

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H103763

ELIZABETH SALTO, Employee	CLAIMANT
UNIVERSITY OF ARKANSAS, Employer	RESPONDENT
PUBLIC EMPLOYEE CLAIMS, Carrier/TPA	RESPONDENT

OPINION FILED JULY 27, 2022

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

Claimant represented by EVELYN E. BROOKS, Attorney, Fayetteville, Arkansas.

Respondent represented by CHARLES MCLEMORE, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On July 11, 2022, the above captioned claim came on for hearing at Springdale, Arkansas. A pre-hearing conference was conducted on April 13, 2022 and a pre-hearing order was filed on that same date. A copy of the pre-hearing order has been marked as Commission's Exhibit #1 and made a part of the record without objection.

At the pre-hearing conference the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.
2. The employee/employer relationship existed between the parties on February 12, 2021.
3. The claimant sustained a compensable injury to her tailbone (coccyx fracture)

on February 12, 2021.

At the pre-hearing conference the parties agreed to litigate the following issues:

1. Claimant's entitlement to additional medical treatment.

The claimant contends that she is entitled to receive additional medical treatment by her authorized treating physician.

The respondents contend the claimant reported having a fall injury on February 12, 2021 which has been accepted as compensable and that the claimant has been provided all benefits to which she is entitled for her fractured coccyx tailbone injury. The respondent has provided claimant with medical treatment reasonable and necessary for the compensable injury, including March 17, 2021 and July 26, 2021 MRI studies, and treatment with Dr. Mark Miedema who treated the claimant conservatively. Dr. Miedema reviewed both MRI studies and released the claimant at maximum medical improvement on August 5, 2021 with 0% permanent impairment. The respondent was provided by respondent her one time change of physician with Dr. Kenton Hagan, whom she saw on September 8, 2021. Dr. Hagan did not take claimant off work. The claimant was paid temporary total disability benefits from April 12, 2021 until May 2, 2021, at which point Dr. Miedema released the claimant to return to work without restrictions on May 3, 2021. The claimant subsequently resigned February 28, 2022.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witness and to observe her demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

### FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at a pre-hearing conference conducted on April 13, 2022 and contained in a pre-hearing order filed that same date are hereby accepted as fact.

2. Claimant has failed to meet her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable injury.

### FACTUAL BACKGROUND

The claimant is a 42-year-old woman who began working for respondent in 2018 performing custodial work. The parties have stipulated that claimant suffered a compensable injury to her tailbone in the form of a coccyx fracture on February 12, 2021. On that date the claimant slipped on some ice while getting in a van that was to take her to a building where she was going to work.

On the date of her injury, claimant was evaluated by Amanda Bell, APRN, and was diagnosed with a bruise on her left buttocks. Claimant was instructed to use ice, take ibuprofen, and she was given work restrictions. Claimant returned to Bell on February 22, 2021 with a diagnosis of contusion of the coccyx and sacrum. Claimant was again instructed to take over the counter medications and follow work restrictions.

On February 25, 2021, claimant was evaluated by Dr. David Beck at the University's Pat Walker Health Center. Dr. Beck ordered a pelvic MRI scan and prescribed medication. The pelvic MRI scan was performed on March 17, 2021, and was consistent with an acute nondisplaced fracture. Claimant returned to Dr. Beck on March 18, 2021, and he noted that with respect to the coccyx fracture claimant was almost five

weeks into the healing process. Dr. Beck also referred claimant to the Women's Clinic for an evaluation of pelvic pain and dyspareunia.

Claimant was evaluated by Dr. Kathleen Paulson at the Women's Clinic on March 22, 2021 and she recommended an ultrasound of the claimant's pelvic area. During this time the claimant also began undergoing physical therapy for her compensable injury.

Claimant underwent the pelvic ultrasound on March 13, 2021 and it was read as showing the following impression:

1. The endometrial stripe measures 2.2 cm which can be correlated with the phase patient's menses.
2. There is a 1.5 cm leiomyoma in the lower uterine segment.

Dr. Beck referred claimant to Dr. Mark Miedema, an orthopedist at Ozark Orthopaedics. Claimant's initial evaluation with Dr. Miedema occurred on April 29, 2021 and he indicated that claimant's pelvic MRI from March 17 was consistent with an acute nondisplaced fracture. He noted that this fracture would continue to heal and that they typically took six to twelve weeks to heal. Dr. Miedema recommended that claimant undergo a ganglion impar block for diagnostic and therapeutic purposes. He also noted that claimant had not reached maximum medical improvement but that she could return to work without restrictions. He indicated that he did not expect claimant's injury to result in surgery or permanent impairment.

Claimant underwent the block on July 1, 2021, and returned to Dr. Miedema on July 15, 2021. In his report of July 15, Dr. Miedema noted that the block had provided limited relief. Since claimant had not improved he ordered an updated MRI scan.

Claimant's second MRI scan of her pelvis occurred on July 26, 2021, with no

evidence of a fracture seen. Claimant returned to Dr. Miedema on August 5, 2021, and he noted that the most recent MRI scan was normal with resolution of the edema previously seen and no evidence of a fracture. He further stated that claimant had reached maximum medical improvement and that claimant had not suffered any permanent impairment. He indicated that claimant could continue to work without restrictions.

Following her release by Dr. Miedema, claimant received a change of physician to Dr. Kenton Hagan at Advanced Orthopaedic Specialists. Claimant was evaluated by Dr. Hagan on September 8, 2021, and he noted that he did not have the benefit of the claimant's MRI scans or Dr. Miedema's records. He diagnosed claimant's condition as sacral spondylosis and recommended conservative treatment with physical therapy and medication. Claimant testified that she underwent three physical therapy treatments in September and October 2021.

Claimant did not receive any additional medical treatment from Dr. Hagan, but instead at the suggestion of her family had telephone visits with Dr. Francisco Avalos at the La Sagrada Familia Medical Clinic in Cicero, Illinois. Dr. Avalos assessed claimant's condition as a coccyx fracture and indicated that she needed to receive follow-up care from an orthopedist for possible surgery. Medical records indicate that claimant had telephone visits with Dr. Avalos on four occasions, October 2, 2021; October 7, 2021; November 2, 2021; and January 22, 2022. At the time of the last visit Dr. Avalos was recommending an MRI scan and a referral to an orthopedist.

Claimant has filed this claim contending that she is entitled to additional medical treatment for her compensable injury.

## ADJUDICATION

Claimant contends that she is entitled to additional medical treatment for her compensable injury. Claimant has the burden of proving that she is entitled to additional medical treatment. *Dalton v. Allen Engineering Co.*, 66 Ark. App. 201, 989 S.W. 2d 543 (1999). 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 meet her burden of proof.

First, I note that Dr. Beck has described claimant's complaints as inconsistent and perplexing.

### Dr. Beck's report of February 25, 2021

Pt's degree of pain & extensive area of pain – to include inside of pelvis – seems inconsistent with the mechanism of her injury, but does raise the possible issues of internal hematoma? or pelvic organ damage? or associated nerve injury?

### Dr. Beck's report of March 18, 2021

Pt's degree of pain & extensive area of pain – to include inside of pelvis – is still perplexing, but her MRI findings are reassuring, except for Coccyx fracture, which is now almost 5 weeks into the healing process.

### Dr. Beck's report of April 9, 2021

Her continued degree of physical pain almost 8 weeks after her injury is perplexing, as it does not fit the pattern of her only known injury – Coccyx fracture & low back contusion.

(Emphasis added.)

Because of claimant's inconsistent complaints, Dr. Beck ordered the initial MRI scan which did reveal a fracture of the coccyx but because of her continued complaints

he also referred claimant to Dr. Miedema. Dr. Miedema treated claimant with a block, medication, and continued physical therapy. Dr. Miedema eventually ordered a second MRI scan which was performed on July 26, 2021, and indicated that the coccyx fracture had healed. Based upon the healing of the coccyx fracture, Dr. Miedema in a report of August 5, 2021 indicated that claimant had reached maximum medical improvement and that claimant had suffered no permanent impairment and could continue to work without restrictions.

After her release by Dr. Miedema, claimant was evaluated by Dr. Hagan as a result of a change of physician request and she also had telephone visits with Dr. Avalos at a clinic in Cicero, Illinois. With respect to Dr. Avalos, I note that he never physically examined the claimant but instead only talked to claimant over the telephone. He also recommended an MRI scan and follow up care from an orthopedist. However, claimant had already undergone two MRI scans and had received treatment from an orthopedist.

Significantly, neither Dr. Avalos nor Dr. Hagan had the benefit of reviewing claimant's MRI scan of July 24, 2021, which revealed that her coccyx fracture had healed. Specifically, Dr. Hagan indicated that he did not have either the claimant's MRI scan or Dr. Miedema's medical records for review.

Based upon the foregoing evidence, I find that the opinion of Dr. Miedema is entitled to greater weight than the opinions of Dr. Hagan and Dr. Avalos. First, Dr. Miedema is a specialist as opposed to Dr. Avalos who is a general practitioner. Furthermore, Dr. Miedema had access to the most recent MRI scan which revealed that claimant's coccyx fracture had healed. There is no indication that either Dr. Hagan or Dr. Avalos had access to that MRI scan revealing that the fracture had healed. Accordingly,

I find that the opinion of Dr. Miedema is entitled to great weight and find that based upon his opinion that claimant has failed to meet her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable injury.

ORDER

Claimant has failed to meet her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable injury. Therefore, her claim for compensation benefits is hereby denied and dismissed.

Respondent is responsible for payment of the court reporter's charges for preparation of the hearing transcript in the amount of \$427.90

IT IS SO ORDERED.

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GREGORY K. STEWART  
ADMINISTRATIVE LAW JUDGE