BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H600905

TONYA MCCOOL, Employee	CLAIMANT
MCKEE FOODS CORP., Employer	RESPONDENT
CCMSI, Carrier	RESPONDENT

OPINION FILED OCTOBER 12, 2026

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Springdale, Washington County, Arkansas.

Claimant represented by MARK ALAN PEOPLES, Attorney at Law, Little Rock, Arkansas.

Respondents represented by R. SCOTT ZUERKER, Attorney at Law, Fort Smith, Arkansas.

STATEMENT OF THE CASE

On July 14, 2026, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on May 18, 2026, and a Pre-hearing Order was filed on May 19, 2026. A copy of the Pre-hearing Order has been marked Commission's Exhibit No. 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 this claim.

2. The relationship of employee-employer-carrier existed between the parties on February 5, 2026.

3. The respondents have controverted the claim in its entirety.

4. The claimant was earning sufficient wages to entitle her to compensation at the weekly rates of $563.00 for temporary total disability benefits and $422.00 for permanent partial

disability benefits. By agreement of the parties the issues to litigate are limited to the following:

1. Whether Claimant sustained a compensable injury to her left arm/shoulder on or about February 5, 2026.

2. Whether Claimant is entitled to medical treatment for her left arm/shoulder injury.

3. Whether Claimant is entitled to temporary total disability benefits from February 6, 2026, to a date yet to be determined.

4. Whether Claimant's attorney is entitled to an attorney's fee.

The claimant's contentions are as follows:

> "The claimant contends:
>
> That she sustained a work-related injury to her shoulder/arm on or about 02/05/26.
>
> That she is entitled to TTD from DOI until a yet-to-be-determined date in the future.
>
> That she is entitled to medical treatment relative to her work injuries.
>
> This claim is controverted and counsel is entitled to maximum statutory fee.
>
> All other issues are reserved."

The respondents' contentions are as follows:

> "Respondents controvert this claim in its entirety."

The claimant in this matter is a 58-year-old female who alleges to have sustained a compensable injury to her left arm/shoulder on or about February 5, 2026. The claimant is a 26-year employee of the respondent who, at the time of her alleged injury, worked as a "wrapper operator." The respondent is in the business of producing snack cakes and other assorted treats.

The claimant's job as a "wrapper operator" was described by the claimant in direct examination testimony as follows:

> Q What is a wrapper operator?
>
> A The cake comes down the line. It goes through a machine. It gets wrapped in the film and it goes on to the cartons.
>
> Q It gets wrapped. How does it get wrapped? Does the machine do it?
>
> A Yes, the machine does it.
>
> Q What do you do?
>
> A I put film on the spindles. I make adjustments to the machine. I pull off bad cake.
>
> Q Describe the movements that you have to do to do this.
>
> A Well, like if you are making adjustments and you have bad cake coming through, you have to reach out and grab it. And it's running about 90 cake a minute, so you have got to be fast to catch bad cake or chopped cake in half.

The claimant also gave testimony about how she alleges her injury to have occurred on direct examination as follows:

> Q Okay. How did you get hurt?
>
> A I was reaching for a bad cake. Prior to that, I had been – we were running really bad and I was stacking trays and you stack them ten high, which is a little above head, but you stack the trays. I had been sweeping. I had been there almost four hours. I swept the floor; I had stacked trays; I did add-ons; I put film up; adjusted the machines and everything.
>
> Q What happened when you got hurt?
>
> A It was like a lightning bolt went through my arm. I was reaching for a cake.

> Q Okay. Describe that in a little more detail for the Judge. What were you doing and how did it make you feel?
>
> A I had adjusted my machine and I seen a bad cake chopped come through and I just reached out real quick to grab it (indicating). When I did that, it just sent a lightning bolt through my arm.
>
> Q Left arm?
>
> A Left arm.

I note the claimant's demonstration at the hearing of her motion at the time of her injury was done with her right arm/shoulder, because she was unable to make that motion with her left arm/shoulder. The claimant demonstrated a reaching forward and out motion to a point of about her midsection.

On cross examination the claimant was questioned about her left arm/shoulder movement when she alleges her injury to have occurred as follows:

> Q I've come up with ways to try to describe the motion that you were doing and I have submitted some pictures. Despite what Dr. Perez said when you reached out to get the bad cake, it wasn't overhead; was it?
>
> A No.
>
> Q It didn't require any exertion or forceful motion?
>
> A Yes. You had to be quick. You are grabbing.
>
> Q Well, that's not what you told me when I took your deposition. I asked specifically did that involve any exertion and you said no.
>
> A I don't remember you saying exertion.
>
> Q Okay.
>
> A I mean you have to reach fast.

Q So it's just a speed thing?

A Yes.

Q Is there any weight involved?

A Your arm.

Q Okay. Just the weight of your arm. The weight of a chopped cake is pretty small; correct?

A Yes.

Q We are talking a few ounces, maybe?

A I don't know how much they weight.

Q Talking about a normal snack cake?

A Uh-huh.

Q Would you say that when you reached out to get the snack cake, is that right about waste level?

A Maybe a little higher.

Q Okay. How far out do you have to reach?

A Probably arm's length.

Q Okay. And all you are doing with that snack cake is flipping it off into a tray?

A Well, I grab it, yeah.

Q Okay. But there is a tray right there under the line for those snack cakes; correct?

A Yes.

The claimant stopped work immediately and reported her injury to her supervisor. The claimant was then sent to the plant nurse. The claimant described her interaction with the plant nurse on direct examination as follows:

> Q All right. What did the nurse do or say?
>
> A I filled out all my papers. They iced my shoulder. She tried to get me to do some range of motion with my arm and I could do most everything down. I just couldn't do anything up. And then they decided to take me to the workmen's comp doctor.
>
> Q Which is who?
>
> A I don't who she was.
>
> Q Somebody off-site, though?
>
> A Yes, off-site. There in Rogers.

The claimant was sent by the respondents and seen that same day by APRN Dominicque Carver. Following is a portion of that medical record from her visit:

> Brief Description of Accident
> Patient states that earlier today (02/05/2026), while reaching out to grab product at a short distance, she suddenly felt a sharp pain accompanied by immediate loss of strength. She reports limited range of motion and is unable to move the affected area without assistance.
>
> Diagnosis/Treatment Rendered
> Strain left shoulder. Ice and heat several times daily as needed. Tylenol and Ibuprofen as needed for pain. Toradol and Steroid injection given today.

The claimant was returned to work that same day.

The claimant was questioned on direct examination about the respondents' stance on her alleged compensable injury as follows:

> Q Did you learn shortly thereafter, then, that your workers' comp claim was being denied?
>
> A Yes.
>
> Q Do you recall when – in relation to when you saw the off-site doctor, when did you learn that?

A It was that next Sunday. She called me on a Sunday and told me.

Q So did you get hurt on Friday?

A No. it was a Thursday – Thursday?

Q Did you work between the time you got hurt and the Sunday when –

A No.

Q Let me ask –

A I went in to go back in because they had told me that I could come in and my supervisor put me on something, light duty.

Q Uh-huh.

A But when I came in Friday, my supervisor told me, she said, "No. Go home. Just go home." So I went home.

Q You went home. Who called you on Sunday?

A Arlett.

Q She said your claim is denied. Did she say why?

A She said I could have done it picking up a glass of water. I said, "No, I couldn't. I am right-handed."

Q Did you do it picking up a glass of water?

A No.

Q Did you injury your shoulder anywhere other than McKee Foods?

A No.

Q Have you ever had a shoulder injury to your left shoulder other than what you described before with a pulled muscle?

A No.

> Q You have gotten additional medical treatment since then; right?
>
> A Yes.

After the claimant's claim was denied by the respondents, she sought medical treatment at Free Market Physician in Neosho, Missouri, with Dr. Ernesto Matos Perez on February 9, 2026. Following is a portion of that medical record:

> Subjective
> Patient presents for evaluation of an acute left shoulder injury sustained at work. She works as a wrap operator on a high-speed production line (approximately 90 pieces per minute).
>
> Injury occurred when patient rapidly reached out with her left arm to adjust/grab equipment while cakes were moving on the line. She describes immediate, severe pain, likened to a "lightning bolt" radiating through the left shoulder. Pain was sudden and intense enough that she had to hold onto a table to avoid falling.
>
> Initially attempted to continue working, believing it might resolve, but within approximately 10 minutes she noted inability to move the arm normally, particularly with lifting. She denies numbness, tingling or loss of sensation. No feeling of dislocation or shoulder "out of place."
>
> She reports:
> Inability to raise left arm
> Pain with movement
> Warmth in shoulder region
> No visible swelling
> No prior left shoulder injury
> She took ibuprofen with partial relief
>
> ***
>
> MRI REFERRAL
>
> Study: MRI Left Shoulder
> Contrast: None
> Indication:
> Acute work-related injury with immediate onset of severe pain, significant loss of range of motion, and functional impairment.

> Evaluate for rotator cuff tear, labral injury, or internal derangement.
>
> Clinical findings:
> Decreased flexion, abduction and extension (<60 degrees), pain with movement.

Dr. Matos also authored a letter "To Whom It May Concern" on that same day. Following is the body of that letter:

> Ms. Tonya Macool was evaluated for a work-related left shoulder injury sustained on Thursday, February 5, 2026, while performing her duties as a wrap operator.
>
> Based on her clinical presentation and physical examination, she has significant limitation of left shoulder function and requires further diagnostic evaluation, including an MRI.
>
> At this time, Ms. Macool is unable to perform her regular job duties. She is recommended to remain off work from Feb 5, 2026 through Feb 19, 2026, pending completion of imaging and reassessment.
>
> This recommendation may be updated once MRI results are available and a definitive diagnosis is established.

On February 24, 2026, Dr. Matos authored another letter "To Whom It May Concern" regarding the denial of the MRI of the claimant's left upper extremity that he had ordered. The body of that letter follows:

> I am writing to formally appeal the denial and to strongly request authorization for an MRI of the left shoulder without contrast for my patient, Tonya Mccool, who sustained an acute, work-related injury on February 5, 2026.
>
> Ms. Mccool experienced a sudden, forceful reaching motion while working as a wrap operator, followed by immediate severe left pain with a marked loss of function. Since the injury, she has been unable to raise her left arm and has significant limitation in range of motion, with forward flexion and abduction both limited to less than 60 degrees due to pain. She reports persistent pain and functional impairment that has rendered her unable to work.

On physical examination (February 9, 2026), she demonstrated:
Severe pain with active and passive movement
Marked limitation in abduction and flexion (<60 degrees)
Preserved distal sensation and grip strength
No gross deformity or instability

The clinical picture is highly suspicious for:
Acute rotator cuff tear (partial or full thickness)
Internal derangement (labral pathology)
Acute tendinous or soft tissue structural injury

Plain radiographs are useful to assess for fracture or gross osseous abnormalities but do not evaluate soft tissue structures, including the rotator cuff tendons, labrum, or capsular integrity. In cases of acute traumatic shoulder dysfunction with significant loss of active range of motion, MRI is the standard of care to evaluate for surgical significant soft tissue injury.

Failure to obtain timely MRI imaging in this context risks:
Delayed diagnosis of full-thickness rotator cuff tear
Progression of tendon retraction
Muscle atrophy and fatty infiltration
Worse long-term surgical outcomes
Prolonged disability and delayed return to work

Ms. Mccool has already been off work since the date of injury due to functional incapacity. Early identification of structural pathology is medically necessary to guide appropriate management, including surgical referral if indicated. Delaying advanced imaging only prolongs disability and increases overall healthcare costs.

This request is consistent with established orthopedic and occupational medicine guidelines for evaluation of acute traumatic shoulder injury with significant functional limitation.

Given the mechanism of injury, objective examination findings, persistent functional impairment, and inability to work, MRI of the left shoulder without contrast is medically necessary and time-sensitive.

I respectfully request immediate authorization to prevent further delay in diagnosis and treatment.

On March 10, 2026, the claimant underwent an MRI of the left shoulder without contrast at Downtown Imaging in Joplin, Missouri. A portion of the diagnostic report, produced by Dr. D.H. Berns, follows:

> IMPRESSION: Tear of the long head of the biceps tendon.
>
> Possible subacromial and subdeltoid bursitis. A rotator cuff tear is not seen.
>
> Subchondral cystic degenerative change of the humeral head near the greater tuberosity.

On March 11, 2026, Dr. Matos issued an orthopedic referral for the claimant. Following is the body of that referral:

> Reason for Referral
> Ms. Tonya McCool is referred to orthopedic evaluation and management of an acute left shoulder injury sustained on February 5, 2026, while reaching overhead at work. At the time of the injury, she experienced a sudden, severe "lightning-like" pain radiating from the left shoulder down the arm, followed by significant limitation in range of motion and persistent severe pain. Since the event, she reports continued shoulder pain, stiffness, and difficulty performing routine activities and work-related tasks.
>
> An MRI of the left shoulder performed on March 10, 2026, demonstrates a tear of the long head of the biceps tendon, which appears to be the primary pathology explaining her symptoms. The rotator cuff tendons (supraspinatus, subscapularis, infraspinatus, and teres minor) are intact, and the glenoid labrum and glenohumeral joint appear preserved. Additional findings include mild degenerative arthritis of the acromioclavicular joint, subchondral cystic degenerative change near the greater tuberosity of the humeral head, and a small amount of fluid in the subacromial and subdeltoid bursae suggestive of bursitis. There is no evidence of rotator cuff tear or acute bony abnormality.
>
> Given her persistent pain, functional limitation, and inability to perform work duties, orthopedic evaluation is requested for further management. Please assess for appropriate conservative treatment options, including pain management, physical therapy optimization, and possible corticosteroid injection, as well as

> discussion of surgical options such as biceps tenodesis or tenotomy if symptoms fail to improve with conservative measures.

In order to prove a compensable injury as the result of a specific incident that is identifiable by time and place of occurrence, a claimant must establish by a preponderance of the evidence (1) an injury arising out of and in the course of employment; (2) 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 establishing an injury; and (4) the injury was caused by a specific incident identifiable by time and place of occurrence. *Odd Jobs and More v. Reid*, 2011 Ark. App. 450, 384 S.W. 3d 630.

The claimant is able to prove the existence of objective medical findings of derangement in her left arm/shoulder through the March 10, 2026, MRI of her left shoulder. The claimant must also prove a causal connection between the injury she alleges and those objective medical findings. I give much weight to the credibility of the claimant. I base that credibility on the long employment history with the respondent and the harmony between her testimony and the medical records submitted into evidence. The claimant immediately stopped work when her injury occurred. The claimant reported at that time to her supervisor and was sent to the company nurse who sent her to a medical provider. While I understand the claimant's motion with her left arm/shoulder was not extreme, it was a quick motion that was required in her work assignment. The claimant described the pain as "like a lightning bolt went through my arm." Given the claimant's high credibility, her objective medical findings, a lack of serious prior left arm/shoulder injuries, and her description of the incident, I find the claimant can prove a causal connection between her objective medical findings and the injury she alleges. The claimant is

able to prove by a preponderance of the evidence that she sustained a compensable left arm/shoulder injury on or about February 5, 2026.

The claimant has asked the Commission to determine if she entitled to medical treatment for her compensable left arm/shoulder injury.

Employers must promptly provide medical services which are reasonably necessary in connection with the compensable injuries, Ark. Code Ann. §11-9-508(a). However, injured employees have the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary. *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004). What constitutes reasonable and necessary medical treatment is a fact question for the Commission, and the resolution of this issue depends upon the sufficiency of the evidence. *Gansky v. Hi-Tech Engineering*, 325 Ark. 163, 924 S.W.2d 790 (1996).

I have reviewed the medical treatment received into evidence of the claimant's compensable left arm/shoulder injury. Upon my review, I find the treatment received by the claimant is reasonably necessary medical treatment for her compensable left arm/shoulder. This includes the orthopedic referral by Dr. Matos.

The claimant has asked the Commission to determine if she is entitled to temporary total disability benefits from February 6, 2026, to a date yet to be determined.

In order to be entitled to temporary total disability benefits, the claimant has the burden of proving by a preponderance of the evidence that he/she remains within his/her healing period and that he/she suffers a total incapacity to earn wages as a result of his/her compensable injury. *Arkansas State Highway & Transportation Department v. Breshears*, 272 Ark. 244, 613 S.W. 2d 392 (1981).

The claimant was treated by the company nurse and then sent to a provider chosen by the respondent. That medical provider, APRN Carver, placed the claimant on light duty, stating at Claimant's Exhibit 1, page 1, "Avoid working above chest with left arm, no push/pull/lift with left arm." The respondents received this information and sent the claimant home when she reported to work. The claimant was, at that time, in her healing period on February 6, 2026, and remained so to at least the time of the hearing in this matter. On February 9, 2026, the claimant was removed from work by Dr. Matos as seen Claimant's Exhibit 1, page 4. The claimant has proven by a preponderance of the evidence that she is entitled to temporary total disability benefits from February 6, 2026, to a date yet to be determined.

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 the pre-hearing conference conducted on May 18, 2026, and contained in a Pre-hearing Order filed May 19, 2026, are hereby accepted as fact.

2. The claimant has proven by a preponderance of the evidence that she sustained a compensable injury to her left arm/shoulder on or about February 5, 2026.

3. The claimant has proven by a preponderance of the evidence that she is entitled medical treatment for her compensable left arm/shoulder injury, including the referral of Dr. Matos to an orthopedic doctor.

4. The claimant has proven by a preponderance of the evidence that she is entitled to temporary total disability benefits from February 6, 2026, to a date yet to be determined.

5. The claimant has proven by a preponderance of the evidence that her attorney is entitled to an attorney's fee in this matter.

ORDER

The respondents shall pay the reasonably necessary medical expenses for the claimant, including the referral to an orthopedic doctor for her compensable left arm/shoulder injury.

The respondents shall pay the claimant temporary total disability benefits from February 6, 2026, to a date yet to be determined.

The respondents shall pay to the claimant's attorney the maximum statutory attorney's fee on the benefits awarded herein, with one half of said attorney's fee to be paid by the respondents in addition to such benefits and one half of said attorney's fee to be withheld by the respondents from such benefits pursuant to Ark. Code Ann. §11-9-715.

All benefits herein awarded which have heretofore accrued are payable in a lump sum without discount.

This award shall bear the maximum legal rate of interest until paid.

If they have not already done so, the respondents are directed to pay the court reporter, Veronica Lane, fees and expenses within thirty (30) days of receipt of the invoice.

IT IS SO ORDERED.

HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE