

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. G907252**

<b>CHRISTOPHER D. PORTER, EMPLOYEE</b>	<b>CLAIMANT</b>
<b>CITY OF LITTLE ROCK, EMPLOYER</b>	<b>RESPONDENT</b>
<b>RISK MANAGEMENT RESOURCES, CARRIER/TPA</b>	<b>RESPONDENT</b>

**OPINION FILED JUNE 8, 2021**

A hearing was held before ADMINISTRATIVE LAW JUDGE KATIE ANDERSON, in Little Rock, Pulaski County, Arkansas.

Claimant, Mr. Christopher D. Porter, was represented by Mr. Willard Proctor, Attorney at Law, Little Rock, Arkansas.

Respondents were represented by Ms. Melissa Wood, Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

A hearing was held in the above-captioned claim on March 11, 2021, in Little Rock, Arkansas. A Pre-Hearing Order was previously entered in this case on January 20, 2021.

**Stipulations:**

During the pre-hearing telephone conference, the parties agreed to the following stipulations. They read:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. An employer-employee relationship existed on February 27, 2019, at which time Claimant sustained multiple compensable injuries for which certain benefits have been paid.
3. Claimant's average weekly wage at the time of his compensable injuries was sufficient to entitle him to compensation rates of \$652.00 and \$489.00 for temporary total disability and permanent partial disability benefits, respectively.
4. Respondents have controverted additional benefits effective on and beyond

September 24, 2019.

5. All issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.

Issues:

After clarification at the hearing, the parties agreed to litigate the following issue:

1. Whether Claimant is entitled to additional reasonably necessary medical care in relation to his compensable injuries of February 27, 2019, to his neck, right shoulder, and low back.

Contentions:

The following contentions were submitted by the parties:

Claimant contends that he is entitled to temporary total disability benefits, permanent partial disability benefits, and attorney's fees from the date of the injuries to date.

Respondents contend that Claimant's injuries were initially accepted as medical only due to abrasions sustained in the slip and fall on February 27, 2019. It was discovered that there were no other acute objective findings, and the claim was denied on September 24, 2019. Claimant was declared to have reached maximum medical improvement (MMI) with no impairment on September 23, 2019. It is Respondents' contention that Claimant's continued need for treatment, if any, is due to a pre-existing condition.

Summary of Evidence:

The record consists of the hearing transcript of March 11, 2021, and the exhibits contained therein. Specifically, the following exhibits have been made a part of the record without any objection from the parties: Commission's Exhibit #1 including the Pre-Hearing Order entered on January 20, 2021, and the parties' responsive filings; and Respondents' Exhibit #1 consisting of twenty-nine (29) pages of medical records. Claimant did not introduce an exhibit.

Witnesses:

During the hearing, Mr. Porter (Claimant, used interchangeably herein) was the only witness to testify.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the evidence and other matters properly before the Commission, and after having had an opportunity to hear Claimant’s testimony and observe his demeanor, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012).

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. I hereby accept the above stipulations as fact.
3. Claimant has failed to establish by a preponderance of the evidence that he is entitled to additional medical treatment for his compensable injuries of February 27, 2019, to his neck, right shoulder, and low back.

**CASE IN CHIEF**

Hearing Testimony:

Claimant was fifty-eight (58) years old at the time of the hearing. He testified that on February 27, 2019, he sustained compensable injuries to his neck, right shoulder, and low back while employed with Respondent-Employer as a homeless service advocate. A portion of his duties included keeping eye out for homeless people throughout the city and addressing any issues that might arise pertaining to the homeless population in the area. On February 27th, Claimant was near the Springer Street exit in Little Rock, when he noticed debris near the exit ramp. Thinking that there were homeless people nearby, he got out of his car and walked a few feet toward the debris to assess the situation. At that time, two (2) big dogs began running toward him. Claimant turned and began running back to his car, but before he could get inside, he slipped and

fell on the ground. Fearing that the dogs would attack him, Claimant jumped up and quickly got into his car. He stated that once he was inside the vehicle, he was “reaping with pain from head to toe.” He immediately called his supervisor, assistant city manager James Jones, and told him that he had fallen. Claimant then called Human Resources, who instructed him to go to Concentra.

Claimant treated at Concentra with complaints of pain in his neck, back, right hip, right shoulder, and right elbow. Claimant testified that Concentra scheduled physical therapy appointments for his low back, neck, and right shoulder. Claimant stated that there were no improvements to his neck or right shoulder, but that there was a little improvement to his low back and significant improvement to his right elbow. Concentra then referred Claimant to OrthoArkansas for MRIs of both shoulders, his lumbar spine, and his cervical spine.

Claimant testified that, while treating with OrthoArkansas, he saw two (2) doctors: a neurologist and an orthopedist. Claimant stated that he participated in additional physical therapy, but he was not prescribed any medications. Claimant testified that his last visit to OrthoArkansas was in 2019, and since that time, he had not seen a physician, undergone surgery, or received additional treatment for his neck, elbow, right shoulder, or low back.

Claimant explained that his elbow injury had resolved. He treated his neck and right shoulder pain on his own by taking ibuprofen once every two (2) to three (3) months, and he stated at the hearing that it had been more than one (1) month since he had needed ibuprofen for pain. However, he stated that he continued to have persistent pain with his right shoulder, including on the morning of the hearing. With regard to his low back and hips, Claimant testified that he believed that his hip pain was related to his low back pain. He further testified that he had not been seen by a physician for treatment on his low back since 2019, but he believed that there was additional medical treatment that would be beneficial for his low back pain.

Claimant testified that despite having health insurance, he had not sought treatment for any of his injuries by his primary care physician, Dr. Carey Roach, or any other physician or emergency room personnel since his visits to OrthoArkansas.<sup>1</sup> He explained that he did not believe it was his responsibility to pay for an emergency room visit or treatment by other healthcare providers, and he did not want to incur the out-of-pocket expense since it was a work-related injury.

During cross-examination, Claimant testified that on November 27, 1987, while driving an eighteen (18)-wheeler, he was involved in a head-on motor vehicle accident which resulted in a low back injury. He also testified that approximately five (5) years ago, he underwent neck surgery (with no precipitating event). Regarding the current compensable injuries and treatment, he verified that he had received epidural steroid injections and physical therapy, and that he had completed all the treatment that was recommended by his physicians. In addition, he verified that there was no further treatment recommended by his treating physicians. He also verified that he had not received any medical bills as a result of the work-related injuries, as everything was covered under workers' compensation. He confirmed that he had no problems doing his job other than being wary of areas that might contain dogs.

During redirect examination, Claimant explained that his low back injury in 1987 had completely healed and that he had not required any treatment since the 1987 surgery until the 2019 incident. Similarly, since his neck surgery in 2015 or 2016, he had not required further treatment for his neck. He testified that he had occasionally experienced some pain in his low back and neck, but no major pains until his 2019 injury. After the 2019 injury, he experienced pain in his low back and neck daily.

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<sup>1</sup> Claimant did acknowledge that since 2019, he had received treatment for diabetes and for an issue with his heart; however, he confirmed that neither condition was related to his 2019 compensable work injury.

In response to the Commission’s questions, Claimant explained that he was still employed by Respondent-Employer as a homeless service advocate. He did not miss work due to his injuries, and he was able to perform all of his job duties.

Medical Exhibits:

On March 5, 2019, Claimant saw Dr. Scott Carle with Concentra with complaints of neck and right hip pain from the work-related fall on February 27, 2019. Dr. Carle assessed Claimant with cervical sprain, trochanteric bursitis – unspecified hip, and olecranon bursitis of right elbow. No medications were prescribed, and Claimant was released to work at full duty with no restrictions. Dr. Carle noted Claimant had no permanent impairment from the work-related fall.

On April 25, 2019, Claimant presented for treatment with Dr. John Adametz at Concentra. Dr. Adametz’s notes indicated that Claimant’s neck pain was moderate, with some neck stiffness and decreased range of motion. Claimant’s back pain was mild and had improved, but he still had some decreased range of motion. Claimant’s mild hip pain had improved, and his elbow pain was resolved with no lingering issues. Claimant was released to return to work with no restrictions on that date.

MRIs of Claimant’s shoulders, lumbar spine, and cervical spine were performed on May 30, 2019. In a report dated June 17, 2019, by Dr. Michael Hussey at OrthoArkansas opined that the imaging of Claimant’s bilateral shoulders was “relatively normal for his age,” with normal age-related changes and no traumatic injuries shown. He noted good range of motion in both shoulders and no significant limitations. Dr. Hussey further opined that Claimant had no restrictions as it related to his bilateral shoulders; that there was no impairment as to his upper extremities; and that he could perform at full duty with both shoulders without limitations. Dr. Hussey further

recommended that Claimant proceed with an evaluation of his neck, as that was the likely source of his pain.

On the same date, Claimant saw physician assistant Dane Miller at OrthoArkansas with complaints of neck pain and pain into his shoulders, as well as low back pain with some radiating pain into the posterior left leg. Miller noted Claimant's prior neck surgery and that the pain was only mild after the surgery. As for after the work-related fall, Miller noted that Claimant's neck pain had worsened. Claimant's cervical spine MRI revealed no fracture or disc protrusion; pre-existing signs of degeneration and stenosis; and no objective findings of acute injury. For the foraminal stenosis at bilateral C3-4, Miller recommended a cervical epidural injection. He also noted Claimant's history of neck pain; however, he attributed at least fifty-one percent (51%) of Claimant's current exacerbation of symptoms to his work-related injury. Lastly, he recommended that Claimant continue to perform his normal job duties without restrictions.

Claimant returned to physician assistant Miller on August 7, 2019, after his cervical spine epidural injection. Claimant reported that the injection helped a little with the neck pain and that it was more beneficial on the left than the right side of his neck. He continued to complain of neck pain with pain into his bilateral shoulders and low back pain. Miller recommended a second cervical epidural steroid injection and physical therapy. Miller recommended Claimant stay active and continue working without restrictions.

On September 23, 2019, when Claimant returned to physician assistant Miller, he reported that the injection and physical therapy had not provided much relief. Miller noted Claimant's past neck problems, including surgery, and follow-up treatment at the Arkansas Spine Institute. Miller's notes revealed that he and Dr. Seale discussed Claimant's records in detail and determined that surgical intervention was not recommended at that time. He assessed Claimant with

degeneration of the cervical intervertebral disc, degeneration of the lumbar intervertebral disc, and low back and neck pain. Miller's notes contain the following conclusions:

The patient is at maximum medical improvement. The patient has not been on any work restrictions up to this point and we recommend that he continue without restrictions. The patient's impairment rating will be a 0% as the patient has no objective findings of acute injury. He has significant degenerative changes in his cervical spine, with a history of prior surgeries, and the injuries in this work incident are not aggravation of a chronic condition. I am releasing the patient from my medical care. I will see the patient back only as needed. The patient understands and agrees with the treatment plan.

### **ADJUDICATION**

Respondents accepted Claimant's neck, right shoulder, and low back injuries as compensable and paid for medical treatment. Respondents have controverted Claimant's entitlement to additional medical treatment as of September 24, 2019. Claimant, therefore, now asserts his entitlement to additional medical benefits for his work-related injuries to his neck, right shoulder, and low back.<sup>2</sup>

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) (Repl. 2012). The claimant bears the burden of proving that he is entitled to additional medical treatment. Dalton v. Allen Eng'g Co., 66 Ark. App. 201, 989 S.W.2d 543 (1999).

The employee has the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary. Stone v. Dollar General Stores, 91 Ark. App. 260, 209 S.W.3d 445 (2005). Reasonably necessary medical services may include that necessary to accurately diagnose the nature and extent of the compensable injury; to maintain the level of healing achieved;

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<sup>2</sup> While Claimant also alleged an injury to his right elbow, the testimony showed, and the medical records corroborated, that Claimant's elbow injury had fully resolved.



or to prevent 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).

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that Claimant failed to prove by a preponderance of the credible evidence that he is entitled to additional medical treatment in connection with his compensable injuries to his neck, low back, and right shoulder on February 27, 2019.

Here, on February 27, 2019, Claimant was working in his position as a homeless service advocate, when he encountered two (2) large dogs that began to chase after him. As he ran to his car to escape the dogs, he slipped and fell on the ground. Claimant was seen at Concentra and assessed with cervical sprain, trochanteric bursitis in his hip, and olecranon bursitis of the right elbow. He was released from care and instructed to return to work with no restrictions.

In the matter at hand, Respondents accepted the claim as medical only and paid for medical treatment until Claimant was released from care by physician assistant Dane Miller on September 23, 2019. Thereafter, Respondents have controverted Claimant's entitlement to any additional medical treatment.

With respect to Claimant's compensable neck injury, imaging of Claimant's cervical spine revealed pre-existing signs of degeneration and stenosis and no objective findings of acute injury. (Of note, objective findings are not a requirement for additional medical treatment.) Claimant underwent conservative treatment for his degenerative neck condition, but Miller opined that he did not require surgery. He opined that the low back injury from the February 27, 2019, work-related incident was not an aggravation of a chronic condition. Also on September 23, 2019, Miller found him to be at maximum medical improvement (MMI); assessed him with a zero percent (0%) impairment rating due to the lack of findings of an acute injury; noted his lack of work restrictions

up to that point and recommended that he continue working without restrictions; and released Claimant from his care.

Claimant testified that, despite having health insurance, he had not sought medical treatment for his neck since physician assistant Miller found him to be at maximum medical improvement (MMI) on September 23, 2019, and I note there are no medical records in evidence after that date. Moreover, Claimant has not missed any work since his February 27, 2019, compensable work incident, and he required only over-the-counter medication, on occasion, as needed for neck pain or stiffness. Lastly, Claimant admitted that he had completed the recommended steroid injections and physical therapy and that his treating physicians had not recommended any further medical treatment for his neck.

Under these circumstances, I find the claimant has failed to prove by a preponderance of the evidence his need for any additional medical treatment for his cervical spine injury of February 27, 2019.

With respect to Claimant's compensable right shoulder injury, after reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that Claimant has failed to establish by a preponderance of the credible evidence that he is entitled to any additional medical treatment for his right shoulder injury.

Despite Claimant's testimony that he had persistent pain in his right shoulder, Claimant treated his shoulder pain on his own with over-the-counter medication on occasion (specifically, once every two (2) to three (3) months), and he had not sought medical treatment since 2019. Claimant had also not missed any work due to his shoulder injury and was working at full duty.

Here, I am unable to substantiate Claimant's assertion of the need for additional medical treatment for his right shoulder with any of the medical records. Claimant's MRI of his bilateral

shoulders showed normal age-related changes and no evidence of traumatic injuries. Dr. Hussey noted good range of motion in both shoulders, no restrictions as it related to his bilateral shoulders, and no impairment as to the right or left upper extremities. He was released to perform at full duty with both shoulders without limitations. Claimant's own testimony shows that no treating physician has recommended any further treatment for Claimant's right shoulder. As such, I find that Claimant has failed to prove by a preponderance of the evidence his entitlement to any additional medical treatment for his compensable right shoulder injury.

Claimant has also asserted a claim for additional medical treatment for his low back/hip. However, I find that this claim for additional benefits for Claimant's compensable low back/hip injury is without merit.

Claimant testified that he had pain in his low back and hips (primarily his right hip) and that he believed that his low back and hip pain were related. Medical records from Concentra showed that soon after the 2019 work-related fall, Claimant's back and hip pain started to improve. Thereafter, while treating physician assistant Miller, imaging of the lumbar spine revealed findings of degeneration of the lumbar intervertebral disc. Miller ultimately determined that Claimant was at maximum medical improvement (MMI) with no permanent impairment and released Claimant from his care.

Claimant acknowledged a previous low back injury in 1987 that, according to Claimant, had completely healed after undergoing conservative treatment. For his 2019 compensable work injury to his low back, Claimant admitted that he had not sought further medical treatment for his low back since he last saw Miller in 2019, and he took only occasional over-the-counter medication for pain. Claimant continued to work at full duty without restrictions after the February 27, 2019, work-related fall. Nevertheless, Claimant believed that there was additional medical treatment

that would be beneficial for him; however, the testimony and medical records showed that additional medical treatment was not recommended by any of his doctors.

Under the circumstances, I find that Claimant failed to prove his need for any additional medical treatment for his compensable low back injury.

As a result, this entire claim for additional medical treatment is hereby respectfully denied and dismissed in its entirety.

**ORDER**

For the reasons discussed herein, this claim for additional medical benefits must be, and hereby is, respectfully denied in its entirety and dismissed.

**IT IS SO ORDERED.**

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**KATIE ANDERSON  
ADMINISTRATIVE LAW JUDGE**