

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H107091

MARGARET A. MACON, EMPLOYEE	CLAIMANT
MINERAL SPRINGS, SARATOGA SCHOOL DISTRICT, EMPLOYER	RESPONDENT
ARKANSAS SCHOOL BOARDS ASSOCIATION WCT, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED DECEMBER 15, 2023

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

Claimant represented by the HONORABLE GREGORY R. GILES, Attorney at Law, Texarkana, Arkansas.

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

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Respondents appeal an opinion and order of the Administrative Law Judge filed June 12, 2023. In said order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. I hereby accept the above-mentioned proposed stipulations as fact.
3. The Claimant proved by a preponderance of the evidence that she sustained compensable injuries to her neck and back on October 6,

2020, while leaning against a table that collapsed, causing her to fall to the floor landing on her buttocks.

4. The Claimant proved that all the medical treatment of record was reasonably necessary treatment for her compensable back and neck injuries. She also proved her entitlement to additional treatment to include the surgery, as proposed by Dr. Rajesh Arakal and any other pain management as recommended by her treating physicians.
5. All issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on appeal.

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2012).

For prevailing on this appeal before the Full Commission, claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. § 11-9-715(a)(Repl. 2012). For prevailing on appeal to the Full Commission, the claimant's attorney is entitled to an additional fee of five hundred dollars (\$500), pursuant to Ark. Code Ann. § 11-9-715(b)(Repl. 2012).

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

M. SCOTT WILLHITE, Commissioner

Commissioner Mayton dissents

DISSENTING OPINION

I respectfully dissent from the majority finding that the claimant has proven by a preponderance of the credible evidence that she sustained compensable injuries to her neck and back during her October 6, 2020 fall, that all the medical treatment of record was reasonably necessary for her compensable back and neck injuries, that she is entitled to additional medical treatment to include surgery as proposed by Dr. Rajesh Arakal and any other pain management as recommended by her treating physicians.

The claimant in this matter is a 70-year-old woman who worked as a seventh and eighth grade teacher for Mineral Springs School District. (Hrng. Tr, P. 20). It is undisputed that on October 6, 2020, the claimant was leaning against a table when the table collapsed beneath her. (Hrng. Tr, P. 22). The claimant fell to the ground, landing on her bottom with her hands out. *Id.*

A hearing was held on March 14, 2023, wherein the Administrative Law Judge determined that the claimant sustained compensable injuries to her neck and back during her October 6, 2020 fall.

Generally, a specific incident injury is an accidental injury arising out of the course and scope of employment caused by a specific incident identifiable by time and place of an occurrence. Ark. Code Ann. § 11-9-102(4)(A)(i). This, therefore, requires that a claimant establish by a preponderance of the evidence: (1) an injury arising out of and in the course of employment; (2) that the injury caused internal or external physical harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings establishing an injury as defined in Ark. Code Ann. § 11-9-102(16) and; (4) that the injury was caused by a specific incident identifiable by time and place of occurrence. Ark. Code Ann. § 11-9-102(4)(A)(i).

Here, the claimant contends that her injuries are the result of her October 6, 2020 fall when a table collapsed beneath her. (Hrng. Tr., P. 22). When the table collapsed, the claimant landed on her bottom with her legs out in front of her and her neck and shoulder were not directly impacted. (Hrng. Tr, P. 44). The claimant testified that after the fall, she only “felt a little something” and had resulting stiffness in her back and right hip that evening. *Id.* At the hearing, Carla Lamb, another teacher for the respondent employer, testified that the claimant said she felt a “twinge” in her lower back after the fall. (Hrng. Tr, Pp. 13-14). Ms. Lamb could not recall when the claimant began complaining about her neck. (See Hrng. Tr, P. 14).

There is significant evidence that the herniations in the claimant’s neck are pre-existing. The claimant was hit by an 18-wheeler, resulting in neck and shoulder pain in October 2016. (Resp. Ex. 1, P. 5). In October 2016, claimant had a CT scan of her cervical spine, which revealed:

The C4-5 level has a right paracentral to posterolateral disc bulge or herniation, potentially causing mild right anterior cord impingement. C6-7 level has a mild broad posterior disc bulge on sagittal images . . . Significant disc bulge or herniation on the right at the C4-5 interspace.

(Resp. Ex. 1, P. 1).

An MRI, also conducted in October 2016, showed:

At the C4 5 level, there is a right paracentral disc herniation deforming the right ventral aspect of the

thecal sac and spinal cord. Moderate bilateral neural foraminal stenosis seen. At the C5-6 level, there is a central disc herniation deforming the ventral thecal sac and spinal cord. Moderate bilateral neural foraminal stenosis with compression of the existing C6 roots.

(Resp. Ex. 1, P. 3).

The claimant was later treated for neck pain following a motor vehicle accident in May 2017. (Resp. Ex. 1, P. 24). Conversely, an MRI conducted on December 22, 2020 revealed only “[m]ild multilevel degenerative disease” of the cervical spine. (Resp. Ex. 1, P. 42).

The record is clear that at the time of the claimant’s 2020 fall, she only felt a “twinge” or a “little something” resulting in low back and hip stiffness that evening. The claimant has been suffering with herniated discs in her cervical spine since as early as 2016. There is, in fact, no medical evidence supporting the finding that the claimant’s purported herniated cervical discs resulted from her work-related fall, and the claimant cannot prove by a preponderance of the evidence that her alleged neck injuries resulted from a specific incident. Any medical treatment related to the claimant’s cervical complaints are the result of her pre-existing cervical herniations.

The imaging performed on October 9, 2020, three days after the fall in question, revealed a normal lumbar spine, no fracture, no scoliosis or

spondylolisthesis with normal alignment (Clmt. Ex. 1, P. 60). As a result, the claimant has not proven she sustained a compensable injury to her back.

Accordingly, for the reasons set forth above, I must dissent from the majority's opinion.

MICHAEL R. MAYTON, Commissioner