NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H110044

SCOTT METZGER, EMPLOYEE	CLAIMANT
WINSUPPLY, INC., EMPLOYER	RESPONDENT
SENTRY CASUALTY INSURANCE COMPANY, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED NOVEMBER 16, 2023

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

Claimant represented by the HONORABLE GARY DAVIS, Attorney at Law, Little Rock, Arkansas.

Respondents represented by the HONORABLE JARROD S. PARRISH, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Claimant appeals an opinion and order of the Administrative Law Judge filed July 18, 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. That an employer/employee relationship existed on November 4, 2020, the date that the claimant suffered a compensable injury, including but not limited to his neck and back.

3. That the claimant's average weekly wage was $1080.00, which entitled him to temporary total disability and permanent partial disability in the amount of $711.00 / $533.00, respectively.

4. That the claimant has failed to satisfy the required burden of proof, by a preponderance of the credible evidence, to prove that the medical treatment recommended by Dr. Frankowski is causally related to and reasonably necessary for his work-related injuries.

5. If not already paid, the respondents are ordered to pay for the cost of the transcript forthwith.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's July 18, 2023 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 of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

Therefore we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

MICHAEL R. MAYTON, Commissioner

Commissioner Willhite concurs and dissents.

DISSENTING OPINION

The Administrative Law Judge found that the Claimant failed to prove, by a preponderance of credible evidence, that he is entitled to medical treatment recommended by Dr. Frankowski as causally related to and reasonably necessary for his work-related injuries. I disagree, I would rule in favor of the Claimant receiving additional medical treatment by Dr. Frankowski as it is reasonably necessary for his work-related injuries.

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 entitlement to additional medical treatment. *Dalton v. Allen Eng'g Co.,* 66 Ark. App. 201, 989 S.W.2d 543 (1999). What constitutes reasonable and necessary medical treatment is a question of fact for the Commission. *White Consolidated Indus. v.*

Galloway, 74 Ark. App. 13, 45 S.W.3d 396 (2001); *Wackenhut Corp. v. Jones*, 73 Ark. App. 158, 40 S.W.3d 333 (2001).

The Arkansas Court of Appeals has held a claimant may be entitled to additional medical treatment even after the healing period has ended, if said treatment is geared toward management of the injury. *See Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004); *Artex Hydrophonics, Inc. v. Pippin*, 8 Ark. App. 200, 649 S.W.2d 845 (1983). Such services can include those for the purpose of diagnosing the nature and extent of the compensable injury; reducing or alleviating symptoms resulting from the compensable injury; maintaining the level of healing achieved; or preventing further deterioration of the damage produced by the compensable injury. *Jordan v. Tyson Foods, Inc.*, 51 Ark. App. 100, 911 S.W.2d 593 (1995); *Artex*, supra.

In the present case, the Claimant has received two separate L4-L5 diagnostic medial branch blocks. After each procedure both Dr. Frankowski and Dr. Paulus advocated for further treatment in the form of a radiofrequency neurotomy at Claimant's L4-5. Dr. Frankowski opined "we feel like he would still benefit ultimately from an RFN [Medical abbreviation of "Radiofrequency neurotomy"] treatment but would need documentation that the medial branch diagnostic block was enough of a benefit," and

advocated for a second diagnostic medial branch block so further documentation would show the benefits of this procedure to the Claimant. Dr. Paulus stated "Given [Claimant's] appropriate benefit from a diagnostic medial branch block, I discussed with the patient proceeding with radiofrequency neurotomy targeting bilateral L4-5 facet joints with the expectation of more sustained relief." Claimant confirmed the success of the diagnostic procedure at the hearing stating "it worked great" and he was experiencing "tremendous relief." Claimant was a successful candidate for the radiofrequency neurotomy of the L4-L5 to reduce his overall pain level which he received as a result of his admittedly compensable injury from his work-related accident.

Therefore, I would rule that the Claimant has proved by a preponderance of the evidence that he is entitled to additional medical treatment in the form of a bilateral radiofrequency neurotomy of the L4-L5 as recommended by Dr. Frankowski .

For the reasons stated above, I respectfully dissent.

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M. SCOTT WILLHITE, Commissioner