

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. F007706

SANDI ROMMEL, Employee	CLAIMANT
FAYETTEVILLE SCHOOL DISTRICT, Employer	RESPONDENT
RISK MANAGEMENT RESOURCES, Carrier	RESPONDENT

OPINION FILED MAY 26, 2005

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

Claimant represented by ROBERT J. LAMBERT, JR., Attorney, Springdale, Arkansas.

Respondents represented by CURTIS L. NEBBEN, Attorney, Fayetteville, Arkansas.

STATEMENT OF THE CASE

On May 4, 2005, the above captioned claim came on for a hearing at Springdale, Arkansas. A pre-hearing conference was conducted on February 14, 2005, and a pre-hearing order was filed on that same date. A copy of the pre-hearing order has been marked 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 prior opinion in this case is final.

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

1. Claimant's entitlement to additional medical treatment; specifically, injections by Dr. Park.
2. Attorney fee.

The claimant contends she is entitled to additional medical treatment in the form of injections by Dr. Park.

The respondents contend that the requested injections are not reasonable and causally related to the compensable injury.

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 stipulation agreed to by the parties at the pre-hearing conference conducted on February 14, 2005, and contained in a pre-hearing order filed that same date, is hereby accepted as fact.

2. Claimant has met her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable injuries; specifically, injections recommended by Dr. Park.

3. Respondent has controverted claimant's entitlement to additional medical treatment.

FACTUAL BACKGROUND

Respondent initially accepted as compensable an injury to the claimant's left knee resulting from a fall at work on February 21, 2000. Claimant also contended that she had suffered a compensable injury to her right knee as a result of that fall. A hearing was conducted on that claim on September 11, 2002 and in an opinion filed October 2, 2002 I found that claimant had met her burden of proving by a preponderance of the evidence that she suffered a compensable injury to her right knee on February 21, 2000. I also found that claimant was entitled to reasonable and necessary medical treatment for her right knee injury and that she was entitled to additional medical treatment for her left knee injury. The respondent appealed that decision and by opinion dated July 10, 2003, the Full Commission affirmed and adopted the October 2, 2002 opinion.

Since the time of the hearing in September 2002 claimant has continued to receive

medical treatment from Dr. Park. As early as March 18, 2004 Dr. Park indicated that claimant might be a candidate for injections due to her continuing complaints of pain.

I think she'll be a candidate for consideration of a SYNVISIC series down the line but we'll get some more time and I've asked her to check with her carrier regarding this.

Dr. Park's subsequent medical reports continue to indicate that claimant is a candidate for the SYNVISIC injection.

Respondent has denied claimant's entitlement to the injections as recommended by Dr. Park, and as a result claimant has filed this claim requesting approval for the same.

ADJUDICATION

Claimant has the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary for treatment of a compensable injury. *Norma Beatty v. Ben Pearson, Inc.*, Full Commission Opinion filed February 17, 1989 (D612291). What constitutes reasonably necessary medical treatment is a question of fact for the Commission. *White Consolidated Industries v. Gallaway*, 74 Ark. App. 13, 45 S.W. 3d 396 (2001).

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that claimant has met her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable knee injuries; specifically, the injections recommended by Dr. Park.

Dr. Park addressed claimant's need for the injections and its relatedness to claimant's work-related injury in a letter dated May 3, 2005.

Sandi has symptomatic, early arthrosis of the knee. She does have cartilaginous spaces. She is under conservative management, including surgical intervention in the past and is an ideal candidate for

SYNVISC injection, as a lubricant to the knee, which may, hopefully, alleviate symptomatic discomfort/pain and reduce wear in the joint on a long term basis.

I would think that it's medically reasonable/necessary and directly related to her on the job injury.

In support of its contention that the injections are not reasonably necessary for treatment of claimant's compensable injury respondent relies in part upon a medical report written by Dr. Earl Peeples, an orthopaedic surgeon. After my review of Dr. Park's medical reports and the medical report of Dr. Peeples, I find that the opinion of Dr. Park is entitled to greater weight than that of Dr. Peeples. Dr. Park is a well known and well respected orthopaedic surgeon practicing in Northwest Arkansas. Most importantly, Dr. Park has been the claimant's primary treating physician having performed surgery on the claimant and having evaluated the claimant on numerous occasions. On the other hand, while Dr. Peeples may also be a highly respected orthopaedic surgeon, Dr. Peeples has not evaluated the claimant. Instead, Dr. Peeples simply reviewed medical records before writing his report dated October 11, 2004. In fact, Dr. Peeples' report notes that the MRI submitted to him for review was only paper copies with small images; therefore, he was unable to provide any information in addition to that in the initial report by the radiologist.

Given these circumstances, I find that the opinion of Dr. Park is entitled to great weight and based upon Dr. Park's opinion I find that claimant has met her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable injuries; specifically, injections as recommended by Dr. Park.

ORDER

Claimant has met her burden of proving by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable injuries. This includes

injections as recommended by Dr. Park. Respondent has controverted claimant's entitlement to additional medical treatment.

The claimant's attorney is entitled to the maximum statutory attorney's fee on benefits awarded herein, one-half to be paid by the respondents but with no fee forthcoming from the claimant since no benefits are being paid directly to the claimant.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE