

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G808579

JURMICKA PUCKETT, EMPLOYEE	CLAIMANT
ARKANSAS DEPT. OF CORRECTIONS., EMPLOYER	RESPONDENT
PUBLIC EMPLOYEE CLAIMS DIVISION, TPA	RESPONDENT

OPINION FILED APRIL 4, 2024

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

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

Respondents represented by the CHARLES H. McLEMORE, Attorney, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The Claimant appeals and the respondents cross-appeal an Administrative Law Judge's opinion filed October 4, 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. The Claimant is not entitled to additional permanent partial disability for RSD/CRPS.
3. The Claimant has not proven that she is permanently and totally disabled.
4. The Claimant has not proven entitlement to additional benefits under Ark. Code Ann. § 11-9-505(a)(1).
5. The Claimant is entitled to additional treatment associated with the referral to UAMS ordered by Dr. Walker for consideration of a Spinal Cord Stimulator. The Respondents, however, are not liable for the Claimant's past treatment from Dr. Scott.
6. No attorney's fee is associated with these findings.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's October 4, 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 made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

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 (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 concurs, in part, and dissents, in part.

CONCURRING AND DISSENTING OPINION

I respectfully concur, in part, and dissent, in part from the majority opinion. Specifically, I concur that the claimant has not proven by a preponderance of the credible evidence that she is entitled to additional permanent partial disability for RSD/CRPS, that she has not met her burden of proving that she is permanently and totally disabled and that she has not proven entitlement to additional benefits under our Ark. Code Ann. § 11-9-505(a)(1). However, I dissent from the finding that the claimant is entitled to additional treatment by UAMS for consideration for a spinal cord stimulator, as she has failed to establish that such treatment is reasonable and necessary.

The claimant suffered a compensable right-hand injury while working for the respondent employer on December 26, 2018, when she fell, catching herself with her right hand. (Hrng. Tr., Pp. 20-21). The claimant was examined by a nurse practitioner who assessed a wrist sprain and median nerve injury at the wrist and hand level and entered a referral for "Neurology*Any." (Resp. Ex. 1, P. 4).

The claimant ultimately began treating with Dr. Brian Norton at Arkansas Specialty Orthopaedics on January 11, 2018. (Cl. Ex. 1, P. 17). Dr. Norton ordered an MRI that revealed a ganglion cyst, which he believed to be related to the claimant's work injury. (Cl. Ex. 1, P. 18). Dr. Norton removed the cyst on April 29, 2019. (Cl. Ex. 1, P. 25).

At a follow-up visit, the claimant complained of continued pain, and Dr. Norton ordered another MRI, which revealed no new issues. (Cl. Ex. 1, Pp. 78-87). Dr. Norton placed the claimant at MMI and released her to return to work at full duty on September 10, 2019. (Cl. Ex. 1, P. 86).

On September 1, 2020, the claimant returned to Dr. Norton, who ordered another MRI. (Resp. Ex. 1, P. 24). After a failed attempt at steroid injections due to blood sugar issues, the claimant elected to proceed with a right wrist arthroscopy and partial synovectomy which took place on January 4, 2021. (Resp. Ex. 1, Pp. 29-35). Dr. Norton performed a surgical revision on May 12, 2021, without complications. (Resp. Ex. 1, Pp. 50-54).

In August of 2021, the claimant began treating with Dr. Brent Walker, a pain management specialist also with Arkansas Specialty Orthopaedics. Dr. Walker assessed the claimant with complex regional pain syndrome (CRPS) and ordered a triple-phase bone scan. (Cl. Ex. 1, Pp. 189-194). Upon reviewing the claimant's August 2021 bone scan, the radiological impression is listed as CRPS, and Dr. Walker began stellate ganglion blocks between August 24, 2021, and September 7, 2021. (Resp. Ex. 1, Pp. 59-75). These were later paused due to blood sugar issues, although the claimant did not report significant improvement after receiving these injections. *Id.*

The claimant underwent a functional capacity examination in September 2021 and was assigned a medium work restriction. (Resp. Ex. 1, Pp. 76-95). She was ultimately assigned an eleven percent (11%) impairment rating to her right wrist. (Resp. Ex. 1, P. 101).

After receiving her impairment rating, the claimant sought a second opinion from an additional orthopedic surgeon, Dr. D'Orsay Bryant, who in November of 2021 opined that "[t]he patient furnished me hundreds of pages of her past medical record, which I have read over a dozen times. The treatment rendered, by both Dr. Norton and Dr. Walker, is satisfactory and medically indicated." (Resp. Ex. 1, Pp. 102-104). Dr. Bryant agreed with Dr. Walker's assessment of CRPS but stated that "there are simply no

further effective treatment recommendations that I can offer, for the patient's right wrist complex regional pain syndrome." *Id.*

The claimant underwent a nerve conduction study on June 21, 2022, and the findings were all within normal limits. (Resp. Ex. 1, P. 117). After reviewing these results, Dr. Norton ordered an additional triple-phase bone scan, which revealed negative results with "no scintigraphic evidence of complex regional pain syndrome." (Resp. Ex. 1, Pp. 127-128).

The claimant later visited Dr. Walker on July 27, 2022, who opined that the claimant's condition had reached its chronic phase and referred the claimant to UAMS for consideration of a spinal cord stimulator. (Cl. Ex. 1., P. 225).

Arkansas Code Annotated section 11-9-508(a) (Repl. 2012) requires an employer to provide an employee with medical and surgical treatment "as may be reasonably necessary in connection with the injury received by the employee." The claimant has the burden of proving by a preponderance of the evidence that the additional treatment is reasonable and necessary. *Nichols v. Omaha Sch. Dist.*, 2010 Ark. App. 194, 374 S.W.3d 148 (2010).

What constitutes reasonably necessary treatment is a question of fact for the Commission. *Gant v. First Step, Inc.*, 2023 Ark. App. 393, 675 S.W.3d 445 (2023). In assessing whether a given medical procedure is reasonably necessary for treatment of the compensable injury, the

Commission analyzes both the proposed procedure and the condition it sought to remedy, and the respondent is only responsible for treatment causally related to the compensable injury. *Walker v. United Cerebral Palsy of Ark.*, 2013 Ark. App. 153, 426 S.W.3d 539 (2013). Treatments to reduce or alleviate symptoms resulting from a compensable injury, to maintain the level of healing achieved, or to prevent further deterioration of the damage produced by the compensable injury are considered reasonable medical services. *Foster v. Kann Enterprises*, 2009 Ark. App. 746, 350 S.W.2d 796 (2009).

The Commission has authority to accept or reject medical opinion and to determine its medical soundness and probative force. *Gant v. First Step, Inc.*, 2023 Ark. App. 393, 675 S.W.3d 445 (2023). Furthermore, 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. *Id.*

The ALJ's determination that the claimant is entitled to an assessment for a spinal cord stimulator is based on a single opinion by Dr. Brent Walker, the claimant's pain management specialist. (See Resp. Ex. 1, P. 140). On July 27, 2022, Dr. Walker opined that the claimant's "condition is existed for well over a year and a half. I think she is most likely in the chronic phase of this condition. I do not think any further stellate ganglion blocks or medications will be of benefit. I am going to refer her to

UAMS for consideration of spinal cord stimulator.” *Id.* However, as of June 21, 2022, “[a]ll nerve conduction studies . . . were within normal limits. All examined muscles . . . showed no evidence of electrical instability.” (Resp. Ex. 1, P. 117). The claimant’s nerve conduction study was normal with no evidence of right median or ulnar mononeuropathy and no evidence of right cervical radiculopathy or electromyography. *Id.*

A bone scan on June 27, 2022, reflected that “Previously identified increased activity on all three phases with the right hand has resolved... Negative study. There is no scintigraphic evidence of complex regional pain syndrome.” (Resp. Ex. 1, P. 127).

Simply put, at this point there is no basis for ordering an evaluation for a spinal cord stimulator. The objective evidence reflects that the claimant’s condition has resolved, and there are no radiological reports that reflect otherwise. It is not reasonable or necessary to require the respondents to provide the claimant with treatment in contradiction to the findings of two separate objective tests. Dr. Walker provided no reasoning for his referral to UAMS, and there is no evidence that this treatment would serve to address the claimant’s purported needs. For these reasons, the claimant has failed to establish her burden of proof.

Accordingly, for the reasons set forth above, I concur, in part, and dissent, in part.

MICHAEL R. MAYTON, Commissioner