

**BEFORE THE ARKANSAS WORKERS' COMPENSATION
COMMISSION**

CLAIM NO. F310588

SHERRY A. RICKETTS, EMPLOYEE

CLAIMANT

**GARY MCKENNON,
EMPLOYER**

RESPONDENT

UNINSURED

OPINION FILED JULY 20, 2005

Hearing before Administrative Law Judge Cynthia Estes Rogers on May 13, 2005, in Pine Bluff, Jefferson County, Arkansas.

Claimant represented by Mr. James W. Stanley, Attorney at Law, North Little Rock, Arkansas.

Respondent appeared pro se.

A hearing was held on May 13, 2005, to determine claimant's entitlement to medical expenses that have not been paid, as well as future medical expenses.

The parties stipulated to the existence of the employee-employer relationship on September 26, 2003, when claimant sustained an admittedly compensable injury to her right knee.

Claimant does not seek temporary total disability indemnity benefits. Rather, claimant contends that she is having continued problems with her right knee as a result of her compensable injury of September 26, 2003, and that she needs future medical treatment for that knee. Claimant contends that respondent should pay the

medical expenses that have not been paid, which claimant incurred as a result of her compensable injury.

Respondent contends that claimant was fully released by her doctors and was able to return to work and, as such, she is not entitled to future medical care. Further, respondent asserts that he filed Chapter 7 bankruptcy and that all of the medical claims regarding claimant were included in that bankruptcy and were discharged, therein.

STATEMENT OF THE CASE

Respondent testified that he agrees that on September 26, 2003, claimant sustained a compensable right knee injury while working as a waitress for him at Scooter's restaurant. Respondent testified that he is the owner of Scooter's. Respondent admitted that claimant sustained a compensable injury on that date and was treated medically. Respondent contends that claimant was released by her doctor to return to work on October 13, 2003. Respondent introduced a medical release from Dr. Clark from October 13, 2003, with which claimant does not disagree. Based upon that release, respondent contends he is not liable to claimant for any future medical treatment as a result of her compensable injury of September 26, 2003.

Claimant does not dispute that she was released to return to work on October 13, 2003, by Dr. Clark. However, claimant contends that her knee remains in pain and that she is in need of future medical treatment at respondent's expense. Further,

claimant contends that, although respondent agrees that she sustained a compensable injury on September 26, 2003, he has failed to pay for all of her medical expenses previously incurred. Claimant testified that respondent told her repeatedly that he “would take care of [the medical expenses].”

Respondent agrees that he has not paid, contending that his debt to claimant was discharged pursuant to a Chapter 7 bankruptcy that he filed. Respondent testified about his alleged bankruptcy but offered no proof of same before the Commission. Moreover, respondent testified that although he believes he listed the medical debts owed on this injury, he did not mention claimant’s name, specifically, in his alleged bankruptcy. Claimant testified that the bills are in her name. Respondent agreed at the hearing to pay for an MRI bill of \$1,603.25, which he specifically testified was *not* discharged in his bankruptcy.

FINDINGS OF FACT

1. All stipulations agreed to by the parties herein are accepted as fact;
2. Claimant has proven by a preponderance of the evidence that she is entitled to all past medical treatment received as a result of her admittedly compensable injury of September 26, 2003;
3. Should claimant need future medical treatment for her right knee, she is entitled to same at respondent’s expense, so long as the treatment is

reasonable and necessary in connection with her compensable injury of September 26, 2003.

4. Respondent has controverted claimant's entitlement to future medical treatment.

DISCUSSION

Claimant's right knee injury was an admittedly compensable one; therefore, any treatment she received in connection therewith is obviously the responsibility of the respondent. Respondent contends that all of the medical bills in regard to claimant were discharged in bankruptcy, with the exception of one MRI bill of \$1,603.25, which respondent admitted that he is liable for. Respondent admitted that any bill not discharged by the bankruptcy would be his responsibility.

However, as respondent provided no proof, whatsoever, of his alleged bankruptcy, it would require speculation on this examiner's part to determine which, if any, of claimant's medical bills were discharged. As such, respondent is liable for all medical treatment that claimant incurred as a result of her admittedly compensable injury. Moreover, respondent testified that although he believes he listed the medical debts owed on this injury, he did not mention the claimant by name, specifically, in his bankruptcy; therefore, as such, it is this examiner's opinion that respondent remains liable for all of the medical bills, as those bills were obviously in claimant's name, and respondent did not list claimant by name in his bankruptcy.

In regard to future medical treatment, because claimant's injury was admitted by respondent to be compensable, claimant is entitled to any future medical treatment she may need for her right knee, so long as the treatment is reasonable and necessary in connection with her compensable injury of September 26, 2003. Respondent asserts that he should no longer be responsible in the future because claimant was released to return to work at full duty on October 13, 2003. However, the Full Commission has held that, although the healing period may have ended, thereby ending a claimant's entitlement to temporary total disability indemnity benefits, medical treatment following the end of the healing period that is palliative and aimed at maintaining claimant's level of improvement is reasonably necessary. *See Tanner v. Westlake Trucking, Inc., et al.*, Nos. F303229 and F309376, May 18, 2005. As such, claimant is entitled to future medical treatment that is reasonable and necessary in connection with her compensable injury, at respondent's expense.

AWARD

Respondent is directed to pay any and all of claimant's medical expenses that have been incurred and not, heretofore, been paid, as a result of her compensable injury of September 26, 2003.

Respondent is directed to pay for any and all future medical treatment received by claimant, so long as the treatment is reasonable and necessary in connection with claimant's compensable injury of September 26, 2003.

Respondent is directed to pay the claimant's attorney, Mr. James W. Stanley, the maximum attorney's fee on this award pursuant to Ark. Code Ann. § 11-9-715.

Respondent is directed to pay the court reporter's fee for this case.

IT IS SO ORDERED.

CYNTHIA ESTES ROGERS
Administrative Law Judge