

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G802277

SOLEDAD TORRES, Employee	CLAIMANT
OLDCASTLE, INC., Employer	RESPONDENT
LIBERTY MUTUAL INSURANCE CO., Carrier/TPA	RESPONDENT

OPINION FILED JULY 6, 2022

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

Claimant appearing *pro se*.

Respondent represented by ZACHARY RYBURN, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On June 15, 2022, the above captioned claim came on for hearing at Springdale, Arkansas. A pre-hearing conference was conducted on April 27, 2022 and a pre-hearing order was filed on April 29, 2022. 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 the within claim.
2. The employee/employer/carrier relationship existed among the parties on March 24, 2018.
3. The claimant sustained a compensable injury to her right knee on March 24,

2018.

At the pre-hearing conference the parties agreed to litigate the following issues:

1. Claimant's entitlement to additional therapy.
2. Statute of limitations.

The claimant contends she is entitled to additional therapy as a result of her compensable right knee injury.

The respondents contend the claimant is not entitled to additional therapy and that the claim is barred by the statute of limitations. The last payment for indemnity benefits was on October 9, 2018, and the last visit for medical services was on January 17, 2019.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witness and to observe her 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 April 27, 2022 and contained in a pre-hearing order filed April 29, 2022 are hereby accepted as fact.
2. Claimant's claim for additional compensation benefits is barred by the statute of limitations.

#### FACTUAL BACKGROUND

The parties have stipulated that claimant suffered a compensable injury to her right knee while working for respondent on March 24, 2018. Claimant testified that she had

two surgical procedures performed on her knee. The first procedure was performed in March 2018 and the second procedure in September 2018. Claimant also testified that she was released from medical care in January 2019.

Claimant testified that she still has pain in her knee with swelling and as a result she is requesting additional benefits in the form of physical therapy for her right knee.

### ADJUDICATION

Respondent accepted claimant's injury as compensable and paid compensation benefits. Claimant is now requesting additional medical treatment in the form of physical therapy for her compensable right knee injury. Respondent contends that claimant's claim for additional compensation benefits is barred by the statute of limitations. The statute of limitations for additional benefits is codified at A.C.A. §11-9-702(b)(1) which states:

(b) TIME FOR FILING ADDITIONAL COMPENSATION.

(1) In cases in which any compensation, including disability or medical, has been paid on account of injury, a claim for additional compensation shall be barred unless filed with the commission within one (1) year from the date of the last payment of compensation or two (2) years from the date of the injury, whichever is greater.

Claimant has the burden of proving that she filed her claim within the time allowed for filing a claim for additional compensation. *White County Judge v. Menser*, 220 Ark. 140, 597 S.W. 3d 640.

Respondent submitted into evidence Form AR-C which was signed by the claimant on March 10, 2021. Respondent also submitted into evidence payment records showing

that the “last payment of compensation” was for medical services provided on January 21, 2019. Claimant’s claim for additional compensation benefits filed on March 10, 2021 was more than one year after the date of last payment of compensation benefits on January 21, 2019. In addition, the claim was filed more than two years from the date of injury on March 24, 2018.

Because claimant did not file her claim for additional compensation benefits within one year from the date of last payment of compensation or within two years from the date of injury, her claim for additional compensation benefits is barred by the statute of limitations.

ORDER

Claimant’s claim for additional compensation benefits was not filed within one year from the date of last payment of compensation or within two years from the date of injury. Therefore, her claim for additional benefits is barred by the statute of limitations. Therefore, her claim for additional benefits is hereby denied and dismissed.

Respondent is responsible for paying the court reporter her charges for preparation of the hearing transcript in the amount of \$173.25.

IT IS SO ORDERED.

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GREGORY K. STEWART  
ADMINISTRATIVE LAW JUDGE