

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G707727

LEONARD REED,  
EMPLOYEE

CLAIMANT

M. A. MORTENSON CO., INC., EMPLOYER

RESPONDENT

ARCH INSURANCE COMPANY/GALLAGHER  
BASSETT SERVICES, INC., INSURANCE  
CARRIER/TPA

RESPONDENT

OPINION FILED OCTOBER 13, 2022

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

Claimant represented by the HONORABLE MICHAEL W. BOYD, Attorney at Law, Magnolia, Arkansas.

Respondents represented by the HONORABLE JOSEPH H. PURVIS, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed in part, reversed in part.

OPINION AND ORDER

The respondents appeal an administrative law judge's opinion filed March 11, 2022. The administrative law judge found that the claimant proved he was entitled to additional medical treatment and continuing temporary total disability benefits. After reviewing the entire record *de novo*, the Full Commission finds that the claimant proved he was entitled to additional medical treatment. The Full Commission finds that the claimant did not prove he was entitled to additional temporary total disability benefits. We find that the claimant proved he was entitled to permanent anatomical impairment in the amount of 12% to the right lower extremity.

I. HISTORY

The testimony of Leonard Reed, now age 53, indicated that he became employed with the respondents in about July 2017. Mr. Reed testified that he was a driver for the respondents. The parties stipulated that the employee-employer relationship existed on or about October 20, 2017. The claimant testified on cross-examination:

Q. Were you injured while on the job on October the 20<sup>th</sup>, 2017?

A. Yes, sir.

Q. Can you tell the judge what was going on immediately before and then tell the judge what happened?

A. On or about that date, the 17<sup>th</sup> – October 17<sup>th</sup>, I was driving trucks and we was going picking up broken and damaged purlin that was out there in the yard.

Q. Let me stop you there. You said purlin?

A. Purlins, the metal pieces....scrap metal, and we was loading them on a truck taking them to the yard area where the scrap go. And on that morning I was the driver and I – we had – we had a load on there. We had a big, blue forklift – everything was operated by the big forklifts. So the operator of the forklift, he jarred the truck twice. On the third time when he hit it, a piece shot off and hit me past here to that wall over there in my leg – struck me in my leg. I couldn't get up, and I told him – I said, "I feel like – it feel like my leg might be broke." Well, they helped me and put me in the truck and took me in.

The parties stipulated that the claimant "sustained a compensable work-related injury to his right leg and knee" on October 20, 2017.

According to the record, Dr. Christopher Morgan began treating the claimant on October 23, 2017: "48-year-old gentleman working in a local business had a 4 pound piece of metal hit him in the right leg. Had instant

pain....He continued to try to work but was unable to bear weight. He was on crutches comes in today for evaluation....Large joint effusion on the right knee.” Dr. Morgan assessed “Closed fracture of medial portion of right tibial plateau, initial encounter.” An x-ray of the claimant’s right knee was taken on October 23, 2017 with the impression, “1. Comminuted RIGHT proximal tibial fracture with intra-articular extension at the lateral tibial plateau. 2. RIGHT knee effusion.”

Dr. David L. Wassell performed surgery on November 1, 2017: “Open reduction and internal fixation, right tibial plateau fracture.” The pre- and post-operative diagnosis was “Right closed displaced lateral tibial plateau fracture.” The claimant testified that he received temporary total disability benefits following surgery. Dr. Wassell’s assessment on December 14, 2017 was “Closed displaced bicondylar fracture of right tibia with routine healing.” Dr. Wassell planned, “I want him to really work on getting off his crutches as I feel that this is holding him back and he isn’t as rehabbed as well as he should be by now. Recommend at least another month of therapy with emphasis on regaining his normal gait and regaining his strength. From a work standpoint, he could work any type of sedentary job if available. I would like to see another month of aggressive therapy and then we will re-evaluate in 6 weeks. If he hasn’t greatly improved or is

at MMI then the next step would be an FCE. Return in about 6 weeks (around 3/7/2018) for Recheck.”

An x-ray of the claimant’s right knee was taken on March 7, 2018 with the following findings:

No significant soft tissue swelling or radiopaque foreign body is demonstrated. No joint effusion is evident. No acute fracture is identified. There are redemonstrated findings of lateral tibial plateau compression plate and screw internal fixation. Radiographic union is complete. There is no evidence of hardware loosening or screw fracture. Impression: No evidence of hardware loosening.

Dr. Wassell noted on March 7, 2018, “At the present time I think we are basically at MMI (Maximum Medical Improvement)...I feel that the best thing to do is get an FCE to see what level of work he can accomplish. I’ll see him back after the FCE to go over the results and I then feel that we can release him from my care at that time.”

The claimant participated in a Functional Capacity Evaluation March 26, 2018: “The results of this evaluation indicate that an unreliable effort was put forth, with 34 of 53 consistency measures within expected limits....Mr. Reed completed functional testing on this date with **unreliable** results. Overall, Mr. Reed demonstrated the ability to perform work in at least the **LIGHT** classification of work[.]” The claimant testified that light-duty work with the respondents was not available.

Dr. Wassell corresponded with the third-party administrator on April 5, 2018:

This letter concerns the recent Functional Capacity Examination (FCE) that Mr. Leonard Reed completed. As you know, Mr. Reed has been under my care for a work related injury that he sustained on 10/20/2017. He sustained a right tibial plateau fracture that required operative fixation. This surgery was performed on 11/01/2017.

Since his surgery he has been undergoing therapy so as to regain his ability to return to work. At his last clinic visit dated 03/07/2018, I felt that he was at Maximum Medical Improvement. He had regained normal, full active Range of Motion of his right leg, had good leg strength and had no obvious deficit or impairment. He had been released from Physical Therapy as the therapist stated that he had met all rehabilitation goals. Based on all of this I felt that he was ready to be discharged to full work status.

Unfortunately, Mr. Reed stated that he did not feel capable to return to his previous work. I therefore recommended an FCE be accomplished. I specifically advised Mr. Reed that this test, while testing his ability to perform physical work, would also be testing his reliability and consistency. This counseling was done in the presence of the Case Worker, Mr. Toby Crow.

The FCE was performed on 03/26/2018. Unfortunately, it is noted that Mr. Reed failed to put forth a reliable effort with only 34 of 53 consistency measures within expected limits. The end result of the test was the Mr. Reed demonstrated the ability to perform work in at least the **LIGHT** Classification of work as defined by the U.S. Dept. of Labor's guidelines over the course of a normal workday.

However, since the results indicate an unreliable effort, his abilities could be higher than he demonstrated. Based on my evaluation, I too would agree that his ability to perform work is probably higher than what he demonstrated.

Therefore, it is my medical opinion that Leonard Reed may return to work. He is at Maximum Medical Improvement. Based on the Guides to the Evaluation of Permanent Impairment, Edition, 4, he has no impairment Rating.

As to what level of work he can do, I would say that he can work at least at the **LIGHT** level and most likely at even higher levels. I will defer to the employer to make the final decision as to his level of work and also to his employability. He is therefore discharged from my medical care at this time....

Dr. Dennis B. Yelvington assessed "Chronic pain associated with significant psychosocial dysfunction" on May 1, 2018. The claimant also continued to follow up with Dr. Morgan. Dr. Morgan's assessment on May 30, 2018 was "Acute pain of right knee," "Status post knee surgery," and "Right leg swelling." Dr. Morgan planned a Venous Doppler of the right leg, and reported on May 31, 2018, "No clot. Swelling due to trauma and surgery will likely go away at some point. Could wear compression stocking on that side."

Dr. Morgan noted on July 2, 2018:

49-year-old comes in today status post traumatic right knee fracture and repair. Continues to have some swelling and pain when he is on it. Ortho has basically signed off. However his Workmen's Comp. case is still open. They have stopped payment. He was under chronic pain management for his back prior to this accident. His pain management doctor said he cannot help him with his knee but he has a new pain clinic that said they could help him. He also is wanting to get a disability evaluation....  
He exhibits deformity (Right knee)....

Dr. Morgan's treatment plan included a referral to pain management.

Dr. Morgan stated on July 23, 2018: "Mr. Leonard B. Reed Sr. was involved in an accident at work on 10/24/17. His injury was work related

and due to this injury he has been unable to return to work due to restrictions.”

The claimant treated at Pain Treatment Centers of America on August 14, 2018.

Dr. Morgan noted on September 12, 2018 that the claimant “needs referral to chronic pain.” However, a physician at Pain Treatment Centers of America informed the claimant on October 1, 2018, “I find it necessary to inform you that I am withdrawing from further professional attendance of you. I will no longer be able to serve as your physician. The primary difficulty has been our inability to get coverage with your Worker’s Comp adjuster.”

Dr. Morgan corresponded on February 25, 2019:

I had the pleasuring (sic) of seeing Leonard Reed on the day of his work related accident with a fracture of the right knee occurring on 10/26/2017. He was subsequently found to have a knee fracture and referred to Orthopedics. He did undergo surgical fixation. He has had ongoing pain related issues with his knee. However, he had already been seeing pain management for chronic back pain. He has been seen multiple times with Orthopedics for this knee because of ongoing issues. He needs chronic pain management, not only for this knee, but also for his ongoing back issues. Your consideration in this matter is greatly appreciated.

The claimant’s attorney examined Dr. Wassell at a deposition taken May 30, 2019:

Q. So if Mr. Reed reports that he continues to experience significant pain in his lower right leg and it is observable by a

physician that he has swelling in the lower right leg, would it be reasonable and necessary for him to be treated for that condition?

A. I would say it would be reasonable.

Q. Would it be reasonable and necessary?

A. Sure. I would say it would be reasonable and – yes, I could say it would be reasonable and necessary to at least be evaluated.

The respondents' attorney also questioned Dr. Wassell:

Q. Doctor, do you stand by your prior conclusion that this gentleman reached maximum medical improvement – for the injury of October 20<sup>th</sup>, 2017, that he reached MMI on or about March the 7<sup>th</sup> of 2018?

A. Yes.

Q. Do you stand by your prior opinion that this gentleman sustained zero permanent impairment under the AMA guidelines as a result of that accident?

A. Based on my documentation and everything that I documented, I have to stand by what I did, based on what I examined and what I compared it to and looked at.

Q. So the answer is yes?

A. Yes.

The claimant began treating at Southern Regional Anesthesiology Consultants, PLLC on September 17, 2019. Elizabeth Jarvis, APRN reported, "His knee is swollen compared to the left....He possibly has reflex sympathetic dystrophy with pain in the right leg due to an old injury (a fracture from work-related injury)." Elizabeth Jarvis planned additional diagnostic testing and an adjustment of the claimant's medication. Dr. Gary Frankowski indicated that he agreed with the treatment plan. Dr. Frankowski noted on October 17, 2019, "[His] lower right leg is swollen,



warm to touch, and painful....We will refer him over to Dr. Tucker at Ortho Arkansas[.]”

The record indicates that Dr. James Tucker arranged for an MRI Right Tib-Fib, which was taken on November 13, 2019 with the following impression:

1. No evidence of fracture or osseous stress of the right leg.
2. Subcutaneous edema of the legs bilaterally may be indicative of dependent edema, although infectious or inflammatory change are less likely considerations.

Dr. Tucker signed a “Return to Work Status” note on November 19, 2019 and stated, “I saw Leonard Reed in the office today, 11/19/2019. Please excuse Leonard for 11/19/2019. Leonard needs his workers comp case reopened due to his job injury on 10.19.2017.”

Dr. Tucker reported on or about January 2, 2020:

Leonard Reed returns to clinic for recheck of his right knee. There was concern that he could have a right tibial stress fracture so an MRI was obtained. Today, the patient reports that he continues to have pain in his right knee. He feels that his activities, especially running and jumping, are limited due to his pain.

IMAGING: An MRI of the right knee is available for review today and shows no signs of a stress fracture.

ASSESSMENT: Right knee pain.

PLAN: I discussed the exam and findings with the patient today. I believe that a fracture could be causing edema in his right leg, shown via MRI. We will provide him with a medium thigh high compression stocking to decrease edema in his right leg. He should place this on his leg before getting out of bed in the morning. I also recommended that the patient investigate how to re-open his case with worker’s

compensation and obtain an impairment rating from the physician that originally performed his surgery.

The claimant followed up with Dr. Tucker on January 12, 2020: “He presents back today for review [of] his MRI. It shows no signs of a stress fracture and so at this point this appears to be possible interarticular pain secondary to previous fracture picture. We decided to proceed with a cord sterile injection and so an interarticular injection was carried out of the right knee....Follow-up p.r.n.”

The record indicates that nerve conduction velocity studies were done on January 26, 2021: “The patient has extensive complaints of right leg pain. He had a crush injury to the right lower leg with an open fx....The patient had right lower extremity findings consistent with a mild neuropathy of the peroneal and tibial sensory fibers. He had sensory axon loss in the right lower leg.”

Dr. Morgan corresponded with the claimant on January 28, 2021:

This is just to let you know about your [nerve] conduction study. There appears to be some mild injury to the nerves in your right lower leg. This is obviously due to the trauma you had, and unfortunately, there is probably no cure for this, and we will have to figure out a way to treat and control the pain. If you'd like to visit about this, please make an appointment.

Dr. Yelvington noted on February 11, 2021:

Leonard Reed Sr. is a patient of mine at Baptist Health Medical Clinic, he suffers from DDD (degenerative disc disease), lumbosacral

Chronic pain associated with significant psychosocial dysfunction  
Complex regional pain syndrome type 1 of right lower extremity  
Chronic pain of right knee  
Osteoarthritis  
Due to these conditions he is unable to stand or walk for an extended period of time leaving him unable to work.

A pre-hearing order was filed on August 10, 2021. The claimant contended, "Claimant was injured in the scope and course of his employment with Respondent. Claimant has been denied additional medical, TTD, PPD and travel expenses." The respondents contended, "(a) That on March 7, 2018 Dr. Wassell, the treating Orthopedist noted that the Claimant had full range of motion in the knee with no obvious defects; that he had achieved all of the physical therapy goals that had been set for him and was capable of walking and movement on the knee and was at maximum medical improvement for the incident of October 20, 2017. The doctor further opined that he believed the Claimant could return to regular duty at that time. The Claimant disagreed. (b) Dr. Wassell directed a DVT test to see if that could be the problem. When that test came back normal, Dr. Wassell directed the Claimant to undergo a functional capacity exam. That test came back on March 27, 2018 with an unreliable effort on the part of the Claimant being consistent with only 34 of 53 exercises. (c) That on April 5, 2018, Dr. Wassell placed the Claimant at MMI and gave him zero impairment rating in accordance with the A.M.A. IV Guidelines. (d) That

the claimant was originally diagnosed with Chronic Pain Syndrome in late 2013 following a 2013 incident with another employer. The Claimant has continued to complain of chronic pain syndrome since that time. In 2018 and 2019 was diagnosed by his primary treating physician as suffering from 'psychosocial chronic pain syndrome.' (e) Finally, that Respondents have accepted and paid all monies due and owing in this case."

The text of the pre-hearing order indicated that the parties agreed to litigate the following issues:

1. Additional medical treatment on right lower leg.
2. Additional TTD.
3. Additional PPD.
4. Travel.
5. Attorney's fees.
6. All issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.

The claimant's attorney questioned Dr. Morgan at a deposition taken September 24, 2021:

Q. Is it your opinion that sending him to pain specialist would be reasonable and necessary for his right lower leg?

A. Based on the amount of time he has in complaining about his pain, yes....

Q. Sitting here today, it's your opinion that Mr. Reed is in need of additional medical treatment to his right lower leg in the form of pain management. Is that fair to say?

A. I think if he's not currently in pain management, he certainly is a good candidate.

The respondents' attorney questioned Dr. Morgan:

Q. Do you find [Dr. Wassell] to be a good and honest, competent orthopedic surgeon?

A. I do....

Q. If he concluded this fellow had reached maximum medical improvement with zero permanent impairment as a result of this injury in March of 2018, would you believe him?

A. Yes.

A hearing was held on December 13, 2021. At that time, the claimant contended that Dr. Wassell should have assigned a permanent impairment rating. The claimant contended that the minimum rating he was entitled to was 2% to the whole body, 5% to the lower extremity.

An administrative law judge filed an opinion on March 11, 2022. The administrative law judge found that the claimant proved he was entitled to additional medical treatment and continuing temporary total disability benefits. The respondents appeal to the Full Commission.

## II. ADJUDICATION

### A. Temporary Total Disability

An employee who has sustained a scheduled compensable injury shall receive temporary total disability benefits during the healing period or until the employee returns to work, whichever occurs first. Ark. Code Ann. §11-9-521(a)(Repl. 2012); *Wheeler Constr. Co. v. Armstrong*, 73 Ark. App. 146, 41 S.W.3d 822 (2001). The healing period is that period for healing of the injury which continues until the employee is as far restored as the permanent character of the injury will permit. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994). Whether an employee's healing

period has ended is a question of fact for the Commission. *Ketcher Roofing Co. v. Johnson*, 50 Ark. App. 63, 901 S.W.2d 25 (1995).

An administrative law judge found in the present matter, “5. Claimant proved by a preponderance of the evidence that he was entitled to temporary total disability compensation from July 23, 2018, until Claimant is released at maximum medical improvement by Dr. Tucker.” The Full Commission does not affirm this finding. The Full Commission finds that the claimant did not prove he was entitled to additional temporary total disability benefits beyond April 5, 2018, the date Dr. Wassell assessed maximum medical improvement.

As we have discussed, the parties stipulated that the claimant sustained a compensable scheduled injury on October 20, 2017. The claimant testified that he was struck in the right leg by a piece of metal. The medical evidence corroborated the claimant’s testimony. An x-ray of the claimant’s right knee on October 23, 2017 showed, among other things, a “right proximal tibial fracture.” Dr. Wassell performed an “Open reduction and internal fixation, right tibial plateau fracture” on November 1, 2017. The claimant testified that he received temporary total disability benefits following the compensable injury and resulting surgery. The claimant was also provided physical therapy following surgery. An x-ray of the claimant’s right knee on March 7, 2018 indicated that “Radiographic union is complete”

with “No evidence of hardware loosening.” Dr. Wassell opined on March 7, 2018, “At the present time we are basically at MMI (Maximum Medical Improvement).” Dr. Wassell arranged for a Functional Capacity Evaluation in order to assess the claimant’s ability to return to work.

The claimant participated in a Functional Capacity Evaluation on March 26, 2018. The evaluators asserted that the claimant put forth “unreliable effort,” and they concluded that the claimant could return to “the light classification of work.” Dr. Wassell therefore opined on April 5, 2018, “it is my medical opinion that Leonard Reed may return to work. He is at Maximum Medical Improvement.” The Commission has the authority to accept or reject a medical opinion and the authority to determine its medical soundness and probative force. *Hill v. Baptist Med. Ctr.*, 74 Ark. App. 250, 57 S.W.3d 735 (2001). The Full Commission finds in the present matter that Dr. Wassell’s opinion is corroborated by the record and is entitled to significant evidentiary weight. We find that the claimant reached the end of the healing period for his compensable scheduled injury no later than April 5, 2018. We reiterate the findings of the March 7, 2018 x-ray which indicated that “Radiographic union is complete” with “No evidence of hardware loosening.” Based on this medical evidence demonstrating that the claimant’s compensable injury had healed, Dr. Wassell credibly opined that the claimant was at Maximum Medical Improvement as of April 5, 2018.

The Full Commission interprets Dr. Wassell's credible finding of "Maximum Medical Improvement" to indicate that the claimant had reached the end of his healing period no later than April 5, 2018. Temporary total disability benefits cannot be awarded after a claimant's healing period has ended.

*Milligan v. West Tree Service*, 57 Ark. App. 14, 946 S.W.2d 697 (1997).

We find that the employee was as far restored as the *permanent character* of his injury would permit as of April 5, 2018. *Arkansas Highway & Transp. Dep't v. McWilliams*, 41 Ark. App. 1, 846 S.W.2d 670 (1993).

The Full Commission recognizes Dr. Morgan's finding on May 30, 2018 that the claimant was suffering from "acute pain" in his right knee with chronic swelling. However, persistent pain may not of itself prevent a finding that the healing period has ended, providing that the underlying condition has stabilized. *Mad Butcher, Inc. v. Parker*, 4 Ark. App. 124, 628 S.W.2d 582 (1982). The evidence in the present matter demonstrates that the claimant's underlying condition stabilized no later than April 5, 2018.

Dr. Morgan's statement on July 23, 2018 that the claimant "has been unable to return to work due to restrictions" is not probative evidence demonstrating that the claimant re-entered a healing period at any time beyond April 5, 2018, the date of maximum medical improvement. At a deposition taken May 30, 2019, Dr. Wassell reiterated his expert opinion



demonstrating that the claimant had reached maximum medical improvement on April 5, 2018.

Nor do any of Dr. Tucker's findings indicate that the claimant re-entered a healing period after April 5, 2018. Dr. Tucker reviewed an MRI on November 13, 2019 and found "1. No evidence of fracture or osseous stress of the right leg." Dr. Tucker reported on January 2, 2020, "An MRI of the right knee is available for review today and shows *no evidence of a stress fracture* [emphasis supplied]." Dr. Tucker assessed "Right knee pain," but we reiterate that persistent pain is not of itself an indication that a claimant has re-entered a healing period. *Mad Butcher, Inc., supra*. Dr. Tucker recommended that the claimant "obtain an impairment rating from the physician that originally performed the surgery." Dr. Tucker's recommendation that the claimant obtain an impairment rating is additional evidence demonstrating that the claimant did not re-enter a healing period after April 5, 2018. Permanent impairment is any functional or anatomical loss remaining *after the healing period has been reached*. *Johnson v. Gen. Dynamics*, 46 Ark. App. 188, 878 S.W.2d 411 (1994). Temporary total disability benefits cannot be awarded after a claimant's healing period has ended. *Milligan, supra*.

The Full Commission finds that the claimant did not prove he was entitled to additional temporary total disability benefits at any time following

Dr. Wassell's final assessment of maximum medical improvement on April 5, 2018.

B. Permanent Impairment

Permanent impairment is any functional or anatomical loss remaining after the healing period has been reached. *Johnson, supra*. The Commission has adopted the American Medical Association *Guides to the Evaluation of Permanent Impairment* (4<sup>th</sup> ed. 1993) to be used in assessing anatomical impairment. *See Commission Rule 34*; Ark. Code Ann. §11-9-521(h)(Repl. 2012). It is the Commission's duty, using the *Guides*, to determine whether the claimant has proved he is entitled to a permanent anatomical impairment. *Polk County v. Jones*, 74 Ark. App. 159, 47 S.W.3d 904 (2001).

Any determination of the existence or extent of physical impairment shall be supported by objective and measurable physical findings. Ark. Code Ann. §11-9-704(c)(1)(Repl. 2012). Objective findings are those findings which cannot come under the voluntary control of the patient. Ark. Code Ann. §11-9-102(16)(A)(i)(Repl. 2012). Although it is true that the legislature has required medical evidence supported by objective findings to establish a compensable injury, it does not follow that such evidence is required to establish each and every element of compensability. *Stephens Truck Lines v. Millican*, 58 Ark. App. 275, 950 S.W.2d 472 (1997). All that

is required is that the medical evidence be supported by objective medical findings. *Singleton v. City of Pine Bluff*, 97 Ark. App. 59, 244 S.W.3d 709 (2006). Medical opinions addressing impairment must be stated within a reasonable degree of medical certainty. Ark. Code Ann. §11-9-102(16)(B)(Repl. 2012).

Permanent benefits shall be awarded only upon a determination that the compensable injury was the major cause of the disability or impairment. Ark. Code Ann. §11-9-102(F)(ii)(a)(Repl. 2012). “Major cause” means “more than fifty percent (50%) of the cause,” and a finding of major cause must be established according to the preponderance of the evidence. Ark. Code Ann. §11-9-102(14)(Repl. 2012). Preponderance of the evidence means the evidence having greater weight or convincing force. *Metropolitan Nat’l Bank v. La Sher Oil Co.*, 81 Ark. App. 269, 101 S.W.3d 252 (2003).

An administrative law judge found in the present matter, “6. As Claimant proved that he remained in his healing period and unable to work, it would be premature to assess an impairment rating at this time. Therefore, the issue of permanent partial disability/PPD is held in abeyance.” The Full Commission does not affirm this finding. We have determined *supra* that the claimant reached the end of the healing period for his compensable scheduled injury no later than April 5, 2018, so that the

claimant did not prove he was entitled to additional temporary total disability benefits beyond that date.

It is the Commission's duty to translate the evidence of record into findings of fact. *Gencorp Polymer Prods. v. Landers*, 36 Ark. App. 190, 820 S.W.2d 475 (1991). The Full Commission finds in the present matter that the claimant proved he sustained permanent anatomical impairment in the amount of 12% to the right lower extremity. The parties stipulated that the claimant sustained a compensable injury to his right leg and knee on October 20, 2017. Subsequent diagnostic testing showed, "1. Comminuted RIGHT proximal tibial fracture with intra-articular extension at the lateral tibial plateau." Dr. Wassell performed surgery on November 1, 2017: "Open reduction and internal fixation, right tibial plateau fracture." The post-operative diagnosis was "Right closed displaced lateral tibial plateau fracture." Dr. Wassell opined that the claimant reached the end of his healing period no later than April 5, 2018.

The medical evidence demonstrates that the October 20, 2017 compensable injury resulted in a displaced plateau fracture of the claimant's right knee. The 4<sup>th</sup> Edition of the *Guides* at p. 3/85, Table 64, provides for a 12% impairment to the lower extremity for a "Displaced fracture." The record does not show that the claimant sustained greater than a "5°-

9° angulation” as a result of the displaced fracture which was shown in the medical records.

The Full Commission finds that the 12% impairment to the right lower extremity is supported by the 4<sup>th</sup> Edition of the *Guides*, p. 3/85, Table 64. The 12% rating to the claimant’s right lower extremity is supported by objective medical findings, namely, the post-injury diagnostic testing which showed a “displaced lateral tibial fracture.” The claimant proved by a preponderance of the evidence that the October 20, 2017 compensable injury was the major cause of his permanent anatomical impairment.

C. Medical Treatment

Finally, the 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 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 (2002). Preponderance of the evidence means the evidence having greater weight or convincing force. *Metropolitan Nat’l Bank, supra*. What constitutes reasonably necessary medical treatment is a question of fact for the Commission. *Wright Contracting Co. v. Randall*, 12 Ark. App. 358, 676 S.W.2d 750 (1984).

An administrative law judge found in the present matter, “4. Claimant proved by a preponderance of the evidence that the medical treatment of record was reasonably necessary in connection with his compensable lower right leg and knee injury of October 20, 2017. Moreover, Claimant proved by a preponderance of the evidence that future medical treatment by Dr. Tucker and Dr. Frankowski/Nurse Jarvis was reasonably necessary in connection with his compensable lower right leg and knee injury of October 20, 2017.”

The Full Commission finds that the claimant proved all of the medical treatment of record following the October 20, 2017 compensable injury was reasonably necessary in accordance with Ark. Code Ann. §11-9-508(a)(Repl. 2012). Said reasonably necessary medical treatment includes the claimant’s visits at Southern Regional Anesthesiology Consultants with Elizabeth Jarvis, APRN and Dr. Frankowski. Reasonably necessary medical treatment also includes the evaluations performed by Dr. Tucker.

As we have discussed at length, the parties stipulated that the claimant sustained a compensable injury to his right leg and knee on October 20, 2017. Dr. Wassell performed corrective surgery on November 1, 2017. Dr. Wassell opined that the claimant reached maximum medical improvement no later than April 5, 2018. The Full Commission has determined *supra* that the claimant reached the end of his healing period as

of April 5, 2018. However, it is well-settled that a claimant may be entitled to ongoing medical treatment after the healing period has ended, if the medical treatment is geared toward management of the claimant's injury.

*Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004).

Although the claimant in the present matter did not continue within a healing period beyond April 5, 2018, the evidence demonstrates that the claimant continued to suffer with chronic pain as a result of the compensable injury. Dr. Morgan referred the claimant to pain management on July 2, 2018 and noted on February 25, 2019, "He has had ongoing pain related issues with his knee." Dr. Wassell testified in a deposition taken May 30, 2019 that additional medical treatment was reasonably necessary. The claimant began treating with Elizabeth Jarvis, APRN and Dr. Gary Frankowski on September 17, 2019. The record indicates that treatment recommendations from Ms. Jarvis and Dr. Frankowski were reasonably necessary. The claimant also received injection treatment from Dr. Tucker on January 12, 2020. The claimant proved by a preponderance of the evidence that the medical treatment he received following the end of his healing period including treatment from Ms. Jarvis, Dr. Frankowski, and Dr. Tucker, was reasonably necessary.

After reviewing the entire record *de novo*, the Full Commission finds that the claimant did not prove he was entitled to additional temporary total

disability benefits. The Full Commission finds that the claimant proved he was entitled to permanent anatomical impairment in the amount of 12% to the right lower extremity. We find that the medical treatment of record, including any currently scheduled follow-up visits from Ms. Jarvis, Dr. Frankowski, and Dr. Tucker, was reasonably necessary in accordance with Ark. Code Ann. §11-9-508(a)(Repl. 2012). The claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. §11-9-715(a)(Repl. 2012). For prevailing in part on appeal, 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.

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SCOTTY DALE DOUTHIT, Chairman

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CHRISTOPHER L. PALMER, Commissioner

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M. SCOTT WILLHITE, Commissioner