

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H204217

TERRI SPARKS,  
EMPLOYEE

CLAIMANT

NORTH ARKANSAS COLLEGE,  
EMPLOYER

RESPONDENT

PUBLIC EMPLOYEE CLAIMS DIVISION,  
INSURANCE CARRIER/TPA

RESPONDENT

OPINION FILED JUNE 5, 2025

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

Claimant represented by the HONORABLE FREDERICK S. "RICK" SPENCER, Attorney at Law, Mountain Home, Arkansas.

Respondents represented by the HONORABLE CHARLES H. McLEMORE, JR., Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Reversed.

OPINION AND ORDER

The claimant appeals an administrative law judge's opinion filed November 19, 2024. The administrative law judge found that the claimant failed to prove she was entitled to additional medical treatment. After reviewing the entire record *de novo*, the Full Commission finds that the claimant proved she was entitled to medical treatment provided by Dr. Steffen, which reasonably necessary treatment included surgery.

I. HISTORY

Terri Hastings Sparks, now age 59, testified at a deposition of record that she sustained a nonwork-related accident in 2020:

Q. Tell me what happened.

A. I stepped on a cereal bowl of my son's and slid across the floor.

Q. When did that happen?

A. 2020.

Q. What kind of treatment did you have?

A. I had – I believe it was called a debridement.

Q. Do you remember who your doctor was?

A. Dr. Pleimann.

Q. Did that take care of the problem you were having?

A. Yes, sir.

Q. Okay. Did you do physical therapy after that?

A. Yes, sir....

Q. Did you see Dr. Pleimann after you completed the physical therapy?

A. Yes, sir.

Q. Do you remember when that was?

A. That would be – the last time I saw him for that injury was December of 2020....

Q. After you last saw Dr. Pleimann sometime in December of 2020, do you see any other doctors for your right ankle?

A. No, sir, not that I remember.

The parties stipulated that the employment relationship existed on January 12, 2022. The respondents' attorney examined the claimant at deposition:

Q. Tell me what kind of work you were doing that day.

A. When I fell, I was unlocking the doors to come into the office to start my day....There's two doors. I was in between the exterior, and then the next one that you walk into to get into the Learning Center....

Q. How did you hurt yourself?

A. Coming in between the first door that I opened and the second door, somehow I tripped on – you know that black mats that are in front of business?

Q. Yes.

A. I tripped over the black mat....

Q. What part of your body was hurt?

A. My right ankle.

The parties stipulated that the claimant “sustained a compensable injury to her right foot and ankle” on or about January 12, 2022. The claimant signed a Form AR-N, EMPLOYEE’S NOTICE OF INJURY, on January 12, 2022. The ACCIDENT INFORMATION section of the Form AR-N indicated, “Employee states she was walking in the library. She tripped over a mat and hit the second entrance door. She did not fall to the floor.”

According to the record, the claimant treated at Washington Regional Urgent Care on or about January 13, 2022. It was noted that the claimant “tripped on black door mat at College.” A Nurse Practitioner noted “Moderate swelling in right ankle.” The diagnosis was “Ankle pain,” and x-ray results showed “Foot XR normal.”

An x-ray of the claimant’s right ankle was taken on January 13, 2022 with the following findings:

The soft tissues are unremarkable.  
There is no evidence of acute fracture.  
The alignment is normal. Apparent osteochondral defect is noted about the medial talar dome.  
IMPRESSION: Medial talar dome OCD.

An x-ray of the claimant’s right foot was also taken on January 13, 2022:

COMPARISON: Ankle series dated 6/12/2020.  
FINDINGS: The bony structures appear osteopenic with moderate calcaneal spurring again noted. Mild spurring is

also present about the ankle joint with mild asymmetric degenerative narrowing across the fifth tarsometatarsal joint. There is also mild narrowing across the first MTP joint and no definite fracture is noted. No other significant findings.  
IMPRESSION: Chronic changes as described above.

The claimant was treated conservatively and was returned to light duty.

Hannah Patterson, an APRN working in conjunction with Dr. Jason Pleimann, reported on January 26, 2022:

Radiographs: Plain films of the right ankle and right foot done on 12/22 are imported and reviewed. These demonstrate her old medial OLT. I do not see any acute fractures. Normal ankle and hindfoot alignment.

Impression: Right ankle sprain, date of injury 1/12/2022. She has a pre-existing medial osteochondral lesion of the talus that underwent arthroscopic debridement and microfracture on 12/8/2020.

Plan: She injured this at work when she tripped. She is not sure how her ankle twisted but she had significant pain afterwards. She has been in a boot after being seen and x-rayed but is doing her normal work duty. She still having pain in the ankle as well as some swelling. She says it did bruise medially initially but that is resolved. Her exam is fairly benign other than tenderness in the swelling. I reassured her that I think things will get better with time. She will stick with her boot she can do her normal work duties. She will remove it for some gentle range of motion exercises. Follow-up in 2 weeks for repeat exam. We will probably have her wean out of the boot and start physical therapy at that time.

Hannah Patterson assessed "1. Body mass index 40+ - severely obese" and "2. Sprain of right ankle."

Hannah Patterson's impression on February 9, 2022 was "Right ankle sprain, date of injury 1/12/2022. She has a pre-existing medial

osteochondral lesion of the talus that underwent arthroscopic debridement and microfracture on 12/8/2020.” Ms. Patterson returned the claimant to “normal work duty with use of the boot” on February 9, 2022.

The claimant continued to follow up with Hannah Patterson, who noted on March 2, 2022, “She has been in the walking boot, at this point she can begin to transition out of the boot and wear her lace up ankle boots....We will continue physical therapy to work on range of motion and strengthening. She can remain at her normal work and taking breaks when needed.” The claimant testified that she did not benefit from physical therapy.

An MRI of the claimant’s right ankle was taken on May 9, 2022 and was compared with an MRI taken November 4, 2020. The following impression resulted:

1. Progressive cystic changes are seen in the talar dome with joint space narrowing of the tibiotalar joint. The tibiotalar joint demonstrates a moderate joint effusion and changes consistent with synovitis.
2. Reactive edema is seen involving the posterior subtalar joint, talonavicular joint, and calcaneocuboid joint.
3. Edema in the sinus Tarsi which could represent sinus Tarsi syndrome in the right clinical setting.
4. Split tear of the peroneal brevis tendon.

Dr. Pleimann reported on May 9, 2022:

Radiographs: MRI of the right ankle done here today reviewed. These demonstrate significant cystic change in the talar dome more diffusely than the area of her previous OLT.

There is significant bony edema throughout the talus and calcaneus.

Impression: Right ankle sprain with history of prior arthroscopic debridement OLT, date of injury 1/12/2022. Her MRI today shows diffuse edema throughout the talus and into the calcaneus. I am not sure if this represents stress reaction or exacerbation of developing arthritis. It could also potentially be consistent with early onset avascular necrosis of the talus.

Plan: She has not been improving with measures tried previously. I am going to have her go back into her boot and go nonweightbearing on a knee scooter. She needs to be a sitting work only nonweightbearing. Return in 4 weeks with a standing three-view right ankle.

The claimant followed up with Dr. Pleimann on June 6, 2022:

Radiographs: 3 views of the right ankle done here today demonstrate joint narrowing of the tibiotalar joint and what looks to be some subtle collapse through the talus likely consistent with avascular necrosis.

Impression: Right ankle sprain with history of prior arthroscopic debridement OLT, date of injury 1/12/2022. Her MRI today shows diffuse edema throughout the talus and into the calcaneus. I am not sure if this represents stress reaction or exacerbation of developing arthritis. It could also potentially be consistent with early onset avascular necrosis of the talus.

Plan: She tells me that she just got the knee scooter less than 2 weeks ago and that work has still been making her do some standing and walking. She needs to be completely nonweightbearing. We discussed that this is a very long process if it does indeed turn out to be avascular necrosis. We will need to get some serial x-rays over time and may even repeat an MRI in 3 months or so. She will follow-up with me in 6 weeks with a standing 3 view right ankle.

Dr. Pleimann took the claimant off work beginning June 8, 2022 until he could re-evaluate the claimant at a July 18, 2022 follow-up appointment.

The respondents terminated the claimant's employment effective June 8,

2022. The record indicates that the respondents continued to pay temporary total disability benefits following the claimant's termination.

Dr. Pleimann gave the following impression on July 18, 2022:

Right ankle sprain with history of prior arthroscopic debridement OLT, date of injury 1/12/2022. Her MRI today shows diffuse edema throughout the talus and into the calcaneus. I am not sure if this represents stress reaction or exacerbation of developing arthritis. It could also potentially be consistent with early onset avascular necrosis of the talus. Plan: She has had less pain since using the knee scooter and keeping weight off of her foot. Her x-rays look stable. At the very least she is (sic) got severe arthritis, and certainly it is possible she could have avascular necrosis here. I am going to keep her nonweightbearing for another 6 weeks and repeat x-rays then. As long as there is no change then we will repeat her MRI after that visit. She needs to remain in sitting work only nonweightbearing on this extremity. She tells me that she was fired from the job after she was placed on limitations. Ultimately, we may try a tall Arizona type brace after the next visit an MRI to see if it would let her weight-bear with less pain.

An MRI of the claimant's right ankle was taken on September 12, 2022 with the following impression:

1. Degenerative changes of the tibiotalar joint, posterior subtalar joint, talonavicular joint, and calcaneocuboid joint. Overall this is stable slightly progressed since the previous exam.
2. Moderate tibiotalar joint effusion with changes consistent with synovitis.
3. Split tear of the peroneal brevis tendon in the retromalleolar region.

Dr. Pleimann reported on September 12, 2022:

An MRI of this ankle done here today is reviewed. It demonstrates moderately worsened tibiotalar subtalar and

talonavicular arthritis with subchondral cystic change. The ankle joint looks the worst.

Impression: Right ankle sprain with history of prior arthroscopic debridement OLT, date of injury 1/12/2022. Her MRI shows diffuse edema throughout the talus and into the calcaneus consistent with developing arthritis. It could also potentially be consistent with early onset avascular necrosis of the talus.

Plan: Her pain has not improved. She still unable to bear weight. Her MRI shows progressive arthritic change primarily in the ankle and subtalar joint but to a lesser extent the talonavicular joint. We discussed various treatment options, including various fusion options, total talus replacement, ankle replacement. I think given concerns over possible vascularity of the talus I think she would do best with a tibiotalar calcaneal arthrodesis. This would still leave her talonavicular joint arthritic, but hopefully this could be managed with cortisone injections etc. She understands she had a very stiff ankle and hindfoot. She understands [there] is a risk of nonunion, wound healing problems, infection among others. She wishes to proceed. She is going to call and let me know when in the near future would be best for her. In the interim she could return to sitting work only. She should not drive.

Ann Wilson, RN, CCM corresponded with Dr. Pleimann on

September 14, 2022:

I am a nurse case manager who has been asked by Public Employee Claims Division to provide pre-authorization for the proposed right ankle tibiotalar calcaneal arthrodesis and to clarify injury relatedness of the proposed surgery in regard to Ms. Sparks' injury of 01/12/22.

As you are aware, Ms. Sparks is a 56-year-old female who injured her right ankle when she was walking in the library. She tripped over a mat and hit the second entrance door without falling....

The 05/09/22 MRI identified progressive cystic changes in the talar dome with joint space narrowing of the tibiotalar joint, moderate effusion and synovitis in the tibiotalar joint, reactive edema of the posterior subtalar joint, talonavicular joint and calcaneocuboid joint, edema in the sinus Tarsi which

represented a sinus Tarsi syndrome, and a split tear of the peroneal brevis tendon....

The 09/12/22 MRI identified degenerative changes of the tibiotalar joint, posterior subtalar joint, talonavicular joint and calcaneocuboid joint, stable but slightly progressed, moderate tibiotalar joint effusion consistent with synovitis, split tear of the peroneal brevis tendon in the retro malleolar region. Due to worsening arthritis, a fusion was recommended.

In view of the above, clarification is needed regarding injury relatedness of the proposed right ankle tibiotalar calcaneal arthrodesis. Please consider addressing the following questions at this time.

1. What pathology identified on the enclosed MRIs are considered acute 01/22 injury related?

(Dr. Pleiman replied on September 25, 2022 and wrote "None.")

2. Would the reported mechanics of tripping, but not falling, have resulted in her current symptoms and pathology? Please explain and provide supporting rationale.

(Dr. Pleimann wrote "No.")

3. Which of Ms. Sparks' current symptoms are the direct result of the 01/12/22 injury, versus progressive degenerative joint disease or from the pre-existing osteochondritis dissecans lesion and surgery? Please explain and provide supporting rationale.

(Dr. Pleimann appeared to write, "The majority, if not all, of her symptoms are related to progression of AVN.")

Dr. Pleimann also wrote on the correspondence that the proposed right ankle arthrodesis was indicated and medically appropriate. However, Dr. Pleimann wrote "No" to the question, "5. Can you state, within a reasonable degree of medical certainty, the major cause (greater than 50%) for the proposed right ankle arthrodesis is the direct result of the 01/12/22 injury versus her pre-existing pathology?"

Ann Wilson corresponded with Dr. Pleimann on September 27, 2022:

Based on your response to my letter, it is my understanding the majority, if not all, of Ms. Terri Sparks' symptoms and need for proposed right ankle tibiotalar calcaneal arthrodesis are indicated and related to her progressive degenerative joint disease of the ankle rather than the 01/12/22 work injury. Based on this information, her surgery and any additional treatment will need to be filed under her private health insurance.

In view of the above, I am writing at the request of Public Employee Claims Division for documentation of achievement of maximum medical improvement (MMI) and assignment of permanent partial physical impairment rating specifically in regards to Ms. Sparks' injury of 01/12/22. Please address the following questions at this time.

1. Since the proposed surgery is not considered 01/12/22 injury related, has Ms. Sparks achieved MMI as the result of the 01/12/22 work injury? If so, what date was MMI achieved.

Dr. Pleimann replied, "Yes. 9/12/22."

2. If MMI has been achieved, is there any assignment of a permanent partial physical impairment rating as the result of the 01/12/22 work injury? If so, please document the percentage of impairment and the objective finding this is based in accordance with the enclosed Arkansas Workers' Compensation Rule 34. Please include edition, page, table, and chart number.

Dr. Pleimann wrote "0% impairment rating."

The respondents' attorney examined the claimant at deposition:

Q. Do you remember the last time you saw Dr. Pleimann?

A. I think it was September the 19<sup>th</sup>.

Q. Did you change to see Dr. Steffen after that?

A. No. Dr. Pleimann, he said that – he called me – his office called me the day before surgery, which was the 28<sup>th</sup> of September, I believe, and said that workers' comp had denied my claim and asked if I would pay out-of-pocket, and I said, "You-all know I'm unemployed and I got terminated from the college," and I didn't have \$4,500. And then he dropped me, saying there was nothing wrong with me.

The record indicates that the respondents paid the claimant temporary total disability benefits for a period ending October 5, 2022.

The record contains a Change of Physician Order dated January 18, 2023: "A change of physician is hereby approved by the Arkansas Workers' Compensation Commission for Terri Sparks to change from Jason Pleimann, M.D. to Kevin Steffen, DPM[.]"

The claimant began treating with Dr. Kevin J. Steffen, Jr. on February 7, 2023:

Patient presents to clinic complaining of pain in her right ankle. Patient fell in 2020 and had arthroscopic surgery to debride the joint and microfracture [and] OCD. Patient states that she recovered from this and was doing great, and then fell in Jan. 2022 and re injured the ankle. Patient was in a walking boot for about 4 months, had an MRI that confirmed significant bone marrow edema in the rearfoot and ankle as well as cystic changes to the talus. Patient was then immobilized and was non weight bearing for another couple months. Repeat MRI was then performed which showed progression of the degenerative changes and no improvement to the cystic changes or edema. Patient was then scheduled for ankle and STJ arthrodesis, which was denied by workman's comp in Sept. 2022. Patient did not have surgery. Patient is still in the boot and still has significant pain. Patient is here for another opinion....

Moderate edema with varicosities noted bilaterally with increased edema to the right foot and ankle. There is significant pain with palpation to the right foot and ankle and with ROM of the ankle and STJ....

Radiographs, 3 views right foot, AP, MO and lateral and 2 views right ankle, AP and mortise, do not reveal acute changes, there are significant degenerative changes noted to the ankle and subtalar joint with cystic changes to the talus with sclerosis of the talus and STJ, there are also degenerative changes to the TN joint.

MRIs and CTs from 2020 and 2022 were evaluated, CT in 2020 suggested osteochondral lesion to the talar dome, 2022 MRIs suggested significant bone marrow edema to rearfoot and ankle with degenerative changes to the ankle, STJ and TN and cystic changes to the talus.

Dr. Steffen assessed "Post traumatic arthritis right foot and ankle. AVN talus right. Pain." Dr. Steffen treated the claimant conservatively but also discussed the possibility of surgery.

Dr. Steffen reported on June 27, 2023, "Patient presents to clinic for follow up of pain in her right ankle. Patient is still in the boot. Still has significant pain and is still non weight bearing on a knee scooter. Patient is asking about surgery....Again discussed risks, complications and post operative care of surgery, which would be tibiotalar and subtalar joint fusion as well as core decompression....Recommended CT scan to help plan for surgery."

The claimant followed up with Dr. Steffen on July 19, 2023: "Patient is here to discuss the CT results. She is still having quite a bit of pain....CT reveals no evidence of avascular necrosis. Large lucency in the medial talar dome. Severe DJD in the AJ and STJ." Dr. Steffen assessed "Post traumatic arthritis right foot and ankle with cystic changes to the talus. Pain....Discussed surgery on the right ankle and patient would like to proceed with scope and subchondroplasty."

Dr. Steffen performed surgery on September 1, 2023: "Ankle arthroscopy with significant debridement as well as repair of the osteochondritis in the right talus." The pre- and post-operative diagnosis was "1. Osteochondritis dissecans of the right ankle. 2. Arthritis, right ankle." The claimant followed up with Dr. Steffen on September 29, 2023: "Patient's pain has improved, but still cannot stand or walk for very long without pain and instability....edema is significantly improved as well as pain, slight weakness in the ankle." Dr. Steffen assessed "Post traumatic arthritis right foot and ankle with cystic changes to the talus, post op. OCD right talus, post op. Pain."

Dr. Steffen reported on December 6, 2023:

Patient presents to clinic for follow up of pain in the right foot. Patient is walking without a boot, but is wearing a brace. Still has significant pain and swelling...  
Discussed continued use of the brace. Discussed icing, compression, supportive shoes, inserts, anti-inflammatory medications, injections and fusion.  
Patient would like to continue at home care.  
Follow up PRN.

Dr. Steffen assessed "1. Arthritis of right foot" and "2. Pain, joint, ankle and foot."

A pre-hearing order was filed on February 6, 2024. According to the pre-hearing order, the claimant contended, "The Claimant contends that she sustained a compensable injury to her right foot and ankle in the course and scope of her employment on January 12, 2022. The Claimant did a

Change of Physician to Dr. Kevin Steffen. She contends that she is entitled to reasonable and necessary medical treatment under his direction. The Claimant contends that she is entitled to TTD benefits (dates to be determined). The Claimant contends that she is entitled to an impairment rating by Dr. Steffen and related permanent partial disability benefits.”

The respondents contended, “The Respondent contends that the claimant reported having an accident occurring January 12, 2022 when she stumbled on a mat and injured her right ankle. The claimant was diagnosed with a sprain following this date. Respondent accepted as compensable this sprain injury the claimant sustained. The claimant was provided reasonable and necessary medical treatment for her injury, including MRI study and treatment with Dr. Jason Pleimann. The claimant had a preexisting condition in her right ankle, and had undergone arthroscopic surgery on her right ankle by Dr. Pleimann on December 8, 2020. The claimant had arthritis following her surgery. Dr. Pleimann wrote that the claimant’s need for a surgery at this time is due to her preexisting condition, not a work injury, and released the claimant at maximum Medical Improvement on September 12, 2022 with [a 0%] impairment rating. The claimant was paid TTD benefits for which Respondent is entitled to a credit. The claimant used her one-time Change of Physician to see Dr. Steffen,

and has been provided a visit with her choice of physician by the Respondent.”

The respondents contended, “Respondent contends that the claimant has been provided reasonable and necessary medical treatment and appropriate indemnity benefits for her compensable sprain injury, and that the claimant cannot meet her burden of proving that she is entitled to additional medical treatment reasonable and necessary for or causally related to her work injury, nor is the claimant entitled to additional indemnity benefits for her work injury. Respondent further contends that the claimant cannot establish that a compensable injury is the major cause of any permanent impairment she contends to be entitled to. The Respondents reserve the right to raise additional contentions, or to modify those stated herein, pending the completion of discovery.”

The parties agreed to litigate the following issue: “1. Whether Claimant is entitled to additional medical treatment for her compensable right foot and ankle injury in the form of surgery as recommended by Dr. Kevin Steffen.”

A hearing was held on August 21, 2024. The claimant testified that she continued to suffer from swelling in her right ankle. An administrative law judge examined the claimant at hearing:

Q. Now, after this surgery occurs by Dr. Steffen, tell me how your symptoms are improved or worsened after the surgery.

How are you doing after this latest surgery? I know you are not perfect. You have explained that to us.

A. Right.

Q. But what are the differences between pre-surgery and post-surgery?

A. I am not on a scooter.

Q. Okay.

A. As far as walking and going places, I don't do things. I don't go out very much because of the fact it is hard to. It is very hard with the pain.

Q. Was the pain worse before the surgery than after the surgery?

A. Before the surgery it was worse. But, yes, after, it's still bad.

An administrative law judge filed an opinion on November 19, 2024.

The administrative law judge found that the claimant failed to prove she was entitled to additional medical treatment recommended by Dr. Steffen. The administrative law judge therefore denied the claim. The claimant appeals to the Full Commission.

## II. ADJUDICATION

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)(Supp. 2024). 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 (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). 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 70 (1984).

An administrative law judge found in the present matter, “2. The claimant has failed to prove by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable right ankle/foot injury in the form of surgery as recommended by Dr. Steffen.” The Full Commission does not affirm this finding. We find that the treatment provided by Dr. Steffen was reasonably necessary in accordance with Ark. Code Ann. §11-9-508(a)(Supp. 2024).

The record indicates that the claimant sustained a previous injury to her right ankle when she slipped and fell at home in 2020. The claimant testified that she received surgical treatment from Dr. Pleimann and was released without further complications. The parties stipulated that the employment relationship existed on January 12, 2022. The claimant testified that she tripped and fell while entering her place of employment that day. The parties stipulated that the claimant “sustained a compensable injury to her right foot and ankle” on January 12, 2022.

The respondents provided medical treatment beginning January 13, 2022, and the claimant eventually began treating with Dr. Pleimann through an APRN, Heather Patterson. Ms. Patterson assessed “2. Sprain of right

ankle” on January 26, 2022. An MRI taken May 9, 2022 showed, among other things, a “4. Split tear of the peroneal brevis tendon.” Such an objective abnormality had not been shown prior to the stipulated compensable injury of January 12, 2022. An MRI confirmed September 12, 2022 confirmed a “3. Split tear of the peroneal brevis tendon in the retromalleolar region.” It is within the Commission’s province to weigh all of the medical evidence and to determine what is most credible. *Minnesota Mining & Mfg. v. Baker*, 337 Ark. 94, 989 S.W.2d 151 (1999). Because a “split tear of the peroneal brevis tendon” was not demonstrated to be present before the January 12, 2022 compensable injury, the Full Commission assigns minimal weight to Dr. Pleimann’s opinion expressed to the Case Manager that this post-injury abnormal diagnostic testing was not causally related to the compensable injury.

Dr. Pleimann also opined that the compensable injury sustained by the claimant on January 12, 2022 was not the “major cause” of a need for surgical treatment. However, the claimant was not required to prove that her compensable injury was the “major cause” of her need for medical treatment to include surgery. See *Williams v. L&W Janitorial, Inc.*, 85 Ark. App. 1, 145 S.W.3d 383 (2004). Instead, the claimant was required to prove that her compensable injury was at least “a factor” in her need for additional medical treatment. *Id.* The Full Commission finds that the

compensable injury was indeed “a factor” in the claimant’s need for medical treatment, including surgery recommended and performed by Dr. Steffen. The Full Commission has discussed the post-compensable injury diagnostic testing which confirmed a “split tear of the peroneal brevis tendon.” The evidence demonstrates that this objective medical finding was causally related to the January 12, 2022 compensable injury. We also find that Dr. Steffen’s report of “significant bone marrow edema to rearfoot and ankle” were causally related to the compensable injury, as was Dr. Steffen’s assessment of “Post traumatic arthritis.”

Dr. Steffen performed surgery on September 1, 2023: “Ankle arthroscopy with significant debridement as well as repair of the osteochondritis in the right talus.” Dr. Steffen noted after surgery that the claimant’s pain had lessened and her edema had significantly improved. Dr. Steffen also reported on December 6, 2023 that the claimant was able to walk without a boot. The claimant testified before the administrative law judge that she was no longer required to use a “knee scooter” after surgery performed by Dr. Steffen. The claimant also testified that her pain had somewhat decreased after surgery. Such probative evidence of post-surgical improvement is a relevant consideration in determining whether said treatment was reasonably necessary. *Hill v. Baptist Med. Ctr.*, 74 Ark.

App. 250, 48 S.W.3d 544 (2001), citing *Winslow v. D&B Mech. Contractors*, 69 Ark. App. 285, 13 S.W.3d 180 (2000).

After reviewing the entire record *de novo*, the Full Commission finds that the claimant proved she was entitled to additional medical treatment as recommended by Dr. Steffen. We find that the January 12, 2022 compensable injury was at least “a factor” in the claimant’s need for additional medical treatment. See *Williams, supra*. The Full Commission finds that treatment recommended and performed by Dr. Steffen, including surgery, was reasonably necessary in accordance with Ark. Code Ann. §11-9-508(a)(Supp. 2024). For prevailing on appeal to the Full Commission, the claimant’s attorney is entitled to a fee of five hundred dollars (\$500), pursuant to Ark. Code Ann. §11-9-715(b)(Supp. 2024). The claimant did not prove that any provision of Act 796 of 1993 or the procedures of the Arkansas Workers’ Compensation Commission are unconstitutional. See *Woods v. Tyson Poultry, Inc.*, 2018 Ark. App. 186, 547 S.W.3d 456.

IT IS SO ORDERED.

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SCOTTY DALE DOUTHIT, Chairman

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M. SCOTT WILLHITE, Commissioner

Commissioner Mayton dissents.

DISSENTING OPINION

I must respectfully dissent from the Majority's finding the claimant proved she is entitled to additional medical treatment provided by Dr. Kevin Steffen.

Ark. Code Ann. § 11-9-508(a) requires an employer to provide an injured employee with medical and surgical treatment "as may be reasonably necessary in connection with the injury received by the employee." The claimant has the burden of proving by a preponderance of the evidence the additional treatment is reasonable and necessary. *Nichols v. Omaha Sch. Dist.*, 2010 Ark. App. 194, 374 S.W.3d 148 (2010).

What constitutes reasonably necessary treatment is a question of fact for the Commission. *Gant v. First Step, Inc.*, 2023 Ark. App. 393, 675 S.W.3d 445 (2023). In assessing whether a given medical procedure is reasonably necessary for treatment of the compensable injury, the Commission analyzes both the proposed procedure and the condition it sought to remedy. *Walker v. United Cerebral Palsy of Ark.*, 2013 Ark. App. 153, 426 S.W.3d 539 (2013).

It is within the Commission's province to weigh all the medical evidence to determine what is most credible and to determine its medical soundness and probative force. *Sheridan Sch. Dist. v. Wise*, 2021 Ark. App. 459, 637 S.W.3d 280 (2021).

In weighing the evidence, the Commission may not arbitrarily disregard medical evidence or the testimony of any witness. *Id.* However, the Commission has the authority to accept or reject medical opinions. *Williams v. Ark. Dept. of Community Corrections*, 2016 Ark. App. 427, 502 S.W. 3d 530 (2016). Furthermore, it is the Commission's duty to use its experience and expertise in translating the testimony of medical experts into findings of fact and to draw inferences when testimony is open to more than a single interpretation. *Id.*

The claimant has a documented history of issues with her right ankle and foot resulting from a fall in 2020. Due to that injury, Dr. Jason Pleimann performed an arthroscopic debridement on the claimant's ankle and foot on December 8, 2020. The claimant on direct examination testified, "I can say, honestly, my ankle was bothering me before the second fall. I mean I was still able to drive and do whatever I wanted to do, but after the fall, it swells - basically, I mean I don't know how to say it, three to four times the size. I would have to go get groceries, but I have to go to Walmart and do the call-in and they bring it out to you because I couldn't walk through Walmart."

The claimant sustained a compensable injury to her right ankle and foot on January 12, 2022, when she tripped and fell while walking into the library where she worked. That day, the claimant was treated at Washington Regional Urgent care for complaints of right ankle pain and

swelling. The claimant underwent an x-ray at that visit and the results were normal. She was prescribed medication and was referred to “ortho.”

On February 9, 2022, the claimant was seen at Ozark Orthopedics by APRN Hannah Patterson, who’s findings stated:

Assessment/Plan Impression:

Right ankle sprain, date of injury 1/12/2022. She has a pre-existing medial osteochondral lesion of the talus that underwent arthroscopic debridement and microfracture on 12/8/2020.

Plan: She has been in the boot weightbearing as tolerated, she still has pretty considerable swelling today on exam. She has been off work quite a bit due to the weather, but is still doing her normal work duty with the use of the boot. I told her I think she can stay in the boot for another 2 weeks, then transition back to her lace up ankle boots if she feels able before her next appointment. We have discussed that with her history of surgery on this ankle, this could take a while before it comes around fully. I want her to continue to ice, take ibuprofen as needed, and give this some relative rest. We will get her into some physical therapy to work on range of motion and strengthening. Follow-up in 3 weeks for reevaluation. I expect MMI in 6 to 8 weeks.

On May 2, 2022, APRN Patterson referred the claimant for an MRI, which she had on May 9, 2022. The MRI revealed:

1. Progressive cystic changes are seen in the talar dome with joint space narrowing of the tibiotalar joint. The tibiotalar joint demonstrates a moderate joint effusion and changes consistent with synovitis.
2. Reactive edema is seen involving the posterior subtalar joint, talonavicular joint, and calcaneocuboid joint.
3. Edema in the sinus Tarsi which could represent sinus Tarsi syndrome in the right clinical setting.
4. Split tear of the peroneal brevis tendon.

That day, the claimant was seen by Dr. Jason Pleimann, an orthopedic surgeon at Ozark Orthopedics who reviewed the claimant's MRI and opined:

#### Assessment/Plan

Radiographs: MRI of the right ankle done here today reviewed. These demonstrate significant cystic change in the talar dome more diffusely than the area of her previous OLT. There is significant bony edema throughout the talus and calcaneus.

Impression: Right ankle sprain with history of prior arthroscopic debridement OLT, date of injury 1/12/2022. Her MRI today shows diffuse edema throughout the talus and into the calcaneus. I am not sure if this represents stress reaction or exacerbation of developing arthritis. It could also potentially be consistent with early onset avascular necrosis of the talus.

The claimant followed up with Dr. Pleimann on July 18, 2022. Dr. Pleimann reviewed standing three-view imaging of the claimant's ankle and reported that "[t]hese again show some cystic change to the talus and some mild sclerosis. No obvious collapse. Dr. Pleimann's records reflect his opinion that the claimant suffers from worsening arthritis:

Impression: Right ankle sprain with history of prior arthroscopic debridement OLT, date of injury 1/12/2022. Her MRI today shows diffuse edema throughout the talus and into the calcaneus. I am not sure if this represents stress reaction or exacerbation of developing arthritis. It could also potentially be consistent with early onset avascular necrosis of the talus.

Plan: She has had less pain since using the knee scooter and keeping weight off of her foot. Her x-rays look stable. At the very least she is (sic) got severe arthritis, and certainly it is possible

she could have avascular necrosis here. I am going to keep her nonweightbearing for another 6 weeks and repeat x-rays then. As long as there is no change we will repeat her MRI after that visit.

On September 12, 2022, the claimant underwent an additional right ankle MRI. Upon review, Dr. Pleimann states that “[i]t demonstrates moderately worsened tibiotalar subtalar and talonavicular arthritis with subchondral cystic change. The ankle joint looks the worst.” Dr. Pleimann opined that this could potentially be consistent with early onset avascular necrosis of the talus as he had previously considered. At that time, Dr. Pleimann proposed surgery to treat the claimant’s chronic conditions.

On September 14, 2022, the RN.CCM, Ann Wilson, of Systemedic wrote Dr. Pleimann asking a series of questions regarding the claimant’s injury. Most notably, she asked, “What pathology identified on the enclosed MRIs are considered acute 01/12/22 injury related?” Dr. Pleimann responded “None.” Dr. Pleimann further explained that “[t]he majority, if not all, of her symptoms are related to progressive [illegible].” Ms. Wilson also asked, “If the ankle arthrodesis is indicated for pre-existing pathology, is there an additional treatment indicated as the result of the 1/12/22 injury?” Dr. Pleimann replied, “No.” Her final question to the doctor was, “If the ankle arthrodesis is indicated, medically appropriate, and the direct result of the 1/12/22 injury, what is the potential outcome based on

her pre-existing and co-existing medical conditions?" Dr. Pleimann replied, "N/A."

Ms. Wilson sent a follow-up letter to Dr. Pleimann on September 27, 2022, with two follow-up questions, to which Dr. Pleimann responded:

1. Since the proposed surgery is not considered 01/12/22 injury related, has Ms. Sparks achieved MMI as the result of the 01/12/22 work injury? If so, what date was MMI achieved?

Yes. 9/12/22.

2. If MMI has been achieved, is there any assignment of a permanent partial physical impairment rating as the result of the 01/12/22 work injury? If so, please document the percentage of impairment and the objective finding this is based in accordance with the enclosed Arkansas Workers' Compensation Rule 34. Please include edition, page, table, and chart number.

0% impairment rating.

The claimant requested a change of physician from the Commission on January 6, 2023, and a Change of Physician Order was entered on January 18, 2023 changing the claimant's treating physician from Dr. Pleimann to Dr. Kevin Steffen.

At a February 7, 2023 visit, Dr. Steffen opined:

Radiographs, 3 views right foot, AP, MO and lateral and 2 views right ankle, AP and mortise do not reveal acute changes, there are significant degenerative changes noted to the ankle and subtalar joint with cystic changes to the talus with sclerosis of the talus and STJ, there are also degenerative changes to the TN joint. MRIs and CTs from 2020 and 2022 were evaluated, CT in 2020 suggested osteochondral lesion to the talar dome, 2022 MRIs suggested significant bone marrow edema to rearfoot and ankle with degenerative changes to the ankle, STJ and TN and cystic changes to the talus.

Dr. Steffen “[d]iscussed that both sudden injury and chronic degenerative changes from an old injury could cause the AVN of the talus.” Dr. Steffen ultimately performed a right ankle arthroscopy and debridement on September 1, 2023. Operative notes reflect Dr. Steffen’s opinion that the changes he treated were degenerative, stating that there were “significant degenerative changes to the ankle joint as well as cystic and osteochondral defects in the talus and the distal tibia.” His operative notes also state, “Some, if not most, of her pain may be related to her degenerative changes in the ankle joint.”

The claimant has presented no clear evidence that Dr. Steffen believed that the need for a right ankle arthroscopy was causally related to

the claimant's January 2022 injury. In fact, Dr. Steffen notes degenerative changes to the claimant's ankle in his operative notes and discussed with the claimant the likelihood that her condition was due to degenerative changes from her 2020 injury.

The objective findings from the claimant's treatment with Dr. Pleimann is consistent with Dr. Steffen's opinion that the claimant suffered a right ankle sprain on January 12, 2022, but the pathology found in her imaging are degenerative in nature and related to her fall in 2020 and not her injury on January 12, 2022.

Dr. Pleimann has stated that none of the pathology on the MRI's after the 2022 injury were acute and related to the 2022 injury. It was also his opinion that the suggested ankle surgery after the 2022 accident was for the pre-existing pathology. Dr. Pleimann's opinion carries much more weight than that of Dr. Steffen since he was the claimant's treating physician for the non-related 2020 injury and the compensable injury on January 12, 2022.

The claimant has wholly failed to prove by the preponderance of the evidence that she is entitled to the additional medical treatment provided by Dr. Steffen, and for these reasons, the ALJ's findings should be affirmed.

Accordingly, for the reasons set forth above, I respectfully dissent.

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MICHAEL R. MAYTON, Commissioner