

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. G106990

LINDA MICHAEL, Employee	CLAIMANT
BOONEVILLE SCHOOL DISTRICT, Employer	RESPONDENT NO. 1
ARKANSAS SCHOOL BOARDS ASSN., Carrier	RESPONDENT NO. 1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

OPINION FILED FEBRUARY 17, 2026

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Fort Smith, Sebastian County, Arkansas.

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

Respondents No. 1 represented by MELISSA WOOD, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by CHRISTY L. KING, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On November 20, 2025, the above captioned claim came on for a hearing at Fort Smith, Arkansas. A pre-hearing conference was conducted on August 25, 2025, and a Pre-hearing Order was filed on August 26, 2025. 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 June 28, 2011.
3. The claimant sustained a compensable injury to her low back on or about June 28, 2011.

4. The claimant was earning sufficient wages to entitle her to compensation at the weekly rates of \$252.00 for temporary total disability benefits and \$189.00 for permanent partial disability benefits.

5. All prior opinions are final and the law of the case.

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

1. Whether Claimant is entitled to temporary total disability benefits from February 28, 2025, to August 19, 2025.

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

The claimant's contentions are as follows:

“a. The Claimant contends that subsequent to a hearing that was held in which the claimant contended entitlement to permanent and total disability there has been a material worsening in the claimant's condition that has not only resulted in her need for treatment but has also caused her to currently be unable to return to work in any capacity. Specifically, on February 28, 2025, Dr. Rachel Fiori opined that the claimant is ‘currently unable to return to work in any capacity’. Further Dr. Danny Silver opined on March 7, 2025, that the claimant is experiencing a new disc herniation at the L1-L2 level and that ‘Ms. Michael's current L1-L2 disc herniation is a direct result of her prior lumbar laminectomy’. Finally a report from Dr. Miles Johnson indicates that on July 14, 2025, the claimant was evaluated and that knee jerks and ankle jerks were both absent. The claimant contends that findings regarding absent knee jerks and ankle jerks noted by Dr. Johnson, are objective findings, not within the claimant's control, that are indicative of a back injury and that those findings were not present at the time of the prior hearing.

b. The Claimant contends her attorney is entitled to an appropriate attorney's fee.”

Respondents No. 1 contentions are as follows:

“Respondents contend that all appropriate benefits are being paid with regard to Claimant's compensable lower back injury sustained on 6/28/11. Claimant is not entitled to additional temporary total

disability benefits. Her condition is permanent, and she has already tried the issue of permanent total disability.”

The claimant in this matter is a 54-year-old female who sustained a compensable injury to her lumbar spine on June 28, 2011. The parties entered into an Agreed Order on September 2, 2014, stipulating wage loss at 42% above the 14% permanent partial impairment rating. On June 26, 2025, the Court of Appeals affirmed a decision that the claimant was not permanently and totally disabled. The claimant is currently asking the Commission to determine if she is entitled to temporary total disability benefits from February 28, 2025, to August 19, 2025, for her June 28, 2011, compensable lumbar spine injury.

On February 28, 2025, medical director Dr. Rachel Fiori of the Center for Psychiatric Wellness authored a letter “To Whom It May Concern.” Following is a portion of that letter:

1. Severity of Depression: Linda exhibits symptoms including persistent sadness, lack of motivation, cognitive impairments, and severe fatigue, which interfere with daily functioning and the capacity to sustain employment. Linda’s depression worsened to the extent that she developed paranoid delusions and psychotic features. These psychotic symptoms have continued to progress in spite of treatment.
2. Impact of Chronic Pain: The ongoing pain from the back injury contributes to the severity of the depression, creating a cycle that further diminishes Linda’s ability to engage in work-related activities.
3. Functional Limitations: Linda is unable to sit or stand for extended periods, perform physical tasks, or manage the mental demands of their position due to the combined effects of the back injury and depression.
4. Treatment History: Linda has diligently adhered to a comprehensive treatment plan, including medication adjustments, physicals therapy, and counseling, with limited improvement in functional capacity. Linda now requires medication including antipsychotic medication and anti-anxiety medication. These

medically necessary treatments produce side effects including sedation that further limit Linda's functional capacity.

On October 9, 2025, Dr. Luke Knox saw the claimant at the respondents' request.

Following is a portion of that medical record:

HPI

Linda Michael is a 53 y.o. female who presents to follow up after new imaging performed. Patient comes in with multitude of complaints of bilateral leg pain her feet drawl up she has cramping at night lower extremity discomfort etc. She comes in to review the MRI scan that we reviewed together today in clinic. She was found to have an L1-2 disc herniation on the right side with a significant L2-3 disc bulge centrally. The axial views actually do not look as if they cause significant compression of the thecal sac. She appears to have a well-healed fusion L3-L4 and L5-S1.

Past Medical History:

She has a past medical history of Anemia, Chronic kidney disease, Deep vein thrombosis (CMS/HCC), Hyperlipidemia, Hypertension, Low back pain, and Memory loss of.

Assessment & Plan

1. Lumbar spondylosis (Primary)
2. S/P spinal fusion
3. Accident at workplace

We discussed in detail the patient's condition, symptoms, and management. We discussed post-op care, expected length of stay, and goals to transition home versus the need for in-patient rehab. Patient verbalized home environment supports a safe and effective recovery. We discussed the use of Autograft, Allograft, and planned spinal instruments. Patient verbalized understanding and was able to repeat back key information of planned procedure and levels of spinal surgery. Shared decision making was utilized during the discussion with the patient, family members, and/or caregiver concerning care, treatment, and services.

Weight Loss Counseling: We discussed the increased BMI is associated with higher risk of surgical complications as well as failed back surgery. Discussed options including increased physical activity, portion control, dietician referral, prescription and surgical weight loss tools that are available. We discussed

follow up with primary care physician to further discuss these options or referral was offered.

Patient comes in with exacerbation and progression of multiple multiple complaints of her chronic illness. I independently interpreted her MRI scan demonstrating well-healed fusion from L3-S1 with significant disc herniation L1-2 on the right as well as a central disc bulge at L2-3. Axial views at L2-3 did not demonstrate significant compressive pathology. And the L1-2 level demonstrated mild compression on the right. I do not believe they are bad enough to warrant surgical intervention. They were quite interested in consideration of surgical stabilization. I assured them that surgery would not afford any benefits to her continuing complaints as I believe a major component of her complaints are due to her weight and not the findings on MRI scan. We had a long discussion concerning the need to get down on her weight. We made a decision regarding elective major surgery as I would strongly discouraged this due to the extensive risks due to her morbid obesity. I also discussed her care and management with another qualified health healthcare person specifically her nurse case manager. And informed her of the above decisions. She has reached that point of maximum medical improvement. I recommend that she close out her work comp case as there is absolutely nothing to offer her from the standpoint of neurosurgical stabilization and/or decompression.

On October 21, 2025, Dr. Silver wrote a letter in response to Dr. Knox's October 9, 2025, report. Following is a portion of Dr. Silver's response:

I have reviewed Dr. Knox's October 9, 2025 report regarding Ms. Linda Michael.

Ms. Michael has bene under my care for more than ten years. During that time, she has completed every treatment and rehabilitation measure authorized through workers' compensation, including but not limited to the following:

- * multiple lumbar surgeries (x3)
- * wound care with wound vacuum therapy
- * lumbar epidural steroid injections, trigger point injections
- * hydrotherapy
- * physical and occupational therapy
- * dietary and mental health counseling
- * bariatric surgery resulting in over 100 pounds of weight loss

She has also participated in numerous medication adjustments and has remained fully compliant with all treatment recommendations.

On her October 9, 2025 office visit, documentation clearly indicates that Ms. Michael continues to have ongoing spinal pathology, including disc herniation and disc protrusion with compression on the thecal sac. These findings are located adjacent to her surgically corrected levels at L3-L4 and L4-L5 and are consistent with expected post-surgical biomechanical stress at adjacent segments. This pathology and symptomology are a direct consequence of the surgery necessitated by her original work-related injury. Other than being a workers' compensation case, her clinical presentation and objective findings are comparable to other chronic patients in my practice who have not yet reached maximum medical benefit.

Ms. Michael may have reached maximum surgical benefit, as further operative intervention is not indicated at this time. However, she has not reached maximum medical improvement, as she continues to experience chronic, function-limiting pain related to her injury and adjacent level disease. She requires ongoing pain and medical management, as well as continued support to maintain weight loss and conditioning activities. She is being referred for aquatic therapy, which should improve her pain and mobility through low-impact exercise, promote further weight reduction, and enhance range of motion and function.

Definition: Maximum Medical Improvement (MMI), sometimes referred to as maximum medical benefit, is the point at which a patient's condition has stabilized and is unlikely to improve substantially with further medical treatment. Reaching MMI does not mean that the patient is fully recovered or pain-free; rather, it signifies that the individual has reached a plateau in recovery despite appropriate and comprehensive care.

Given Ms. Michael's persistent symptoms, objective imaging findings, and ongoing need for non-surgical treatment, it is my medical opinion that she has not reached maximum medical benefit. Continued multidisciplinary management remains medically necessary.

On March 7, 2025, Dr. Danny Silver authored a letter "To Whom It May Concern" regarding the claimant as follows:

I am writing this letter regarding Ms. Linda Michael, who previously underwent lumbar spine surgery following a work-related injury. As you are aware, Ms. Michael sustained an injury at work that necessitated surgical intervention in the form of a lumbar laminectomy.

Ms. Michael is now experiencing a new disc herniation at the L1-L2 level, which is producing an impression upon the thecal sac with superior extrusion of disc material. This development is consistent with a known medical condition referred to as “adjacent segment degeneration.” This condition occurs when the intervertebral discs adjacent to a previously fused or surgically treated segment are subjected to increased mechanical stress, leading to degeneration and potential herniation. The fusion at the surgical site restricts movement, causing the adjacent discs to compensate for the lost mobility, which in turn accelerates wear and tear.

With a high degree of medical certainty, I conclude that Ms. Michael’s current L1-L2 disc herniation is a direct result of her prior lumbar laminectomy. Given the nature of this condition and its well-documented occurrence following lumbar spine surgery, it is my medical opinion that this new injury is a direct consequence of the initial work-related injury and subsequent surgical intervention.

On August 12, 2025, the respondents sent Dr. Fiori a letter regarding the permanency of the claimant’s condition. Following is a portion of the respondent’s letter to Dr. Fiori:

I am in receipt of your correspondence dated 2/25/25 concerning your comprehensive overview of your treatment of Ms. Michael. I am handling her workers compensation claim and want to make sure all appropriate benefits are being paid. You have opined that you believe that her physical and psychological conditions warrant a period of “total disability.”

Do you feel this is likely a permanent situation: Put another way, do you think she is only temporarily unable to work and will one day be able to do so again?

For your convenience, I have provided a space below for you to check accordingly.

____ Permanent Situation

____ Temporary Situation

On August 19, 2025, Dr. Fiori responded to the respondent's letter by placing a "X" in front of "Permanent Situation" and handwriting the following response indicating the claimant's condition had become permanent:

This has been going on for years and her condition has worsened in spite of her active participation in care. Her pain and mental anguish have greatly impaired her functioning and destroys quality of life. We are working toward very simple goals and activities of daily living and I foresee no situation in which she returns to work.

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 remains within his healing period and that he suffers a total incapacity to earn wages as a result of his compensable injury. *Arkansas State Highway & Transportation Department v. Breshears*, 272 Ark. 244, 613 S.W. 2d 392 (1981).

The claimant reentered her healing period on March 7, 2025, when Dr. Silver indicated the claimant "is now experiencing a new disc herniation at the L1-L2 level." Dr. Silver went on to say that "with a high degree of medical certainty, I conclude that Ms. Michael's current L1-L2 disc herniation is a direct result of her prior lumbar laminectomy."

Dr. Fiori had declared the claimant was at a total disability status as of February 28, 2025. However, her entitlement to temporary total disability benefits would begin on March 7, 2025, when the claimant reentered her healing period and was totally disabled.

That period of temporary total disability ends at the time Dr. Fiori determined on August 19, 2025, that the claimant's condition had become permanent in nature thus removing her disability temporary status.

The claimant has proven by a preponderance of the evidence that she is entitled to temporary total disability benefits from March 7, 2025, to August 19, 2025.

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 August 25, 2025, and contained in a Pre-hearing Order filed August 26, 2025, are hereby accepted as fact.

2. The claimant has proven by a preponderance of the evidence that she is entitled to temporary total disability benefits from March 7, 2025, to August 19, 2025.

3. The claimant has proven by a preponderance of the evidence that her attorney is entitled to an attorney fee.

ORDER

The respondents shall pay for the claimant's temporary total disability benefits from March 7, 2025, to August 19, 2025, at the stipulated rate of \$252.00 per week.

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