It is clear from the claimant’s own testimony that she was not providing employment services at the time of her accident.

The ALJ’s basis for finding in the claimant’s favor was based on his own assessment of what “common sense” practices the hospital might engage in regarding timekeeping and is simply conjecture. The ALJ erred in finding the claimant was furthering her employer’s interests by simply being on-the-clock.

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

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MICHAEL R. MAYTON, Commissioner