BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. **H303979**

KHANH THOTSARAJ, EMPLOYEE	CLAIMANT
TRANE COMMERCIAL SYSTEMS, EMPLOYER	RESPONDENT
FARMINGTON CASUALTY COMPANY, CARRIER/TPA	RESPONDENT

OPINION FILED **AUGUST 7, 2025**

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

Claimant represented by EDDIE H. WALKER, JR., Attorney, Fort Smith, Arkansas.

Respondents represented by AMY C. MARKHAM, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On May 12, 2025, the above captioned claim came on for a hearing at Fort Smith, Arkansas. A pre-hearing conference was conducted on March 6, 2025, 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. The employee/employer/carrier relationship existed on April 13, 2023.

3. The respondents have controverted the claim in its entirety.

4. After the hearing, the parties announced an agreement that claimant's average weekly wage was $987.00, which would entitle her to compensation at the weekly rates of $658.00 for temporary total disability benefits and $494.00 for permanent partial disability benefits.

By agreement of the parties, the issues to be litigated and resolved at the forthcoming hearing were limited to the following:

1. Whether claimant sustained a compensable injury on April 13, 2023.
2. If compensable, compensation rates.
3. If compensable, whether claimant is entitled to temporary total disability benefits from October 6, 2023, to a date yet to be determined.
4. If compensable, whether claimant is entitled to medical benefits.
5. Attorney's fees.

All other issues are reserved by the parties.

The claimant contends that "She sustained a compensable injury to her neck, shoulders and back on April 13, 2023. She is entitled to temporary total disability benefits from October 6, 2023, until a date yet to be determined, except January 4, 2024, the day on which she returned to work and was only able to work one day. Further, the claimant contends that she is entitled to appropriate medical benefits. The claimant contends that her attorney is entitled to an appropriate attorney's fee."

The respondents contend that "There is no clear mechanism of injury. There are no objective findings. Claimant did not sustain an injury in the course and scope of her employment."

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

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at a pre-hearing conference conducted on March 6, 2025, and contained in a pre-hearing order filed on that same date are hereby accepted as fact.

2. Claimant has met her burden of proving that she suffered a compensable injury to her neck, shoulders and back on April 13, 2023, and is entitled to reasonable and necessary medical treatment for that injury as recommended by her treating physicians

3. Claimant has met her burden of proving she is entitled to temporary total disability from October 6, 2023, through May 12, 2025, less the one day she worked on January 4, 2024.

FACTUAL BACKGROUND

At the beginning of the hearing, claimant requested that the first issue in the prehearing order be amended to reflect that April 13, 2023, was her correct date of injury, and that issue should be framed in the alternative to include a gradual onset injury claim from March 2023 until April 13, 2023. Respondents did not object to this amendment, and announced it was there to defend the claim as amended. The first issue in the case was therefore amended to add an alternative claim as to a gradual onset injury.

The email exchange between the Court and counsel regarding the stipulated compensation rate is blue backed to the record.

HEARING TESTIMONY

Claimant first called her daughter, Cathy Phommasy. She testified that she has lived with her mother from at least March 2023 to the date of the hearing, and recalled in March 2023, when her mother lost the help of one of her coworkers. Before April 13, 2023, claimant was active in the neighborhood and around the house, but after April 13, 2023, her activity level decreased. Ms. Phommasy remembered that after claimant finished her shift on April 13, she did not engage her normal activity, which was unloading her lunch box, washing dishes, taking a shower, and a few chores around the house before she went to bed. After April 13, she came home, unloaded her lunch box, showered and went straight to bed. Ms. Phommasy saw her mother rubbing and massaging her arm

and massaging. Ms. Phommasy attended most of the doctor's visits with claimant.

On cross examination, Ms. Phommasy said she did not remember the exact day in March 2023, when her mother commented that she had lost her partner. Claimant did tell her daughter that there were other employees available to help her. Ms. Phommasy said that she acted as a translator for her mother with the medical providers at times.

Claimant was called on her own behalf and said that on April 13, 2023, she was injured lifting or holding a panel that was too heavy for her. Claimant testified that the panel weighed between 80 and 700 pounds. Claimant understood that she was not moving a 700-pound panel by herself but the one she referred to weighed at least 80 pounds. Before March 2023, she had someone to help her, but that person quit, and no one replaced the employee that left. On April 13, 2023, claimant testified that there was a big panel that she had to move herself, which required lifting and pushing it. She said she had overloaded her body on the heavy items that she had worked by herself. She said during the course of the shift on April 13, 2023, she hurt her left side from the neck down. She reported it to her lead person and supervisor. According to the claimant, the team leader was named Wendy who said that she was busy and the supervisor Jim Lee, said that he didn't care that she was hurting, that was her job. She likewise reported to Alex Diaz, who was employed as a safety supervisor; he authorized medical treatment for claimant.

The initial medical report says that the claimant was hurting in both her right and left shoulder, but she had never had medical treatment for either shoulder or her neck prior to April 13, 2023. Clamant says she was eventually placed on restricted activity, to work only with one arm which she did until August 2023, when she was told by someone in the human resources office that she cannot work in her area with one hand. She testified that after two or three months, respondents declined to pay for any more of her medical treatments and she had to find a doctor on her own. Claimant was

encouraged to file for short-term and long-term disability. On January 4, 2024, claimant attempted to return to work and only worked for a day. She said that she was using vacation or PTO hours while such was available.

Claimant testified that she understood some English but would not have fully understood what was going on in the hearing and did had difficulty communicating with her doctors.

On cross-examination, claimant said that her daughter did go with her to most of her medical appointments and interpreted for her. On April 13, 2023, she was asked if there was a certain movement that caused an injury. She said there were no particular movement but repeating the movements through the night is how she was hurt. Respondents' attorney had this exchange with claimant:

> Question (By Ms. Markham) So if your medical record reflects there was no report of an accident, rather the slow developed symptoms, that is consistent with what you told us here today isn't it?
>
> Answer (By the claimant) She says she always tell the doctor that she hurt on her left arm neck down. She always tells them.
>
> Q. But you didn't tell them it was due to some specific accident; did you?
>
> A. She told them that she got hurt in the company.[1]

There was then this exchange between respondents' attorney and claimant regarding Claimant's Exhibit 1 Page 17.

> Question (By Ms. Markham) On this document it says, "The cause of this problem is complex involving multiple factors." Do you have an understanding of what these multiple factors are describing?
>
> Answer (By the claimant) What is it?
>
> Q. That is what I am asking you. Do you have an understanding of what this means by multiple factors?

[1] Rather than translating what claimant said in the first person, the interpreter frequently used the third person narrative. I am repeating the testimony as it appears in the transcript.

A. Yes, she understands.

Q. What is your understanding?

A. I understand that I work with this company, I work hard, I work by myself, and I hurt.

When claimant was asked about the increase in her records regarding degenerative changes, she did not know what that meant. Claimant said that surgery had been suggested but she wanted to consider it.

On redirect-examination, claimant repeated that the doctors have recommended neck surgery, but she wanted to think about it. She clarified that there was not one specific moment on April 13, 2023, that her injury occurred but rather there was a big order that she had to lift, push, and move from table to table, and it slowly got worse during the course of that shift.

After claimant rested, respondent called Bradley Daniel, who is the manufacturing engineer leader. He was familiar with claimant, as he was serving in that position in March 2023. He testified that claimant was on the panel line department assembling multiple panels. That job entailed sliding panels from a foaming machine using a conveyor onto an assembly table. Claimant would then assemble them using screws and caulking and then attach lifting devises to the panel's assemblies. Claimant used a screw gun, of eight screws per panel and roughly sixty panels per shift in a seven-hour period. Mr. Daniel said the panels on average weighed less than a hundred pounds, about fifty to seventy-five pounds would be the normal range and he affirmed that seven-hundred pounds were not possible for one panel.

When asked about claimant's testimony that she predominantly worked alone in her position from March until April 13, 2023, Mr. Daniels said that he did not believe that that was accurate. Mr. Daniel testified:

> "Our policy is that we would never ask our employees to lift something they are not comfortable to lift. And she did state the team leader was available to help her. The team leader's role is specifically that, to help members of the team when needed. On several occasions, I personally gave her coaching to utilize the team leader more frequently regardless of if it was required to slow her work down."

He did not believe that claimant was ever required to lift panels on an extended basis for a shift alone. He stated that the team leader was supposed to do hourly checks at each workstation and the supervisor was also supposed to do hourly checks within the overall work cell. Mr. Daniel testified that he personally walked through the area of the assembly line where claimant worked twice daily, and he did not observe claimant lifting panels alone. Had he done so, he would have told her to work with her team leader and supervisor to get help and would have addressed it immediately with her supervisor. There was then this exchange between respondent's attorney and Mr. Daniel:

> Question (By Ms. Markham) Did she ever report to you a need for additional help in performing her job duties?
>
> Answer (By Mr. Daniel) Yes, she did, and I told her specifically to ask for assistance from her team leader anytime she needed help and to work with her supervisor as well. I then followed up with her team leader and supervisor.
>
> Q. Did you ensure that help was provided to her?
>
> A. I did not immediately because I felt the issues were resolved once I spoke with the team leader.
>
> Q. And what was the situation that made you feel like the situation had been resolved?
>
> A. I spoke directly with Randy-or sorry, her team leader, and I said she requested help, and he said "okay I will…" I told him that she requested help and said that he would go and help her.
>
> Q. So, does your understanding that when help was requested, Ms. Thotsaraj's team leader himself assisted her?
>
> A. Yes.
>
> Question (By the Court) What I understood is that he said he was going to

help her.

Question (By Ms. Markham) Okay I can rephrase.

The Court. Yes.

Redirect examination:

Question (By Ms. Markham) Do you have any knowledge of whether the team lead assisted Ms. Thotsaraj?

Answer (By Mr. Daniel) No.

Q. But it was communicated to you an intention to do that was forth coming?

A. Yes.

Concluding direct examination, there was this exchange:

Question (By Ms. Markham) What type of employee will you describe Ms. Thotsaraj to be when she worked at Trane?

Answer (By Mr. Daniel) She was very passionate about making sure her job was done.

Q. Did she complain or ask for accommodations?

A. She did ask for help on the occasion that we discussed. I can't recall any other requests for accommodations, but every time I would speak with her, there were definitely some conversations about the jobs and different conflicts within the department with other people and that was on going.

On cross-examination, Mr. Daniel explained that when claimant asked for additional help, it was to keep up with the rate on the line. Mr. Daniel did not remember specifically if someone was already helping her, but that when it was a request for help, he communicated that to her team leader. Claimant had expressed concerns that for some jobs with larger panels, the work goes slower, and Mr. Daniel assured her that it was okay to slow down on those heavier panels. He believed that a large panel would weigh about a hundred-ten pounds. He clarified that there were some custom products that would weigh more than the normal fifty to seventy-five pounds and the larger ones are a little

odd to manipulate and being a larger assembly, the cycle time was a bit longer.

Mr. Daniel explained that Alex Diaz was the environmental health and safety technician and would be responsible for managing a portion of the investigation to be performed before respondent Trane decided if an employee had suffered an injury. He agreed that if something happened on the second shift, it would be reported to safety the following shift. At the time of the hearing, Mr. Diaz was still employed at Trane, but Mr. Daniel did not think that what he did could be properly called an investigation, as that was done through a corporate team associated with respondent Travelers Insurance.

On redirect-examination, Mr. Daniel said that there was no need for someone in claimant's employment position to pick up and bare full weight of a panel at any time because at least some portion of the panel would be resting on a table surface or a conveyor surface at all times. The panels were slid into place for assembly. The conveyor or the tabletop bore the weight of the panel. At no time would an employee manipulating a panel on the conveyor have to push eighty pounds of dead weight because of the rollers on the conveyor.

Claimant testified on rebuttal that she disagreed with Mr. Daniel's description of how the roller functions. She said that one of the lines were basically perpendicular to the other line, forming an L-shape. With big panels, she needed help to lift it and turn it onto the next line. For example, if the panel was coming to the west, she had to turn it to the south. She would have to lift and turn it otherwise it would not go to the south. She also said the tables had different heights; one was lower than the other.

On balance, I found no effort on the part of any witness to be deceptive. Even considering the natural bias that I would expect a child to have for her parent, I found the testimony of Ms. Phommsay to be credible on the issues to which she spoke. Likewise, I had no reason to believe Mr.

Daniel was less than truthful in testifying about what he knew in this case. I noticed that instead of saying claimant received help when she asked for it, he simply said he was told by a supervisor that she would be assisted. Finally, while a claimant's testimony is never to be considered uncontroverted, I found nothing in her demeanor nor in the medical records to cause me to think she was being intentionally untruthful.

REVIEW OF THE EXHIBITS

Claimant submitted 172 pages of medical records while respondent introduced 49 pages, most of which duplicated those submitted by claimant. Claimant's records between April 24, 2023, and January 2, 2024, consisted primarily of those from Conservative Care Occupational Health and Fort Smith Therapy, neither of which were providing more than basic care by nurses and physical therapists. APRN Jessica Minton from Conservative Care referred claimant for an MRI on her right shoulder, which was performed on June 13, 2023, with this impression:

> 1. Advanced degenerative change in the superior glenoid with articular cartilage thinning and subchondral cystic degeneration. Raises concern for underlying superior labral tear.
> 2. Infraspinatus tendinosis and interstitial tearing, No full-thickness rotator cuff tear or- tendon retraction.
> 3. Mild-to-moderate AC arthrosis with mild subacromial/subdeltoid edema and bursal surface fraying of the infraspinatus and supraspinatus tendons.

Following the results of the MRI, APRN Minton referred claimant to an orthopedic doctor on June 15, 2023; when claimant went to Mercy Clinic on July 6, 2023, she was seen by Physician's Assistant Lauren Wahlmeier. PA Wahlmeier conducted an examination and performed corticosteroid injections on claimant's right arm and right elbow. She then referred claimant to physical therapy and wanted claimant to return in three months.

Claimant began her course of physical therapy. When it became apparent that claimant needed a level of care beyond what she had received to that point, on January 2, 2024, Physical Therapist

Ashlyn McBride concluded her note with, "Patient will be placed on hold until she is able to follow up with MD." Once again, claimant did not immediately see a medical doctor, but was again examined by PA Wahlmeier on January 16, 2024, and an MRI was ordered. That was performed on January 30, 2024, with the impression as follows:

> "1. Both acquired and developmental narrowing of the central canal with disk protrusions present up to moderate canal narrowing at C3-4 level and C5-6 levels. More mild central canal narrowing at other levels as above.
> 2. Foraminal narrowing as above.
> 3. Degenerative facet changes with small facet effusions C3-4."

Following the results of the MRI, claimant was seen by Dr. Miles Johnson for an EMG/NCS to evaluate the peripheral nerve involvement. Dr. Johnson's assessment was that while the study was unrevealing for any abnormalities of the peripheral nervous system, he did note that claimant did appear to have some radicular symptomology He believed it was possible that she was having a purely sensory cervical radiculopathy which was not revealed in that study. Upon receiving the MRI and the EMG/NCS results, PA Wahlmeier referred the claimant to pain management for a possible epidural injection in her cervical spine.

PA Wahlmeier next saw claimant on July 30, 2024. Her notes from that visit indicate that claimant had seen P.A. Timothy Booker with neurology and that claimant had been referred to a neurosurgery spine institute in Little Rock but had not yet been seen at that facility. She was first seen by Dr. Jordan Walters on September 11, 2024, following that examination, Dr. Walters wanted claimant to be evaluated by Dr. Muhammad Moursi for a possible thoracic outlet, and Dr. Walters mentioned that claimant might benefit from a posterior cervical decompression infusion, but would suggest that only as a last resort. After examining claimant, Dr. Moursi determined that she was not a good candidate for a thoracic outlet and referred her to UAMS Health Orthopedic and Spine Center. She was seen by Dr. Tsu Chuan Yen and Dr. Walters on November 27, 2024, who referred her back

to UAMS Neurology. She finally had an MRI on her cervical spine on March 5, 2025:

FINDINGS:

There is straightening of the cervical spine with loss of normal cervical lordosis.

The cervical vertebral bodies are normal in height. There is mild degenerative anterolisthesis at C3-4. The bone marrow signal intensity is within normal limits. No focal osseous lesions are seen. The spinal cord is normal in signal Intensity. Multilevel disc desiccation is noted. Intervertebral disc heights are maintained. Study by level:

C2-3: Mild disc bulge with central disc protrusion and ligamentum flavum thickening. MHd spinal canal stenosis. No neural foraminal narrowing.

C3-4: Moderate disc bulge and ligamentum flavum thickening causing moderate spinal canal stenosis. There is indentation of the ventral surface of the spinal cord without cord compression or abnormal signal. There is mild bilateral neural foraminal narrowing due to facet hypertrophy.

C4-5: Moderate diffuse disc bulge and ligamentum flavum thickening causing moderate spinal canal stenosis. There is ventral spinal cord indentation without cord compression or abnormal signal. There is mild right neural foraminal narrowing.

C5-6: Moderate diffuse disc bulge with central disc protrusion and ligamentum flavum thickening causing moderate spinal canal stenosis. There is ventral spinal cord indentation without cord compression or abnormal signal. There is mild bilateral neural foraminal narrowing.

C6-7:Moderate diffuse disc bulge with central disc protrusion and ligamentum flavum thickening causing moderate spinal canal stenosis. There is ventral spinal cord Indentation without cord compression or abnormal signal. No neural foraminal narrowing.

C7-T1: Mild disc bulge and ligamentum flavum thickening. Mild spinal canal stenosis. Moderate left neural foraminal narrowing. The prevertebral soft tissues appear unremarkable. The included posterior fossa structures show no significant abnormality.

Impression:
Moderate cervical spondylosis with moderate acquired spinal canal stenosis at the C3-4, C4-5 and C5-6 levels causing ventral spinal cord indentation. No spinal cord compression or abnormal signal.

On March 13, 2025, Dr. Thomas Pait at UAMS Neurosurgery Clinic met with claimant and her daughter to go over the results of the MRI and outline the treatment options for claimant. His note outlined what he advised claimant:

> I discussed the options and alternatives with the patient and daughter. A model was used to demonstrate the anatomy, as well as an anterior approach to the cervical[spine. The patient and her daughter were well briefed regarding an anterior approach to the cervical spine for C5-C6 and C6-diskectomy, as intervertebral biomechanical device insertion, fusions, and anterior MRI compatible titanium plate screw fixation. No guarantees could be given her pain symptoms would improve, could worsen. Likelihood of the surgery influencing Maurice Raynaud's phenomena is remote.
>
> The risks included, but not limited to, infection with need for long-term antibiotics, headaches, spinal fluid loss, pseudo meningocele (defined), need for further surgery at the same or adjacent levels, injury to the food pipe and or airways (trachea/ esophagus), swallowing difficulties, hoarseness, blood clot at the operative site requiring evacuation, blood clots and lower extremities, injury to great blood vessels (carotid and or vertebral arteries), need for surgery posteriorly (back of neck), stroke, heart attack, blindness, coma, movement/migration/loosening/ pullout of the bone plate/screws, coma and death.

His note concluded that claimant wanted to consider her options and to contact his office with any other questions or concerns.

NON-MEDICAL RECORDS

Claimant submitted several pages of correspondence with and from representatives of Trane and Travelers Insurance, as well as her deposition of July 29, 2024. Respondent provided that same deposition as well as an earlier one that occurred on June 11, 2024. In its brief, respondent pointed out some discrepancies in claimant's testimony at deposition and at the hearing, but none of these were of such a nature that it impacted claimant's overall credibility.

ADJUDICATION

As this claim was controverted in its entirety, claimant has the burden of proving by a preponderance of the evidence that (1) an injury occurred that arose out of and in the course of her employment; (2) the injury caused internal or external harm to the body that required medical services or resulted in disability or death; (3) the injury is established by medical evidence supported by objective findings, which are those findings which cannot come under the voluntary control of the patient; and (4) the injury was caused by a specific incident and is identifiable by time and place of occurrence. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997).

Claimant's testimony provided the proof on the first and fourth elements; I found claimant to be a credible witness on that issue (despite her mistaken belief that something she was moving may have weighed 700 pounds). Although a claimant's testimony is never viewed as uncontroverted, the Commission need not reject the claimant's testimony if it finds that testimony worthy of belief. *Ringier America v. Combs*, 41 Ark. App. 47, 849 S.W.2d 1 (1993). I am satisfied claimant promptly reported the injury to several fellow employees in a supervisory capacity on April 13, 2023.[2] As Mr. Daniel noted, an injury on the second shift is reported the next day, and I am satisfied that is the reason for April 14, 2023, being included in the medical records was due to an error by the employer (see Cl.X.2), where the employer's description of the accident had April 14, 2023). Claimant's testimony that she felt the injury and it got worse over the course of the day does not mean she did not identify a specific

[2] In her depositions, claimant identified several people that she told about her injury on April 13 and 14, 2023. For some, she was able to provide a full name; for others, either a first name or a position. The Arkansas Supreme Court has held that where a witness is available to a party and by reason of his employment subject to the party's direction and control, a failure to call that witness with reference to any fact in issue, creates a presumption that his testimony would be adverse to the party who could have called him. *Arkansas State Highway Com. v. Phillips*, 252 Ark. 206 (1972); *Brower Mfg. Co. v. Willi*s, 252 Ark. 755 (1972). The only inference that can be drawn without a logical explanation offered as to failure to produce such witnesses is that those witnesses would be adverse to the interest of the respondents.

incident, see *Cedar Chemical Co. v. Knight*, 372 Ark. 233, 273 S.W.3d 473 (2008).

Regarding the second and third elements, claimant began treatment within 10 days of reporting the injury. The employer obviously believed the claimant to be performing employment services on April 13, 2023, because the respondents initially provided medical benefits; the reason for the cessation was never made clear at the hearing. Even while receiving the limited care that respondent provided, APRN Minton recognized there may be a need for an MRI to properly diagnose what was wrong with claimant. In her chart entry of May 15, 2023, the following were recorded: "We will attempt conservative treatment. She may need an MRI for her radiculopathy of the left upper extremity…" "Acute complicated injury." "The injury is extensive." Despite these observations, APRN Minton concluded with: "Khanh's recommended work status is regular duty. Recommended activity restrictions: Attention not to aggravate injuries."

As set forth in the summary of the medical records, after another month of conservative care, an MRI on claimant's right shoulder, and still not being seen by a medical doctor at Conservative Care Occupational Health, APRN Minton referred her to an orthopedic doctor. Claimant next went to Mercy Clinic Orthopedic, where she was seen on July 6, 2023, by Physician's Assistant Lauren Walhmeier. On that first visit, PA Walhmeier injected claimant's right shoulder and elbow with a corticosteroid.[3] After respondents ceased paying benefits in this matter, there were spasms recorded

[3] See *Melius v. Chapel Ridge Nursing Ctr., LLC,* 2021 Ark. App. 61, 618 S.W.3d 410l:

"In addition, there is no requirement under Arkansas law that a doctor, physical therapist or other medical provider actually observe a patient having a muscle spasm before an employee's injury can be compensable. See *Estridge v. Waste Mgmt*., 343 Ark. 276, 33 S.W.3d 167. In *Estridge,* the supreme court held that straightening of the curve in the spine was an objective finding supporting a back injury because this finding is normally associated with muscle spasm, and the doctor in that case prescribed medication "as needed for muscle spasm." *Estridge,* 343 Ark. at 282, 33 S.W.3d at 171. This was found to be objective evidence of injury with no evidence to the contrary. Id. Furthermore, the supreme court held that a doctor would not prescribe medications used for muscle spasms if he or she did not believe that muscle spasms were existent. *Id.*"

If prescribing oral medications for a muscle spasm is objective evidence that a doctor believes the problem existed, then administering a corticosteroid injection would likewise satisfy the requirement that the physician's assistant made an objective finding that a condition was present that warranted such.

in claimant's scapula, periscapular muscles and neck during her physical therapy session on November 18, 2023. All these objective findings are present in the record before claimant had a cervical MRI in January 2024, which clearly demonstrated the issues in claimant's neck.

Based on the foregoing analysis, I find claimant has met her burden of proof that she sustained a compensable injury on April 13, 2023, to her neck, upper back, and shoulders. Claimant requested that she be awarded medical benefits, and I find that the treatment she has had since respondents controverted her claim have been reasonable and necessary. Claimant also requested temporary total disability (TTD) benefits from October 6, 2023, to a date to be determined, less one day that she returned to work. Because claimant's neck, back and shoulder injuries are unscheduled injuries, she must prove by a preponderance of the evidence that she remains within her healing period and suffers a total incapacity to earn wages in order to receive temporary total disability benefits, *Allen Canning Co. v. Woodruff*, 92 Ark. App. 237, 212 S.W.3d 25 (2005). I am satisfied that she proved her entitlement to TTD benefits up to the date of the hearing, but the records before me cannot support an award of TTD beyond that day; I do not have anything to indicate that she remains in her healing period beyond May 12, 2025. Claimant has been given a treatment option of extensive surgery on her neck, and I find no fault for her desire to carefully consider the risks and potential benefits of that surgery. It is also reasonable for her to wait to learn how this matter was to be decided. However, it was two months from the date of her last appointment and the date of the hearing. During her visit with Dr. Elberson on March 13, 2025, it was suggested that claimant might return to Dr. Walters for a follow-up visit. I was not told if that visit was scheduled as of the date of the hearing. If claimant has determined not to have the surgery or seek any other care, then it appears she has reached maximum medical improvement and will need to secure an impairment rating should her physician believe she is entitled

to one, or alternatively, begin a different course of treatment recommended by her doctors. I simply do not have any evidence of her condition beyond the date of the hearing and cannot award prospective TTD benefits based on the proof before me. The issue of TTD beyond May 12, 2025, is therefore specifically reserved.

Based on my finding that claimant sustained a specific incident injury, it was unnecessary for me to address the alternative claim of a gradual onset injury.

ORDER

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 discount, and this award shall earn interest at the legal rate until paid, pursuant to Ark. Code Ann. § 11-9-809.

Pursuant to Ark. Code Ann. § 11-9-715, 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 carrier and one half by the claimant.

The respondent shall pay the court reporter's fee in the amount of $941.50.

All issues not addressed herein are expressly reserved under the Act.

IT IS SO ORDERED.

JOSEPH C. SELF
ADMINISTRATIVE LAW JUDGE