

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H207304

MICHAEL SCHNEIDER, Employee	CLAIMANT
HILAND DAIRY FOODS CO., LLC, Employer	RESPONDENT
CCMSI, Carrier	RESPONDENT

OPINION FILED OCTOBER 7, 2025

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Springdale, Washington County, Arkansas.

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

Respondents represented by ERIC NEWKIRK, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On July 15, 2025, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on April 14, 2025, and a Pre-hearing Order was filed on April 15, 2025. A copy of the Pre-hearing Order has been marked Commission's Exhibit No. 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 this claim.
2. The relationship of employee-employer-carrier existed between the parties on September 28, 2022.
3. The claimant sustained a compensable right thumb injury on or about September 28, 2022.

By agreement of the parties the issues to litigate are limited to the following:

1. Whether Claimant is entitled to additional medical treatment for his compensable right thumb injury.

The claimant's contentions are as follows:

“Claimant contends he is entitled to medical treatment for his right thumb as recommended by Dr. Dougherty in the form of injections. Claimant reserves all other issues.”

The respondents' contentions are as follows:

“1. The Respondents contend that all reasonably necessary medical treatment has been and continue to be provided for the Claimant's right thumb injury. However, the proposed PRP/fat injections are experimental in nature and not reasonably necessary medical treatment. Thus, medical treatment in the form of PRP/fat injections are not owed in connection with this claim pursuant to Arkansas law. More specifically, Claimant can cite no case whatsoever whereby such injections have been allowed by the Arkansas Workers' Compensation Commission and deemed to be reasonably necessary medical treatment.

2. By way of alternative contention, the Respondents plead an offset for any group medical insurance benefits paid on behalf of the Claimant.”

The claimant in this matter is a 42-year-old male who sustained a compensable injury to his right thumb on September 28, 2022. The claimant has asked the Commission to determine whether he is entitled to additional medical treatment for his compensable right thumb injury. At the hearing in this matter the claimant described how he sustained a compensable right thumb injury as follows:

Q And did you have an injury in September of 2022?

A I did.

Q What happened to your right hand?

A It got caught in between the cooling bed and a bar. And I usually got a clutch on it where you can release it and it didn't. It had been tightened down, so I had to rip it out.

Q Rip out the clutch or your hand?

A My hand.

Q And what kind of damage was done to your hand?

A It cut my tendon and snapped my thumb.

Q And did you go to the emergency room for that?

A Yes. I clocked out and drove to the emergency room.

The claimant has since his September 28, 2022, compensable injury undergone extensive medical treatment regarding his right thumb. The claimant's treatment has included four different surgical interventions into his right thumb by several different physicians. The claimant's first surgery was performed by Dr. Matthew Coker on the day of his injury. The second surgery was performed by Dr. Jeffrey Johnson on October 7, 2022. His third surgery was to remove hardware in his thumb which was performed by Dr. Patrick Brannan on November 10, 2022. In Dr. Brannan's progress note dated December 1, 2022, he provides a brief summation of the claimant's first three surgeries as follows:

History:

Patient is a 39-year-old male here for follow-up of his right thumb. He underwent open reduction and pinning on 28 September after a crush injury and then subsequently ELP repair 7 October. His last visit his pins were removed. Specifically pins were removed on the 10th November rough 6 weeks post injury. Currently today he still has no use of his right hand. Specifically the based on restrictions.

On February 24, 2023, Dr. Brannan performed a fourth surgery on the claimant's right thumb. Following is a portion of that operative report:

PREOPERATIVE DIAGNOSES:

1. Right thumb metacarpal nonunion.
2. Right thumb chronic extensor pollicis longus recurrent tear.

POSTOPERATIVE DIAGNOSES: Same

OPERATION:

1. Open reduction, internal fixation right thumb metacarpal with local bone grafting.
2. Right thumb extensor indicis proprius to extensor pollicis longus tendon transfer.

On June 19, 2023, the claimant was seen by Dr. Brannan. Following is a portion of that medical record:

History of Present Illness:

Michael Schneider is a 40 y.o. male here for follow-up of left thumb. Status reduction internal fixation of bone grafting of the thumb metacarpal nonunion. Date of surgery 24 February. Additionally has been using a bone stimulator as well as been successful in doing well with smoking since cessation. Still attending occupational therapy. Also had a EIP and EPL tendon transfer.

Plan

Michael Schneider is a 40 y.o. male
Overall from a functional standpoint he continues to improve. He has shown reasonably good compliance with the bone stimulator. He continues to be compliant with smoking cessation. Clinically he feels better and radiographically it appears he is healing I suspect will be good radiographically healed in 6-8 weeks. Advanced his left back number the 20 lb. At the conclusion we will definitely get an impairment rating. Maximum medical improvement in 6-8 weeks. We will discuss later whether to obtain an FCE. Provide referral to occupational therapy to extend therapy 1 to 2 times a week times and additional month.

On July 20, 2023, the claimant was seen by Dr. Brannan. Following is a portion of the medical records from that visit:

Plan:

Patient is looking good at this point. I think we have now gotten healed. He can perform activity as tolerated. No restrictions for

work. He is now at maximum medical improvement. No doubt his thumb is not perfect. The EIP to ELP tendon transfer is not adding a lot from a functional standpoint. My guess is the tendons probably scarred in the region where his fracture in fixation is. Hopefully over time this will get a little bit better. He needs to go ahead and get an impairment rating at this point. No FCU required. All see him back after his impairment rating.

Dr. Brannan returned the claimant to work without restrictions and sent him for an impairment evaluation at that time.

On November 6, 2024, the claimant began to see Dr. Christopher Dougherty. The claimant was asked on direct examination about the gap in time between the end of his treatment with Dr. Brannan and the start of his treatment with Dr. Dougherty as follows:

Q Now, Dr. Brannan, according to our medical records, last saw you it looks like in July of 2023. Do you think that is true?

A Sounds about right.

Q And then you saw Dr. Dougherty in 2024?

A November, I believe.

Q Yes, November of 2024. Why was there that delay in between Dr. Brannan and Dr. Dougherty?

A He said it would get better and I just wanted to give it time, but it just wasn't getting better. And just more pain, so I just wanted to figure something out, how to help this out.

Following is a portion of the medical report from the claimant's November 6, 2024, visit with Dr. Dougherty:

Problems

Reviewed Problems:

*Osteoarthritis of proximal interphalangeal joint – Onset: 11/06/2024

*Closed fracture of thumb metacarpal – Onset: 11/06/2024, Right

Assessment/Plan

Patient presents today with right hand pain that follows a work-related injury on 9/28/2022. His hand was stuck in a piece of machinery and caused a fracture of the first metacarpal and severing of the flexor tendons. He had an ORIF on 9/28/2022 followed by 4 more surgeries to fix the failed ORIF and reattach the tendon. He has been taking ibuprofen to get some relief but continues to have pain and limited range of motion.

He would benefit from PRP or a fat injection to help with persistent pain due to his osteoarthritis.

Osteoarthritis of proximal interphalangeal joint

M15.2: Bouchard's nodes (with arthropathy)

M25.541: pain in joints of right hand

XR, HAND 3 OR MORE VIEW

Side: RIGHT view (X-RAY HAND); AP, Lateral, Oblique

XR, HAND, 3 OR MORE VIEW

Side: RIGHT, Views (X-RAY, HAND), AP, Lateral, Oblique

Result: Well healed fracture of first metacarpal with hardware in place.

On June 2, 2025, the claimant's attorney wrote Dr. Dougherty a letter which is found at Claimant's Exhibit 1, page 58. That letter addresses the claimant's osteoarthritis and its relation to the claimant's work accident. Dr. Dougherty writes a small note on the bottom right hand of that letter and signs it, "Osteoarthritis is post-traumatic due to work accident." That note is dated June 11, 2025.

The claimant has asked the Commission to determine whether he is entitled to additional medical treatment for his compensable right thumb injury. The claimant's contentions specifically discuss the injections recommended by Dr. Dougherty.

Employers must promptly provide medical services which are reasonably necessary in connection with the compensable injuries, Ark. Code Ann. §11-9-508(a). However, injured employees have the burden of proving by a preponderance of the evidence that medical treatment

is reasonably necessary. *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004). What constitutes reasonable and necessary medical treatment is a fact question for the Commission, and the resolution of this issue depends upon the sufficiency of the evidence. *Gansky v. Hi-Tech Engineering*, 325 Ark. 163, 924 S.W.2d 790 (1996).

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

Without question, the claimant has had extensive medical treatment in the form of surgical intervention, occupational therapy, and even bone stimulation treatment. The medical records and testimony of the claimant agree that the claimant has been compliant with his treatment plans even to the point of tobacco cessation. At the hearing in this matter the claimant gave testimony about his continued problems after being released to return to work as follows:

On direct examination:

Q So when you get back to Hiland Dairy, what kind of work were you doing?

A I went back to maintenance.

Q And did you have any trouble doing that with your hand?

A I did. I couldn't – like nuts and stuff, I couldn't feel them. I couldn't grab things like I used to. I had to learn to do everything with my left hand.

Q Were you having any range of motion problems with your right hand?

A I was.

Q Can you describe what that was?

A Well, just like gripping things, you know, like I say, numbness and trying to put bolts and screws together, it just made it very difficult.

Q Were you able to make a tight fist?

A No. Still can't.

Q And why not?

A Restrictions. It just won't go down.

Q And when you say it won't go down, what are you talking about?

A Like this one will go down; that one won't (indicating).

Q Okay. Are you talking about your thumbs?

A My thumbs.

Q Okay. And are you still working with Hiland Dairy?

A I am not.

Q Who do you work for now?

A American AC & Mechanical.

Q And what do you do there?

A I am a plumber and a welder.

Q All right. And does your right hand give you any trouble with your welding or your plumbing?

A It does.

Q What kind of trouble?

A Holding a stringer to weld, I can't grip as long as I used to be able to. You know, I am constantly stopping and I shouldn't be. As far as like sanding – because of my wrist, too – sanding the copper and all of that, it just slows me way down.

On cross examination:

Q As far as the grip strength and things of that nature, there is nothing in his report or the literature that I have read to indicate that it would help the grip issues, but there is something you believe that it would help the grip issues?

A That is my understanding, that it would.

Q Is it your hope or your understanding?

A My hope and my understanding.

Q All right. Do you recall that I guess in May of 2024 when you had last been to Dr. Brannan that you were doing well and he was very pleased with where you stood at that point in 2024?

A Yes. He was pleased with the healing.

Q Okay. And then you decided to get a change of physician to Dr. Dougherty after that?

A Yes. After a year.

Q After he released you to return to work?

A Yes.

On re-direct examination:

Q Again, I don't want to know what he said, but had Dr. Brannan offered you other options for treatment once he released you?

A He did not.

Q Do you think if you had less pain in your right hand that you could move it more?

MR. NEWKIRK: Objection. Speculation, Your Honor.

MS. BROOKS: Well, that is what he thinks about his own hand, Your Honor.

MR. NEWKIRK: It is asking him to speculate. Kind of asking for a medical opinion as well.

THE COURT: I am going to give you the same little bit of rope I gave him.

Q [BY MS. BROOKS]: Do you remember the question?

A I believe it would help me.

Q I am sorry, what?

A I believe it would help.

Q Okay. And again, were you able to talk do Dr. Dougherty about the goals of these injections?

A Yes.

Q And do you feel like you want these injections?

A I believe him enough that, yes, I do.

Dr. Dougherty is recommending treatment for the claimant's osteoarthritis in his right thumb due to his compensable right thumb injury. That treatment, as stated in his November 6, 2024, record, is "PRP or a fat injection to help with persistent pain due to his osteoarthritis." Both parties have submitted articles regarding PRP (platelet-rich plasma). I find neither article more persuasive than Dr. Dougherty, a well-known orthopedist in Northwest Arkansas' recommendation for injection. The article provided by the respondent does include information that PRP is not FDA approved; however, no party has provided the Commission with a citation or statute that prohibits non-FDA approved medical treatment. The claimant has gone through much medical treatment, given his thumb time to heal, and yet I find he still needs treatment. I find that the treatment offered by Dr. Dougherty to be reasonable and necessary medical treatment for the claimant's compensable right thumb injury.

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 his 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 the pre-hearing conference conducted on April 14, 2025, and contained in a Pre-hearing Order filed April 15, 2025, are hereby accepted as fact.

2. The claimant has proven by a preponderance of the evidence that he is entitled to additional medical treatment for his compensable right thumb injury; specifically, the treatment recommended by Dr. Dougherty in his November 6, 2024, medical report regarding the claimant.

ORDER

The respondents shall pay for medical expenses associated with the claimant's compensable right thumb injury; specifically, injections recommended by Dr. Dougherty in his November 6, 2024, medical report regarding the claimant.

Pursuant to A.C.A. §11-9-715(a)(1)(B)(ii), attorney fees are awarded "only on the amount of compensation for indemnity benefits controverted and awarded." Here, no indemnity benefits were controverted and awarded; therefore, no attorney fee has been awarded. Instead, claimant's attorney is free to voluntarily contract with the medical providers pursuant to A.C.A. §11-9-715(a)(4).

If they have not already done so, the respondents are directed to pay the court reporter, Veronica Lane, fees and expenses within thirty (30) days of receipt of the invoice.

IT IS SO ORDERED.

**HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE**