

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO.: H403560

TODD SMITH, EMPLOYEE

CLAIMANT

CGI FEDERAL, INCORPORATED,
EMPLOYER

RESPONDENT

TRAVELERS INSURANCE COMPANY/
FARMINGTON CASUALTY COMPANY,
CARRIER/TPA

RESPONDENT

OPINION FILED FEBRUARY 9, 2026

Hearing held before Administrative Law Judge Chandra L. Black, in Little Rock, Pulaski County, Arkansas.

Claimant represented by the Honorable Gregory Giles, Attorney at Law, Texarkana, Arkansas.

Respondents represented by the Honorable Jason M. Ryburn, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On November 26, 2025, the above-captioned claim came on for a hearing in Little Rock, Arkansas. Previously, on September 17, 2025, I conducted a pre-hearing telephone conference with the parties. A Pre-hearing Order was entered that same day pursuant to the telephone conference. Said order was admitted into evidence along with the parties' pre-hearing information filings without objection and marked as Commission's Exhibit 1.

Stipulations

During the pre-hearing telephone conference, and/or at the hearing, the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of the within claim.

2. The employee-employer-insurance carrier relationship existed among the parties on or about April 22, 2024, when the Claimant sustained a compensable injury to his lumber spine.
3. At the time of the Claimant's compensable injury, he earned a yearly salary of \$56,000. His average weekly wage was \$1,076.92, which entitles him to weekly compensation rates of \$718.00 for temporary total disability, and a permanent partial disability rate of \$539.00.
4. All issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.
5. This claim for additional benefits has been controverted by the Respondents.

Issues

By agreement of the parties, the issues to be litigated at the hearing were as follows:

1. Whether the Claimant is entitled to unpaid temporary total disability compensation from July 4, 2024, until August 18, 2024.
2. Whether the Claimant is entitled to additional medical treatment.
3. Whether the Claimant is entitled to a 5% permanent partial disability rating.
4. Whether the Claimant's attorney is entitled to a controverted attorney's fee on the indemnity benefits awarded pursuant to the hearing.

Contentions

The Claimant's and the Respondents' contentions are listed below:

Claimant:

The Claimant contends entitlement to temporary total disability benefits from July 3, 2024, to August 18, 2024. The Claimant contends that the medical treatment he has received to date has been reasonable, necessary, and related to such that the Respondents should be ordered to pay for same including treatment with Dr. Shahim, unpaid mileage and out-of-pocket expenses. The Claimant contends entitlement to at least a five (5%) percent impairment rating associated with his compensable injury, and associated attorney's fees.

Respondents:

The Respondents contend that all reasonable and necessary benefits have been paid. The Claimant suffers from pre-existing conditions, the major cause of which was not his activities.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, including the medical reports, the documentary evidence, and other matters properly before the Commission, and after having had an opportunity to listen to the Claimant's testimony and observe his demeanor, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The proposed stipulations set forth above are reasonable and hereby accepted.
3. The Claimant prove by a preponderance of the credible evidence his entitlement to temporary total disability benefits from July 4, 2024, through August 18, 2024.
4. The Claimant proved by a preponderance of the evidence that all of the medical treatment of record that he received for his compensable back injury has been reasonable and necessary, and related to his injury, such that the Respondents are liable for payment of said treatment with Dr. Reza Shahim, Dr. Timothy Burson, Dr. Mark Lefler, unpaid mileage, and out-of-pocket expenses.
5. The Claimant proved by a preponderance of the evidence he sustained a 5% permanent partial impairment due to his compensable back injury of April 22, 2024.
6. This claim for additional benefits has been controverted by the Respondents.
7. The Claimant's attorney is entitled to a controverted attorney's fee on the indemnity awarded herein this Opinion.

8. All issues not litigated herein or addressed in this Opinion are reserved under the Arkansas Workers' Compensation Act.

Summary of Evidence

The sole witness was the Claimant, Mr. Todd Smith.

The record consists of the hearing transcript of November 26, 2025, and the exhibits held therein. In addition to the Pre-hearing Order discussed above, the exhibits admitted into evidence in this case include Claimant's Exhibit 1 consisting of 10 pages of the Medical Exhibit Abstract; Claimant's Exhibit 2 comprising of 107 numbered pages of the Claimant's Medical Records; Claimant's Exhibit 3 entails a one page Non-Medical Documentary Exhibit; Respondents' Exhibit No. 1 comprising of seven pages of Non-Medical Documentary Exhibit; and Respondents' Exhibit 2 consisting of three pages of Non-Medical Documentary records.

Testimony

On the date of the hearing, the Claimant was 57 years old. He is a high school graduate. According to the Claimant, he holds a college degree in Business Management from Trinity University. The Claimant confirmed that he has worked for the respondent-employer/CGI Federal, Incorporated, January 2, 2019. The Claimant testified that they oversee federal contracts for the United States involving passports. CGI is based out of Hot Springs, Arkansas. The Claimant is a Production Supervisor. At the time of his compensable accidental injury in April 2024, the Claimant's annual salary was \$56,000.00. However, the Claimant testified that currently his annual salary is approximately \$58,000.00.

The Claimant previously worked for Walmart for two-and-one-half years. Prior to that, the Claimant worked at Xerox, in Hot Springs, for 26 years. The Claimant confirmed that he has never had a prior workers' compensation claim. He denied any prior issues with his back. The

Claimant further denied that he had any prior issues with his back injury or had any kind of back injury or back treatment whatsoever.

At the time of the Claimant's injury on April 22, 2024, his regular shift hours were 6:00 a.m. to 3:00 p.m. The Claimant testified that his injury occurred early that morning around 6:15 or 6:20: a.m. He agreed that the Respondents acknowledged and admitted that he hurt himself on that date.

Specifically, the Claimant explained:

Q. ... How did you hurt yourself?

A. We was in a part of the building we call the vault which is where blank product is kept, blank product being our passport books which are preprinted so they're just -- they're black product, as we call 'em. They come in cases of 300, which is approximately 30 to 35 pounds per case, and we'd load em onto a rolling lockable cage. They were stacked on the floor seven cases high, and when I went down for the very last case on the floor, I was bent all the way down, lifted the box, and when I twisted to put it on the bottom shelf of that -- the rolling cage, that's when I just felt a - - like it kinda got punched in the back.

The Claimant essentially testified that immediately, the pain hit in his lower left back. He admitted that he was able to continue working the remainder of the day, but he did not lift any more. The Claimant verified that he reported what had happened to him to his supervisor. His employer made an appointment for him to be seen the following day on April 23, at the First Care Walk-in-Clinic. At that time, the Claimant reported that he had pain radiating into his left leg with numbness in his leg and feet associated with symptoms of tingling. He confirmed that his pain changed from the time that the incident happened to the next day. According to the Claimant, over the next 24 hours his pain started moving into his hip and all the way down his left leg. At that point, the Claimant decided that he needed medical treatment. He confirmed that management made an appointment for him to be evaluated.

The Claimant was initially seen at First Care Walk-in Clinic. At that time, the Claimant complained of pain in his left leg. They gave the Claimant an injection, and prescriptions for Tizanidine and Dexamethasone. X-rays were ordered for his left leg. The Claimant denied that he missed work during this time. Instead, the Claimant took personal leave rather than drawing workers' compensation benefits. The Claimant agreed that he was seen at the walk-in clinic over the next week or so, but his symptoms did not improve. He confirmed that they ordered an MRI of his leg because at that time, he was having significant problems with it. After his left leg was eliminated, they followed up with an MRI of his lower back. He was also referred for formal sessions of physical therapy treatment. According to the Claimant, over a five-week period he had 10 sessions of therapy at a place called Steadman's Physical Therapy, located in Hot Springs.

He denied that he received any relief of his symptoms with the physical therapy sessions. The Claimant was asked to describe the nature of his symptoms, and he replied: "Just left – major pain in the left leg that felt more like fire and pins and needles." Per the Claimant, at that point he had difficulty walking and had to use assistive devices because he needed support for his left leg. The Claimant testified that he initially began using a walker and then he eventually went to a cane. He admitted that the cane was not prescribed by a physician.

Following the lumbar spine MRI results and because the Claimant had continuing symptoms, he was referred for evaluation by a specialist, Dr. Reza Shahim. He verified that the workers' compensation carrier paid for all his treatment provided through the walk-in-clinic visits and the physical therapy sessions.

The Claimant confirmed that he initially saw Dr. Shahim on June 24, 2024, and he reviewed the MRI results with him. At that point, Dr. Shahim recommended back surgery in the form of "a

discectomy at L3-4,” and started the Claimant on a medication regimen of Neurontin and Meloxicam. The Claimant verified that the surgery was not authorized.

Subsequently, the workers’ compensation carrier had the recommendation for surgery reviewed by Dr. Kimberly Terry. He denied having been evaluated by Dr. Terry. At that point, the Respondents denied the surgery. Up until that time, he had still been off work and was taking his personal leave until then. The Claimant confirmed that at that point, he was told he would have to go on short-term disability or pursue the workers’ compensation part.

On June 24, 2024, Dr. Shahim wrote an off work note for the Claimant to be off work over the next four weeks. The Claimant testified that he was paid workers’ compensation benefits during this time period, up until around July 3, 2024. The Claimant confirmed that at that point his physical therapy had ended as of June 20, 2024. However, he continued to follow up with Dr. Shahim. He confirmed that he saw Dr. Shahim for two more visits, which occurred on July 10, and July 22, 2024. The Claimant testified that he had to pay \$350.00 for the July 22 visit out of his pocket. He verified that he has unpaid mileage of 120 plus miles for that visit. The Claimant also testified that he has unpaid mileage for trips to Drs. Shahim, Lefler, and Burson. This information is shown on pages 94 through 98 of the Claimant’s exhibit.

According to the Claimant, during the time that Dr. Shahim was recommending surgery, he wanted the surgery because his pain was still that great. Although the workers’ compensation carrier stopped paying the Claimant on July 3, 2024, he did not return to work. The Claimant confirmed that he remained off work until August 19. At that point, the Claimant testified that he contacted Dr. Shahim’s office and asked for a return-to-work note because they would not allow him to return back to work without it. He explained that he asked for the note to return to work because he was out of money and they would not pay him temporary total disability or authorize

the treatment. The Claimant confirmed that they let him return to work on August 19. He denied being compensated for the period that he missed work, which was beginning on July 4, 2024, through August 18, 2024.

The Claimant confirmed that he continued to take medications being prescribed by Dr. Shahim at the point that he returned to work. However, the Claimant admitted that his pain changed during the time he was not working. According to the Claimant, he was still using the cane when he returned to work, and management allowed him to use it.

Subsequently, the Claimant returned to treating his PCP/primary care physician, Dr. Lefler. He agreed that he saw Dr. Lefler on August 22. He denied that the workers' compensation claims adjuster gave him any instructions on what to do for medical treatment after they refused to pay for the surgery recommended by Dr. Shahim. He testified that once they denied the recommendation for surgery, he began seeing his Dr. Lefler on August 22. During that office visit with Dr. Lefler, he made a neurosurgical referral for the Claimant to be evaluated by Dr. George Burson. The Claimant testified that when he saw Dr. Burson, he used his personal health insurance, Cigna, which he had through his employer. Dr. Lefler completed FMLA paperwork addressing the Claimant's off work status and the time frame he had been off work dating back to when the worker's comp carrier stopped paying him. He confirmed that he took the Claimant off work from September 18, 2024, and some continuing dates on the FMLA form.

However, when the Claimant saw Dr. Burson in October of 2024, he did not recommend surgery. The Claimant admitted that when he saw Dr. Burson, he no longer had pain in his left leg, but it was still numb. He had stopped using the cane, and his ability to walk had improved. The Claimant confirmed that Dr. Burson gave him some home exercises. He confirmed that he continued to work under the restrictions given to him by Dr. Lefler at the point that he saw Dr.

Burson. The Claimant testified that he continued under those restrictions as of the date of the hearing. Said restrictions include no lifting over 10 pounds, no sitting or standing for prolonged periods of time. He confirmed that his employer continues to accommodate his restrictions.

The Claimant confirmed that he is not seeking or trying to get surgery. He confirmed that after seeing Dr. Burson and his family doctor, he has not continued to have active treatment for his back. The Claimant admitted that he has not asked the Respondents to send him to another doctor for his back.

He admitted that he did not see Dr. Calhoun for an office visit. Instead, he provided Dr. Calhoun with a copy of his MRI film. The Claimant confirmed that Dr. Calhoun assessed him a 5% impairment rating, for which he has not been compensated.

On cross-examination, the Claimant denied that he had pre-existing back problems. The Claimant did not have an explanation for the medical record, at page 3 from the First Care Walk-In Clinic on April 30, 2024, which states, “Prior back problems; lifted 26 to 30 pounds; pain started three days after that, back pain resolved, only having knee pain now.” The Claimant denied having any knowledge of this record or why they noted prior back problems. He confirmed that his pain moved from his back down his left leg. The Claimant confirmed that at first, they were checking his knee. He was not aware of a ganglion cyst in his knee, which was revealed by an MRI. The Claimant denied that he had prior problems with his left knee before April 2024.

He confirmed that both Dr. Terry and Dr. Calhoun opined based on his medical records. The Claimant denied that he was aware of Dr. Terry having stated “*This was likely an aggravation of prior degenerative disc issues.*”

The Claimant stated that between July 2024 and August 18, he was taken off work by Dr. Shahim. He admitted that since August 19, 2024, he has been continuously working.

About the recommended back surgery, the Claimant verified that he does not need surgery on his back at this time. The Claimant essentially testified that Dr. Shahim took him off work due to his back injury for four weeks. He agreed that Dr. Shahim stated on July 22 that the Claimant had a work-related injury, and not a pre-existing condition. The Claimant testified that no one had released him to return to work until Dr. Shahim gave him the release.

He confirmed that Dr. Lefler's notes are correct, which state that the Claimant has some other issues, including diabetes and neck pain. These conditions are not related to this claim. However, the Claimant specifically denied that his neck pain affected his ability to work. The Claimant further denied that his neck pain was the result of the accident. The Claimant testified that his neck pain was caused by the way he slept.

The Claimant admitted that the only time he saw Dr. Lefler relating to his back injury was between August 22 and September 17, 2024. He confirmed that the last medical notes from Dr. Lefler do not indicate he was being seen for anything relating to back.

Medical Records

On April 23, 2024, the Claimant sought medical treatment from the First Care Walk-In-Clinic due to complaints of back pain radiating to the left leg. He also complained of left knee pain. The quality of his pain was sharp, stiff, severe (8-10), and it interfered with his work. *The Claimant reported that he was injured while lifting and loading boxes that weighed 25-pound. He reported that he had no prior injury to his back.* On physical examination, the Claimant had tenderness on palpation and reduced ROM and normal lordosis and no spasms. His lumbar spine was limited, extension limited and pain with motion. The goal for treatment of the Claimant's symptoms was to resolve them with prescriptions and today's intervention. He was instructed to follow-up with his primary care physician if his symptoms worsened.

On April 30, 2024, the Claimant returned to the First Care Walk-In Clinic due to worsening lower back pain and pain in the left knee joint. The Claimant reported that the quality of his left knee pain was tingling, sharp, and worsening symptoms to the point that it interfered with his sleep. As noted during the Claimant's testimony on cross-examination, *this medical note indicates that the Claimant had prior back problems* and that *his back pain started three days ago*. The Claimant had no explanation for this entry. It appears that the prior back problems statement might have referred to the Claimant's prior complaints from his first visit on April 23. Also of note, during this visit, the Claimant reported that he had not had a prior back injury. This incorrect notation probably resulted due to a clerical error.

The Claimant returned to First Care Walk-In Clinic due to his work-related back injury on May 17, 2024, with continued complaints of low back pain and lumbar radiculopathy in his left lower leg. At that point, the Claimant had not gotten any better. As a result, the Claimant was given a referral for physical therapy and scheduled him for an MRI of his lumbar spine.

Progress notes show that the Claimant underwent formal clinic-based physical therapy treatment due to his back injury from May 21, 2024, through May 30, 2024, at Steadman's Physical Therapy. The Claimant's chief complaints were low back pain, with radiating symptoms into his left leg.

On June 4, 2024, an MRI of the Claimant's lumbar spine was done with the following impression: "Mild-moderate multilevel lumbar spine degenerative changes. Left foraminal disc protrusion at L3-L4 abuts/posteriorly displaces the existing left L3 nerve. Mild spondylotic spinal canal narrowing at L2-L3 and L3-L4."

Dr. Reza Shahim saw the Claimant on June 24, 2024, due to a chief complaint of chronic low back pain involving his lumbar spine, in the context of an injury at work on April 22, 2024.

At that point, the Claimant continued with significant proximal motor weakness and numbness in the L3-L4 distribution loss of left knee jerk proximal with weakness in the left quad. The Claimant was having to use a walker to ambulate because of proximal leg weakness. Despite 10 weeks of physical therapy and a medication regimen (including steroids and anti-inflammatory medications) the Claimant had no improvement in his symptoms. Dr. Shahim opined that the Claimant had lumbar pain with worsening acute on chronic back pain with intermittent hip and leg pain. According to this note, following his incident at work, the Claimant had axial back pain, and left hip and leg pain along with numbness. Dr. Shahim assessed the Claimant with “Intervertebral disc degeneration, lumbar,” for which he offered surgical intervention in the form of lateral extraforaminal discectomy left L3-4. However, Alternatives to surgical intervention included continuing with conservative treatment in the form of spinal injections, medications, and physical therapy.

On July 2, 2024, Dr. Kimberly Terry authored a report after reviewing the Claimant’s medical records. She opined that the Claimant likely sustained an aggravation of prior or degenerative disc issues, which caused the pain and radiculopathy. Dr. Terry also stated that the Claimant’s problems were both acute and chronic. She also agreed that the Claimant did not need any other formal medical treatment of any type, to include surgery or additional diagnostic testing.

Dr. Shahim wrote an Amendment on July 10, 2024:

I have submitted a request for a lumbar discectomy on this patient.

Request was denied so patient has undergone physical therapy already for a few weeks. So, we will request lumbar facet or lumbar epidural steroid injections which ever one is approved for reduction of radicular pain. But I suspect the patient will require surgical treatment. We will do spinal injections for now until authorization is given for surgical.

On July 22, 2024, Dr. Shahim saw the Claimant for a follow-up visit because of his back injury. Dr. Shahim wrote in this note, *On June 28, 2024, he was given the following activity guidelines: "Patient will need to take off work starting on June 24, 2024, for the next four weeks..."* Basically, the Claimant's back pain remained unchanged.

Dr. Timothy Burson saw the Claimant on October 17, 2024, for an office visit due to his back injury. At that time, Dr. Burson reviewed the MRI and the report. Dr. Burson assessed the Claimant with lumbar disc herniation. He opined that the Claimant looks to have a later disc herniation but at the writing of this medical note, the Claimant's pain was much better. Dr. Burson gave the Claimant a back exercise book and stated that he would see him back if necessary.

Per an addendum, the case was discussed with Dr. Shahim by phone on July 22, 2024, with additional clinical history of left-sided L3 radiculopathy provided. The left foraminal zone disc protrusion at L3-L4 exerts mass effect on the exiting left L3 nerve with posterior displacement and compression of the left L3 nerve. There is also a left L3-L4 far lateral disc protrusion component contributing to this process. These findings likely account for patient's left sided radiculopathy. No other change to the original report.

On October 13, 2025, Dr. Micheal Calhoun reviewed the Claimant's medical records and lumbar MRI disc dated June 14, 2024. He opined that the Claimant had a left lateral L3-4 far lateral disc herniation with impingement on the left L3 nerve root. Dr. Calhoun opined that because the Claimant suffered an unoperated lumbar disc herniation with residuals, he is awarded a 5% impairment of the whole person according to Table 75, Page 113 of the Fourth Edition of the AMA Guides to the Evaluation of Permanent Impairment.

Adjudication

A. Temporary total disability Compensation

Here, the Claimant contends that he is entitled to temporary total disability benefits for his compensable low back injury beginning July 4, and continuing until August 18, 2024, the date, Dr. Shahim released him to return to work for his back injury.

The Claimant suffered a back injury, which is an unscheduled injury. An injured employee for an unscheduled injury is entitled to temporary total disability compensation during the time that he is within his healing period and totally incapacitated from earning wages. *Arkansas State Highway and Transportation Department v. Breshears*, 272 Ark. 244, 613 S.W.2d 392 (1981). 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 allow. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994). If the underlying condition causing the disability has become stable and nothing further in the way of treatment will improve that condition, the healing period has ended. *Id.* Temporary total disability cannot be awarded after the claimant's healing period has ended.

The medical evidence (Dr. Shahim's reports) shows that the Claimant continued in his healing period beginning on the day of his injury and continuing at least until August 18, 2024. At that point, the Claimant asked to be returned to work due to financial difficulties. Moreover, this conclusion is supported by the Claimant's credible testimony regarding his inability to work due to his compensable injury during the same period of time as previously noted. He was taken off work by Dr. Shahim during this period of time in question due to his back injury beginning on June 24, 2024, for four weeks due to his inability to work due to pain and related symptoms resulting from his compensable back injury. Dr. Shahim recommended surgery on June 24. At

that point, the Respondents controverted the claim. The Claimant began treating with his primary care physician, Dr. Lefler, for his back injury. The evidence shows that the Claimant was unable to work and complained of instability in his left leg due to his back injury and required assistive devices to ambulate during the period of time in question. Ultimately, the Claimant was evaluated by Dr. Burson, and he recommended against surgery and suggested that the Claimant do some home exercises, which he did. With the passage of time and medication regimen, the Claimant's back condition improved. He requested that he be released to return to work and he did so on August 19, 2024.

Based on the foregoing, I find that the Claimant proved his entitlement to temporary total disability compensation from July 4, 2024, through August 18, 2024.

B. Medical Benefits

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) (Repl. 2012).

Reasonable and necessary medical services may include those necessary to accurately diagnose the nature and extent of the compensable injury; to reduce or alleviate symptoms resulting from the compensable injury; to maintain the level of healing achieved; or to prevent further deterioration of the damage produced by the compensable injury. *Jordan v. Tyson Foods, Inc.*, 51 Ark. App. 100, 911 S.W.2d 593 (1995).

The Claimant bears 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 (2005).

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).

After reviewing the evidence in this case impartially, without giving the benefits of the doubt to either party, I find that the Claimant has met his burden of proving that all of the medical treatment of record that he received for his back injury was reasonably necessary in connection with the injury he received on April 22, 2024. This includes the medical services provided by Dr. Shahim on July 22, 2024; the neurosurgeon evaluation performed by Dr. Burson and the medical visits he received from his primary care physician, Dr. Lefler, relating to his back. The Claimant is also entitled to be reimbursed for his mileage related to these office visits along with any associated out-of-pocket expenses. However, the Claimant admitted that he does not need continuing care for his back, and no doctor has recommended any additional medical treatment for his back injury. The Claimant successfully returned to work for the respondent-employer on August 19, 2024. Both Drs. Burson and Terry stated that the Claimant does not need surgical intervention on his back. The Claimant credibly testified that he does not need surgery on his back.

Of note, the Respondents' attorney agreed that they would withdraw the issue pertaining to unauthorized medical treatment if the Claimant's attorney would agree that the Claimant's March and June office visits with Dr. Lefler are not related to his back injury. Counsel agreed that these office visits are not unrelated to this claim. As a result, the issue of unauthorized treatment is now moot and will not be addressed. (Tr. 65-66)

C. Permanent Anatomical Impairment Rating

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).

The Commission has adopted the American Medical Association *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993) to be used in assessing anatomical impairment. See *Commission Rule 099.34 (now codified at 11 C.A.R. § 25-129)*; Ark. Code Ann. §11-9-522(g) (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 prove a compensable injury, it does not follow that such evidence is required to establish each element of compensability. *Stephens Truck Lines v. Millican*, 58 Ark. App. 275, 950 S.W.2d 472 (1997). All that is needed is that the medical evidence be supported by objective findings. *Singleton v. City of Pine Bluff*, 97 Ark. App. 59, 244 S.W.3d 709 (2006).

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 shall be established according to a preponderance of the evidence. Ark. Code Ann. §11-9-102(14) (Repl. 2012). Preponderance of the evidence means the evidence that has greater weight or convincing force. *Metropolitan Nat'l Bank v. La Sher Oil Co.*, 81 Ark. App. 269, 101 S.W.3d 252 (2003).

I am persuaded that the Claimant proved by a preponderance of the evidence that he is entitled to an award of a 5% permanent anatomical impairment due to his work-related injury of April 22, 2024, as determined by Dr. Calhoun. My review of the *Guides* comports with Dr. Calhoun's calculation. The basis for my determination of the existence of this impairment rating is outlined below.

On October 13, 2025, Dr. Michael Calhoun reported that he had reviewed the Claimant's lumbar MRI from June 14, 2024, and medical records. He opined that the Claimant suffered a left L3-4 lateral disc herniation with impingement on the left L3 nerve root. Dr. Calhoun assigned the Claimant a 5% permanent physical impairment for his work-related back injury, utilizing the *AMA Guides to the Evaluation of Permanent Impairment, Fourth Edition*. Per his medical note, Dr. Calhoun assessed the Claimant with a 5% impairment because he suffered an unoperated lumbar disc herniation, with residual symptoms. There are no expert opinions to the contrary. Dr. Calhoun's expert opinion is well reasoned and comports with my review of Table 75, page 3/113 of the *Guides*, which assigns "Whole Person Impairment Percents Due to Specific Spine Disorders." Prior to the Claimant's compensable injury of April 22, 2024, the Claimant's testimony shows that he had no history of any complaints or problems relating to his back. I found his testimony to be extremely credible in this regard. In fact, the Claimant's credible testimony regarding no prior back problems is corroborated by the lack of any medical evidence indicating a prior history of any medical treatment on his back. There is no evidence whatsoever indicating that the Claimant missed any work due to any ongoing complaints of the back and any related symptomatology. The evidence before me clearly proves that prior to his work injury, the Claimant's pre-existing degenerative disc disease was asymptomatic. I am persuaded that Dr. Calhoun's expert opinion is correct and well-reasoned, with no evidence or expert opinions to the

contrary. Therefore, I have attached significant evidentiary weight to Dr. Calhoun’s expert opinion. For these reasons, I am also convinced that the major cause of the Claimant’s 5% permanent anatomical impairment, resulted from his work-related injury of April 2024.

D. Attorney’s Fee

The parties stipulated that the respondents have controverted this claim in its entirety. As such, the Claimant’s attorney is entitled to a controverted attorney’s fee on all indemnity benefits awarded herein to the Claimant, pursuant to Ark. Code Ann. §11-9-715 (Repl. (2012)).

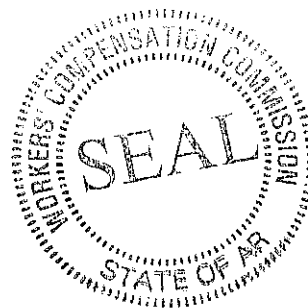
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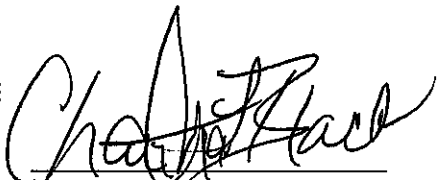
The Respondents are directed to pay benefits in accordance with the findings of fact set forth herein this Opinion.

All accrued sums shall be paid in lump sum without a discount, and this award shall earn interest at the legal rate until paid, pursuant to Ark. Code Ann. §11-9-809 (Repl. 2012). Pursuant to Ark. Code Ann. §11-9-715 (Repl. 2012), the Claimant’s attorney is entitled to a 25% attorney’s fee on the indemnity benefits awarded herein.

This fee is to be paid one-half by the insurance carrier and one-half by the Claimant.

IT IS SO ORDERED.




CHANDRA L. BLACK
Administrative Law Judge