

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. **H006753**

JACOB M. SHOTMAN, EMPLOYEE	CLAIMANT
WILBERT FUNERAL SERVICES INC., EMPLOYER	RESPONDENT
GALLAGHER BASSETT SERVICES INC., CARRIER/TPA	RESPONDENT

OPINION FILED **APRIL 24, 2026**

Hearing before ADMINISTRATIVE LAW JUDGE JOSEPH C. SELF in Fort Smith, Sebastian County, Arkansas.

Claimant represented by MICHAEL L. ELLIG, Attorney, Fort Smith, Arkansas.

Respondents represented by MELISSA WOOD, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On March 2, 2026, the above captioned claim was submitted in lieu of a hearing for decision pursuant to the parties' mutual agreement based on the stipulated record. A pre-hearing conference was conducted on January 8, 2026, 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 this claim.
2. All prior Opinions are *res judicata*.
3. The employee/employer/carrier relationship existed on August 29, 2020.
4. The compensation rates are \$480.00 for temporary total disability and \$360.00 for permanent partial disability.

Shotzman-H006753

The parties also stipulated that the claimant has not previously undergone an independent medical evaluation for pain management, nor has he previously undergone an independent psychological evaluation.

The issues in the prehearing order were:

1. Respondents' request for an independent medical examination by Dr. Carlos Roman.
2. Claimant's entitlement to an independent psychological examination.

All other issues are reserved by the parties.

The claimant contended that "The claimant is entitled to an independent physiological examination."

The respondents contended that "All appropriate benefits are being paid with regard to claimant's lower back injury sustained on August 29, 2020. Claimant has undergone multiple surgeries with Dr. James Blankenship, none of which appear to have been successful. Dr. Blankenship has not recommended a spinal cord stimulator, and claimant did not pass the necessary neuropsychic evaluation to obtain the same. Respondents are requesting an IME with Dr. Carlos Roman to address the multiple medications claimant is currently being prescribed to determine whether those medicines are reasonable and necessary. This IME is being requested pursuant to ACA §11-9-511 and §11-9-811. Respondents contend that the IME is reasonable and necessary and request an Order for claimant to attend the same with Dr. Roman. Claimant has requested an independent psychological evaluation. Claimant has already undergone one with Dr. Richard Back who determined that he is not a candidate for a spinal cord stimulator. There are no conflicting opinions on this issue, and an IPE is not reasonable and necessary."

From a review of the entire record including medical reports, documents, and other matters properly before the Commission, and having reviewed the previous orders in this matter, 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 January 8, 2026, and contained in a pre-hearing order filed on that same date are hereby accepted as fact, as are the stipulations announced subsequent to the pre-hearing order.
2. Claimant's request for an independent psychological evaluation is granted.
3. Respondents' request for an independent medical evaluation is granted.

FACTUAL BACKGROUND

This matter has a long history, including two previous hearings. The relevant finding from my July 1, 2021, opinion to this current matter was that claimant met his burden of proof by a preponderance of evidence that he was entitled to additional medical treatment from Dr. James Blankenship. On July 11, 2024, I found claimant had again met his burden of proof by a preponderance of evidence that he was entitled to additional medical treatment from Dr. James Blankenship for his back injury.

REVIEW OF THE EXHIBITS

In addition to the joint medical exhibit of 78 pages, Commission exhibit #1 is the prehearing order; the email exchange between the parties and the court as the decision was made to submit this on a stipulated record is Commission exhibit #2.

ADJUDICATION

The question to be decided is whether the parties' cross-requests for independent medical examinations are reasonable and necessary in this matter.

Shotzman-H006753

Arkansas Code Annotated section 11-9-511(a) provides, in relevant part:

An injured employee claiming to be entitled to compensation shall submit to such physical examination and treatment by another qualified physician, designated or approved by the Workers' Compensation Commission, as the Commission may require from time to time if reasonable and necessary. The threshold question is whether the examination is reasonable and necessary. (Emphasis added.)

11 C.A.R. § 25-125 (formerly Rule 099.30(1)) of the Arkansas

Workers' Compensation Commission provides:

An independent medical examination shall include a study of previous history and Medical Care information, diagnostic studies, diagnostic x-rays, and laboratory studies, as well as an examination and evaluation. This service may be necessary in order to make a judgment regarding the current status of the injured or ill worker, or to determine the need for further health care. (Emphasis added.)

Regarding claimant's request for an independent psychological examination, I note that Dr. Richard Back performed a pre-surgical psychology evaluation on April 16, 2025 (Exhibits 65-67). Dr. Back did not clear claimant for a spinal cord stimulator. However, significant clinical developments occurred between that evaluation and Dr. Blankenship's August 7, 2025, chart note questioning Dr. Back's findings (Exhibits 73-78), including an August 4, 2025, lumbar MRI documenting spinal stenosis and post-laminectomy syndrome (Exhibit 72) plus new 'right quad and hip flexor weakness... 4/5 strength' attributed to implant extrusion. Dr. Back's evaluation was limited to stimulator candidacy. After reviewing all records, I find a second psychological IME is reasonable and necessary to determine appropriate care at this time. This matter will be referred to the Medical Cost Containment Division.

Turning now to respondents' request, they seek an IME by Dr. Carlos Roman to evaluate claimant's physical condition and medication regimen following multiple failed surgeries. The joint exhibits amply demonstrate ongoing issues, including 6-10/10 lumbar pain with positive right SLR

Shotzman-H006753

(Exhibit 1); Dr. Blankenship's documentation of hip flexor/quad weakness (Exhibits 59-64, 73-78); the August 4, 2025, MRI showing spinal stenosis/post-laminectomy syndrome (Exhibit 72); and failed conservative measures including PT and ESI.

Given this claim's protracted history since the 2020 injury, including three lumbar fusions (L5-S1 May 2022; L4-L5 April 2023, September 2024 with implant extrusion), I find the request reasonable and necessary as it could benefit the Commission in determining what care is appropriate. However, I decline to appoint Dr. Roman to serve in this capacity; this matter will also be referred to the Medical Cost Containment Division for the selection of an independent medical evaluator.

ORDER

Claimant's request for an independent psychological examination is granted. This matter will be referred to the Medical Cost Containment Division of the Commission to select an appropriate physician.

Respondents' request for an Independent Medical Examination is granted. This matter will be referred to the Medical Cost Containment Division to select an appropriate physician.

The cost of these examinations is to be borne by respondents, including mileage for claimant's travel. The parties should provide the physicians selected by the Medical Cost Containment Division the medical records, including any diagnostic testing previously performed, in order for those physicians to have a complete record of what has transpired to this point. If either physician selected believes additional diagnostic procedures are necessary to properly evaluate the claimant, such should be promptly authorized by respondents.

The parties shall cooperate promptly in scheduling these examinations.

Shotzman-H006753

IT IS SO ORDERED.

JOSEPH C. SELF
ADMINISTRATIVE LAW JUDGE