

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H007502

JASON MODISETTE, EMPLOYEE	CLAIMANT
COLUMBIA WOOD LLC., EMPLOYER	RESPONDENT
STONETRUST COMMERCIAL INSURANCE, CO./ STONETRUST INSURANCE, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED JULY 14, 2022

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

Claimant represented by the HONORABLE ANDY L. CALDWELL, Attorney at Law, Little Rock, Arkansas.

Respondents represented by the HONORABLE MICHAEL E. RYBURN, 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 March 21, 2022. 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. The proposed stipulations set forth above are reasonable and hereby accepted as fact.

3. The Claimant proved by preponderance of the evidence that the surgical procedure, recommended by his treating physician, Dr. Amir Qureshi, for his admittedly compensable low back injury in reasonably necessary in connection with the injury received by him on September 24, 2020.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's March 21, 2022 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 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 Palmer dissents

DISSENTING OPINION

I respectfully dissent from the majority finding that the claimant has proven by a preponderance of the credible evidence that he is entitled additional medical treatment in the form of a fused SI joint as recommended by Dr. Amir Qureshi.

Respondent's position is that the treatment recommended by Dr. Qureshi is not additional medical treatment for Claimant's lower-back (lumbar spine) injury but is for a different part of the body altogether – the SI joint. Beyond this obstacle, it is undisputed that no imaging has ever been taken of Claimant's SI joints.

The law requires an employer to provide medical services that are reasonably necessary in connection with the compensable injury received by an employee. Ark. Code Ann. §11-9-508(a). The burden of proving entitlement to additional treatment rests on the claimant; however, a claimant who has sustained a compensable injury is not required to offer objective medical evidence to prove entitlement to additional medical

treatment. *Ark. Health Ctr. & Ark. Ins. Dep't v. Burnett*, 2018 Ark. App. 427, at 9-10, 558 S.W.3d 408, 414 (citing *Chamber Door Indus., Inc. v. Graham*, 59 Ark. App. 224, 956 S.W.2d 196 (1997); *Ark. Dep't of Cmty. Corr. v. Moore*, 2018 Ark. App. 60).

What constitutes reasonably necessary treatment is a question of fact for the Arkansas Workers' Compensation Commission. The Commission has authority to accept or reject a medical opinion and to determine its medical soundness and probative force. Likewise, the Commission has the duty to make credibility determinations, to weigh the evidence, and to resolve conflicts in the medical testimony. *Martin Charcoal, Inc. v. Britt*, 102 Ark. App. 252, 284 S.W.3d 91 (2008). Lastly, it is the Commission's duty to use its experience and expertise in translating the testimony of medical experts into findings of fact and to draw inferences when testimony is open to more than a single interpretation.

Given that there has never been any imaging of Claimant's SI joints, I find surgery to fuse Claimant's SI joints to his pelvis or spine unreasonable.

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

CHRISTOPHER L. PALMER, Commissioner