

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F209677

VIOLET LAWRENCE, EMPLOYEE	CLAIMANT
EAST ARK. AREA AGENCY ON AGING, EMPLOYER	RESPONDENT
RISK MANAGEMENT RESOURCES, TPA	RESPONDENT

OPINION FILED MAY 10, 2006

Hearing before ADMINISTRATIVE LAW JUDGE ANDREW L. BLOOD, on March 3, 2006, at Jonesboro, Craighead County, Arkansas.

Claimant represented by the HONORABLE JIM R. BURTON, Attorney at Law, Jonesboro, Arkansas.

Respondent represented by the HONORABLE BETTY J. DEMORY, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted in the above-styled claim to determine the claimant's entitlement to additional workers' compensation benefits.

On January 10, 2006, a pre-hearing conference was conducted in this claim, from which a Pre-hearing Order of the same date was filed. The Pre-hearing Order reflects stipulations entered by the parties, the issues to be addressed during the course of the hearing, and the parties' contentions relative to same. The Pre-hearing Order is herein designated a part of the record as Commission Exhibit #1.

The testimony of the claimant, coupled with medical reports, and other documents

comprise the record in this claim.

DISCUSSION

Violet Lawrence, the claimant, with a date of birth of October 5, 1939, commenced her employment with respondent on July 17, 2001, delivering meals to clients of same. Claimant has ten (10) years of formal education plus a couple of years attending business college. Claimant was owner/operator of her own business, a coffee shop, in Donavon, Missouri until 2000 at which time she sold it. Claimant had never experienced an injury to her right hand or arm prior March 2002. Claimant is right hand dominate.

In her employment with respondent claimant's duties entailed driving a seven passenger van delivering meals to clients of respondent. Claimant averaged twenty (20) hours per week discharging her employment duties. Claimant denies that she had ever had a workers' compensation claim prior to her March 18, 2002, injury in the employment of respondent. Claimant suffered the injury which serves as the basis for the present claim when she sustained a fall while delivering Meals on Wheels. In describing the mechanics of the March 18, 2002, accident and injury, claimant testified:

The payment, the cement was wet on the porch and my feet just went out from under me. And I grabbed for a steel chair, an iron chair but it came down on me.

* * *

Basically I hit on my back, arm and, you know, trying to catch yourself - -

- - my feet just went out and I just kind of went out. (T. 7).

Claimant sought and obtained medical treatment the following day from Dr. Laura Lascar

at the Pocahontas hospital the following day. Claimant asserts that Dr. Lascar obtained x-rays and recommended that she see an orthopedic specialist, however did not make a referral.

Claimant reported her March 18, 2002, accident to her supervisor, Helen Sullinger, at which time she was sent to doctor. The claimant's claim was accepted by respondent as a medical only claim. Claimant was seen by several physicians in Jonesboro to include Dr. Edward Cooper and Dr. Terence Braden, however she is uncertain which was seen first. Regarding her medical treatment under the care of Dr. Cooper, an orthopedic surgeon, claimant testified that x-rays were obtained and that she was treated with cortisone. The testimony of the claimant reflects that while under the care of Dr. Cooper physical therapy was tried, however she was unable to perform it. Claimant also maintains that Dr. Cooper referred her to Dr. Bourland. Claimant estimates that she treated with Dr. Cooper two to three months.

The testimony of the claimant reflects that she was seen by Dr. William Bourland, a Memphis orthopedic physician, on two occasions, with treatment consisting of x-rays, braces, and a recommendation for surgery. Claimant maintains that respondent refused to authorize the surgery recommended by Dr. Bourland.

The testimony of the claimant reflects that her contact with Dr. G. Thomas Frazier, a Little Rock orthopedic surgeon, was the product of a sanctioned change of treating physician order. Claimant testified that she was also seen by Dr. Frazier, who after reviewing her medical records and x-rays, also recommended the same surgical procedure and had been recommended by Dr. Bourland. Claimant has not undergone the procedure because respondent has refused to authorize it. The October 25, 2004, report of Dr. Frazier reflects the recommendation that the claimant undergo an arthroscopy of the right wrist with possible dorsal intercarpal ligament

repair of the scapholunate joint.

Claimant wore splint/brace on her right arm during the hearing in this claim. Claimant explained that the first Jonesboro physician she saw regarding her March 18, 2002, injury placed her in a sling. Claimant was direct to a provider by the physician to obtain a brace. Claimant's testimony reflects that for the past three and a half years she has worn the splint on her right arm relative to her injury. Claimant testified:

I've got five different splints. I've got one for bathing and one for dishes and three to wear when I go places. (T. 13).

In describing the current status of her right hand and arm which she attributes to the March 18, 2002, accident, claimant testified:

Well, I just can't use it. I don't lift anything. I don't - - you just don't use it much. It's too much pain. As long as it stays still I can do pretty much, you know, with my fingers.

* * *

My fingers was fine. It's just the wrist that I can't move. (T. 13).

Claimant testified that while she sometimes experience numbness in the thumb or fingers it is not often. Claimant added that it is her right wrist and upper arm that hurts badly, for which she takes over-the-counter medicine. Claimant added that she prefer not to take strong medicine. Claimant's testimony reflects that early on in her treatment she was orally taking Morphine but she did not like taking it.

Claimant asserts that the use of her wrist has not improved over time but rather has gotten worse. Claimant explained that her wrist hurts all the time and that the pain increases if she lay on it wrong or move it wrong.

Claimant denied that she was provided light duty work by respondent following her accident. In explaining the end of her employment with respondent claimant testified:

No. It was a few days after the incident I'm sure. One morning I had forgotten my brace and I was going to get it on the way back in to town because I came to Pocahontas to get the food, pick up the food. And she wouldn't let me drive the bus and she wanted me to clean cabinets and a refrigerator with my broken arm and I said, no, I will not. So, I walked out. (T. 24).

Claimant asserts that if she could not drive the van she was not going to clean cabinets and a refrigerator with a broken arm.

Claimant testified that she had no recollection of receiving a April 9, 2002, note from Dr. Lascar releasing her to full duty effective April 10, 2002.. Claimant's testimony reflects that she was seen by Dr. Lascar on two (2) occasions regarding her compensable injury, however she denies ever seeing a April 9, 2002, release. (JX.#1, p. 23). Claimant has no recollection of Dr. Braden releasing her to full duty. Claimant asserts that when she was seen by Dr. Braden she was referred to Dr. Cooper. Thereafter, claimant was seen by Dr. Bourland.

Claimant was seen by Dr. Bourland on two (2) separate occasions, with a year's lapse between visits. Claimant acknowledge being aware of the contents of the narrative report of Dr. Bourland questioning whether her complaint was the product of the compensable injury or from an old injury. Claimant denies receiving a May 29, 2003, note from Dr. Bourland directing her to continue working full duty with no restrictions. (JX. #1, p. 50). Claimant concedes that she was not seen by another doctor regarding her compensable injury between the May 29, 2003, visit of Dr. Bourland and the October 25, 2004, evaluation by Dr. Frazier.

Claimant has not worked since her employment by respondent. In explaining her reasons

for not working, claimant testified that she did not think that she could do anything. Claimant acknowledged that she continues to drive, however maintains that she basically uses her left hand. Claimant continued to perform her house work of vacuuming and dusting, but uses her left hand in doing so. Claimant asserts that she felt that she could continue driving the van for respondents. Claimant's testimony reflects that but for the fact that she forgot her brace and was directed to perform the clean job she would have continued in her employment with respondent, rather than resign. (T. 39).

Claimant now receives regular Social Security retirement benefits, which commenced once she reached age sixty-five (65) in 2005. Claimant also receives Medicare benefits, which also started in October 2005. The claimant has not submitted any of her wrist-related medical expenses to Medicare.

The testimony of the claimant reflects that the last medical specialist she saw regarding his injury was Dr. Frazier. Claimant testified that she is willing to pursue surgery relative to her wrist by any bone specialist, and has no objection to either Dr. Frazier or Dr. Bourland.

The medical in the record reflects that the claimant was seen at the Pocahontas Medical Clinic on March 20, 2002, by Dr. Laurentia Lascar, and relayed a history of a March 19, 2002, work-related accidental slip and fall. The clinic note reflects, in pertinent part:

. She hit the back of her neck and the occipital area. She also hurt her right wrist, which is swollen and tender. She feels that her right wrist is swollen and stiff and so is her neck.

* * *

ADDENDUM: The wrist x-ray looks normal and the neck x-ray does not show any fractures or dislocation. Nevertheless I will send the neck x-ray to the radiology department for proof reading. I gave the patient

samples of Celebrex 200 mg p.o.q. day for 14 days and prescription for Skelaxin 400 mg p.o. t.i.d. 30 pills with two refills. She will have PT as documented earlier. I will follow on an as needed basis. (JX. #1, p. 1-2).

Claimant attended the physical therapy which was prescribed by Dr. Lascar at Randolph County Medical Center. Records of the afore facility reflects that the claimant had nine (9) visits, canceled three (3) appointments and was a “no show” on one occasion. (JX. #1, p. 10).

Claimant was again seen by Dr. Lascar on April 9, 2002. Following her examination during the afore visit, Dr. Lascar opined that because of the continued discomfort in the claimant’s right wrist an evaluation by an orthopedic was warranted. The clinic note of Dr. Lascar reflects plans to refer the claimant to Dr. Joseph for the wrist complaint. (JX. #1, p.20). The record also reflects that Dr. Lascar authored a certificate for the claimant to return to work full duty effective April 10, 2002. (JX. #1, p. 23).

On April 19, 2002, claimant was evaluated by Dr. Terence P. Braden, III, D.O., at the request of respondent. After reciting a history of the claimant’s March 2002, accident, and the medical treatment received in connection with it, the April 19, 2002, report of Dr. Braden reflect, in pertinent part:

She further reports that her right wrist gives her discomfort. She said that when she started therapy, she was able to move the wrist better. Now after therapy, she doesn’t seem to have as much movement as she had when she started. She does not localize the pain well. She points from the distal third of her forearm down to the carpal bones as where she has pain. She says it hurts on the medial aspect and lateral aspect, and she points to the inside and outside of her wrist. She, again, reports no numbness, tingling or weakness in the hand.

* * *

Objectively: This is a white female who stands 5'4" and weighs 170 lbs.

Palpatory examination about the right wrist and hand causes her to complain of pain on the dorsum of the wrist, really closer to the distal third of the forearm in between the radius and the ulna. Even gentle examiner touching or palpating of this area causes her to complain of severe pain. Yet, she will it and squeeze it during this evaluation with her other hand, applying significant force and pressure without any complaints of pain. (JX. 1, p. 25-29).

Regarding the claimant's right wrist complaint, Dr. Braden recommended a triple phase bone scan. The April 19, 2002, report of Dr. Braden noted that the claimant could continue in her work environment.

Claimant underwent the triple phase bone scan on April 30, 2002, at St. Barnards Medical Center. The results were positive with respect to the right wrist:

However, on the delayed images, on the right side, there is intense activity noted in the area, most likely about the lunate, possibly over in the area of the scaphoid. Also, there is slight increased activity at the head of the first metacarpal. Also, on the right side, in the area of the MP joints, index finger and long finger, there is a focal area, very tiny area of increased activity. Also, at the DIP joint index finger, right, slight increased activity. (JX. #1, p. 31).

The May 7, 2002, clinic note of Dr. Braden reflects, with respect to a return visit of the claimant, that the claimant was continuing in her work environment, and a decrease of pain in the right wrist. The clinic note further reflects:

The bone scan has been received. There is a question of osteoarthritic changes versus fracture through the carpal row. I do not have the old films for comparison here in the office, but I think it is prudent to proceed with the following:

1. Continue in her work environment.
2. Right wrist splint will help if it is osteoarthritic versus if it is a fracture. If it is a fracture, we will keep it in this until she is seen by an orthopedist.
3. I think that referral to Dr. Day who has a clinic in Pocahontas would be appropriate. He will most likely be able to re-x-ray the wrist and compare that to the bone scan result. (JX. #1, p. 33).

The medical reflects that the claimant was seen by Dr. R. Edward Cooper, a Jonesboro orthopedic surgeon, on May 23, 2002, relative to her right wrist complaint. After reciting the history of the claimant's March 2002, accident and medical treatment received relative to same, Dr. Cooper noted the results of the bone scan:

. . . . This did show increased uptake in the right wrist. It is difficult to tell whether it is on the radial side or the carpal side of the radial carpal joint, but it is centered right around the radial carpal joint at the radioscapoid and radiolunate junctions.

The report further reflects:

X-rays today demonstrate some degenerative changes in the radial carpal and intercarpal joints with a cyst located in the radial aspect of the lunate approximately 2-3 mm. in diameter. This may be an incidental finding. There is no widening of the scapholunate interval. I cannot detect any intercalated segment instability pattern or other major ligamentous disruption. There are some sclerotic areas in the proximal pole of the scaphoid which could be consistent with trauma. The bone scan was reviewed once again and once again does show increased uptake in the area of the distal radius near the articular surface or radial carpal joint. (JX. #1, p. 34).

Dr. Cooper arranged an MRI scan of the claimant's right wrist which disclosed a possible occult fracture right wrist. (JX. #1, p. 35-36).

During a June 26, 2002, return visit, Dr. Cooper noted that the claimant continued to have pain in the right wrist. The physical examination during the afore visit disclosed significant tenderness over the scapholunate interval. The June 26, 2002, report further reflects, in pertinent part:

. . . The MRI was performed and reviewed today. This does show increased signal intensity in the area of the radial aspect of the lunate and proximal pole of the scaphoid at the scapho-lunate interosseous ligament and scapho-lunate interval. This shows what could potentially be degenerative change. However, it is on both sides of the scapho-lunate in the interosseous space. In addition, it extends down into the scaphoid somewhat and could represent trauma to

this area as well. She has significant laxity to her ulnar collateral ligament of the thumb compared to the contra-lateral side. This opens almost all the way up consistent with gamekeeper's thumb. There is only mild tenderness at the ulnar aspect of the joint.

IMPRESSION:

1. Injury to the scapho-lunate joint right wrist.
2. Right gamekeeper's thumb. At this point it is chronic.

This could represent injury to the ligament, but it appears to involve both bones.

PLAIN:

1. The right wrist was sterilely prepped and injected with Depo-Medrol and Lidocaine.
2. She will continue the Celebrex.
3. We will observe gamekeeper's thumb for now, but she may require reconstruction at some point. It is certainly too late to immobilize it at this point.
4. She will return to clinic in six weeks for follow-up. At that time if she is not significantly improved, we will consider referring her for wrist arthroscopy. (JX. #1, p. 37).

When the claimant returned to Dr. Cooper on August 7, 2002, the medical records reflect that there had not been an appreciable improvement in her right wrist complaints. The August 7, 2002, clinic note of Dr. Cooper concludes:

We will refer her to Dr. Bourland, hand surgeon over in Memphis, for further evaluation and treatment. She may benefit from wrist arthroscopy, at least diagnostically, . . . (JX. #1, p. 38).

On August 20, 2002, claimant was evaluated by Dr. W.L. Bourland, relative to her right hand and wrist complaint. After noting the mechanics of the claimant's March 2002, injury, as well as the results of diagnostic studies and treatment received to date, the August 20, 2002, report of Dr. Bourland reflects the detailed results of his physical examination and assessment of the claimant's complaints along with treatment recommendations. With respect to the afore the report reflects:

X-RAYS: Bone scan, MRI and plain films are reviewed. Also stress x-rays are taken today. The patient definitely has a cyst over the radial side of the lunate which occupies approximately 30% of the lunate. There is also some irregularity changes on the radius and on the lateral view there is a definite dorsal tilt of the lunate with a rotational deformity of the navicular which I think is indicative of a torn scapholunate ligament and a DISI deformity. There is some widening on power grip of the scaphoid and lunate. (JX. #1, p.40).

The claimant's complaints were diagnosed by Dr. Bourland as probably chronic ulnar collateral ligament tear of the MP joint of the left thumb and probably chronic scapholunate dissociation with cystic lunate. The August 20, 2002, report of Dr. Bourland further reflects:

TREATMENT: I have explained to the patient that I think her thumb injury is probably old. There is no swelling in the area and even if she had been injured in MAR, five months ago, there would still be some swelling present even though she states she had no pain prior to this injury. I do think the thumb is definitely an old injury however if she has problems with the thumb the ligament can be reconstructed and stabilized. This will give her some stiffness in the MP joint of the thumb but should stabilize the thumb and give her a stronger thumb. She understands that.

A similar problem exists in her wrist. Even though she states she had no problems prior to the injury, I think this is an old injury that we are seeing. It is old enough that she has had time to develop a cyst in the lunate. I think there is a definite instability pattern present and she does have some early osteoarthritis in the wrist. I have explained to the patient that she probably will need some type of a fusion or a proximal row carpectomy to attempt stabilization. I think she is probably better off to try and give this some more time to see if the pain will subside even though it has been five months since the injury. She states that she tried therapy initially and it only made it worse. She talks about losing 50% of her function in her wrist and I am not sure whether she is speaking of grip strength or motion. . . . I think it is worthwhile for her to see a hand therapist and I have recommended that she see Paul Cooper in Paragould, AR, which she states she is able to do. . . .

I have explained to the patient that I think with an exercise program she should be able to get back to reasonably normal use of the hand however eventually with time she will develop significant arthritis. She may need to have a fusion in the future but I think if she elected to have surgery at this point in

time she would definitely be looking at a fusion or a proximal row carpectomy. With a large cyst in the lunate, probably a proximal row carpectomy would be her best choice. Right now she does not want to have surgery and we will simply see how she does with an exercise program. . . . (JX. #1, p. 40-41).

On August 26, 2002, claimant was seen at Cooper Rehabilitation Center pursuant to the recommendation of Dr. Bourland and underwent physical therapy on several occasion, through September 5, 2002. (JX. #1, p. 44-48).

Claimant was again seen by Dr. Bourland on May 29, 2003, at which time she complained of having so much pain that something had to be done, and relayed that any time she tried to do anything now she had a problem with pain in the wrist. The May 29 2003, report of Dr. Bourland further reflects:

Her x-rays today show really no change from August. She still has a cyst in the lunate. She appears to have an irregularity over the scapholunate area and some slight widening there. On the lateral view the navicular is definitely palmar tilted and the lunate is dorsally tilted. I do think she has a partial separation of the scapholunate area as well as a cyst in the lunate. I explained to the patient that I would recommend an arthroscopy of the wrist to determine the articular surface and then if it appears in good condition, go ahead with a bone graft to the lunate and a possible reconstruction of the scapholunate ligament or with a Blatt reconstruction with a dorsal capsulodesis. The patient seems to understand that there is no guarantee This will stop her pain, but that it is the best choice we have at this time. Eventually she may end up needing a fusion of the wrist which would be a significant limitation of motion for her. She does want to go ahead with the surgery and understands we will do whatever is necessary in surgery for a scapholunate reconstruction including a screw from the scaphoid to the lunate if necessary. She does want to have the surgery and has been scheduled for surgery under regional block anesthesia as an outpatient. (JX. #1, p. 49).

Responsive to an inquiry from respondent, a June 5, 2003, correspondence of Dr. Bourland reflects, in pertinent part:

. . . . Ms. Lawrence does have a cyst in her lunate with a possible

ligament tear in the scapholunate area. As noted in my office note of 8/20/02, there is really no way to know exactly when the injury occurred. I saw the patient approximately 5 months after her injury in March, and at that time it appeared to be an old injury.

Her lunate cyst probably did not occur in March of 2002. However, it is possible that an injury at that time may have aggravated the condition that started her pain.

There is no way of knowing if she does have a scapholunate ligament injury until we look at it at surgery. Overall, this appears to be a lunate cyst which may improve with surgery and with bone grafting. I have no way of knowing when the injury occurred or whether this is truly an injury or a degenerative process, and I probably won't know after surgery either. (JX. #1, p. 51).

A May 21, 2004, chart note of Dr. Bourland reflects receipt of an inquiry from the claimant's attorney regarding an impairment rating. After noting his last contact with the claimant (May 29, 2003), the results of diagnostic studies/physical examination for which surgery had been recommended and never received, the May 21, 2004, chart note concluded:

According to her last follow-up visit and her x-ray changes at that time, the patient has a 16% partial permanent physical impairment of her right upper extremity secondary to the scapholunate dissociation and cyst in the lunate. This is in accordance with AMA Guidelines, Fifth Edition, Page 503, Table 1625. (JX. #1, p. 53).

On October 25, 2005, claimant was evaluated by Dr. G. Thomas Frazier, a Little Rock orthopedic physician and hand specialist. After reciting a history of the claimant's March 18, 2002, injury, and medical treatment received relative to same, the October 25, 2004, report reflects, in pertinent part:

Ms. Lawrence's past medical history is significant for hypertension and gastroesophageal reflux disorder. Her history is negative for diabetes mellitus, organic heart disease, kidney disease, blood dyscrasias, thyroid disorder, gout or rheumatoid arthritis.

* * *

Examination of her right upper extremity shows some swelling over the dorsum of the right wrist with tenderness to palpation over the scapholunate articulation. Watson test is positive. Linscheid and Kleinman tests are negative. There is pain with palmar flexion and dorsiflexion of the wrist as well as with ulnar deviation. Wrist relocation test is negative. Tinel's sign is negative over the median nerve at the right wrist and Phalen's test is negative at one minute.

Dynamic x-rays of the right wrist show an increased scapholunate angle at approximately 80-90 degrees. The capitolunate angle is normal. There is mild to moderate scapholunate diastasis present.

It is my assessment that Ms. Lawrence has evidence of a scapholunate interosseous ligament tear of the right wrist.

Today it was recommended to Ms. Lawrence that in view of her long-standing symptoms and history of trauma as well as her radiographic findings, she undergo arthroscopy of the right wrist with possible dorsal intercarpal ligament (Viegas) repair of the scapholunate joint.

Ms. Lawrence has a good grasp of the problems and solutions regarding her right wrist as well as my recommendation. I have told her I would be happy to see her again in the future and she will otherwise return on a prn basis. (JX. #2, p. 9).

After a thorough consideration of all of the evidence in this record, to include the testimony of the claimant, review of the medical reports and other documentary evidence, application of the appropriate statutory provisions and case law, I make the following:

FINDINGS

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On March 19, 2002, the relationship of employee-employer existed between the parties.
3. On March 19, 2002, the claimant earned wages sufficient to entitle her to weekly compensation benefits of \$69.00, for temporary total/permanent partial disability.

4. On March 19, 2002, the claimant sustained an injury to her right upper extremity arising out of and in the course of her employment.

5. On September 30, 2004, an Amended Change of Physician Order was entered designating Dr. G. Thomas Frazier as the authorized treating physician relative to the claimant's March 19, 2002, compensable injury. The treatment recommendations as set forth in the October 25, 2004, report of Dr. Frazier are reasonably necessary in connection with the injury received by the claimant on March 19, 2002.

6. The respondent shall pay all reasonable hospital and medical expenses arising out of the injury of March 19, 2002.

7. The respondent has controverted the claimant's entitlement to additional workers' compensation benefits, to include medical benefits, subsequent to August 20, 2002, save for the initial October 25, 2004, visit to Dr. Frazier.

CONCLUSIONS

On or about March 19, 2002, while within the course and scope of her employment with respondent, claimant suffered an accidental fall resulting in injuries to her neck and right wrist. Claimant asserts that she continues to require medical treatment relative to her right wrist and for which respondent is liable. In the alternative, claimant asserts that she has sustained a permanent physical impairment in the amount of 16% to the right upper extremity and is entitled to the payment of corresponding permanent partial disability benefits. Respondent takes the position that appropriate medical treatment was paid on claimant's behalf until her release to return to work on or about August 20, 2002. The present claim is one governed by the provisions of Act 796 of 1993, in that the claimant asserts entitlement to additional workers' compensation benefits

as a result of an injury having been sustained subsequent to the effective date of the afore provision.

The compensability of the claimant's March 19, 2002, is not disputed. Indeed, following the reporting of the injury by to the claimant to appropriated supervisory personnel, respondent paid for the cost of the claimant's medical treatment, to include treatment relative to her right upper extremity, through August 20, 2002.

Claimant commenced her employment with respondent on July 17, 2001, as a driver delivering home meals. There is no evidence in the record to reflect that the claimant experienced limitations or restriction on her physical activities with respect to her upper extremities prior to her March 19, 2002, slip and fall while discharging employment duties.

While Dr. Bourland offered in his August 20, 2002, report that the findings relative to the claimant's thumb and wrist complaints were "probably old" and, as such not the product of the March 19, 2002, accident, as noted above there is no evidence in the record, either testimony or documentary, of the claimant having sustained an injury to either body parts or obtaining medical treatment relative to same. Included in this record are medical reports regarding the claimant's medical treatment pre-dating her March 2002 compensable accidental injury. At the time of the claimant's initial medical treatment following the March 19, 2002, accident, the treating physician, Dr. Lascar, recorded "the right wrist is swollen and slightly erythematous". (JX. #1, p. 1).

A pre-existing disease or infirmity does not disqualify a claim if the employment aggravated, accelerated, or combined with the disease or infirmity to produce the disability for which compensation is sought. *St. Vincent Medical Center v. Brown*, 53 Ark. App. 30, 917

S.W.2d 550 (1996). Assuming that the claimant's thumb and wrist complaints were the product of an "old injury" which preceded the March 19, 2002, accident, Dr. Bourland's report explained that it is possible that the injury at the time of the March 19, 2002, accident may have aggravated the condition which started her pain/symptoms.

In workers' compensation law, the employer takes the employee as he finds him, and employment circumstances that aggravate pre-existing conditions are compensable. *Nashville Livestock Commission v. Cox*, 302 Ark. 69, 787 S.W.2d 64 (1990). An Aggravation is a new injury resulting from an independent incident. *Maverick Transportation v. Buzzard*, 69 Ark. App. 128, 10 S.W.3d 467 (2002). An aggravation of a pre-existing, non-compensable condition by a compensable injury is itself compensable. *Hubley v. Best Western-Governor's Inn*, 52 Ark. App. 226, 916 S.W.2d 143 (1996). Finally, the aggravation of a pre-existing condition by a specific work-related incident need not be the major cause of a claimant's disability in order to be compensable. *Farmland Insurance Co. v. Dubois*, 54 Ark. App. 141, 923 S.W.2d 883 (1996).

The evidence in this record preponderates that at the very minimum the claimant's need for medical treatment at the present time is the product of a compensable aggravation of a pre-existing condition, and as such respondent is liable for reasonable necessary medical treatment relative to same. At the most, the evidence preponderated that the claimant's need for medical treatment is the product of a new injury to her wrist and thumb which was sustained on March 19, 2002, in her accidental fall while discharging duties in the employment of respondent. This claimant was not symptomatic relative to her right wrist and upper extremity prior to the March 19, 2002, compensable accidental fall.

When the claimant was initially evaluated by Dr. Bourland on August 20, 2002, a specific

treatment regime was recommended relative to her right wrist and thumb complaints. The treatment recommendations had not changed when the claimant was next seen by Dr. Bourland on May 29, 2003. When the claimant was evaluated by her authorized treating physician, Dr. Frazier, on October 25, 2004, the same procedure was again recommended.

Ark. Code Ann. §11-9-508 (a) (Repl. 2002) requires an employer to provide such medical services as may be reasonably necessary in connection with an employee's injury. *Cox v. Klipsch & Assoc.*, 71 Ark. App. 433, 30 S.W.3d 764 (2000). Medical treatment intended to reduce or enable an injured worker to cope with chronic pain may constitute reasonably necessary medical treatment. *Billy Chronister v. Lavaca Valt*, Full Workers' Compensation Commission, June 20, 1991 (D704562). The evidence in the record preponderates that the medical treatment recommended by the claimant's authorized treating physician is reasonably necessary medical treatment in relation to the claimant's compensable injury of March 19, 2002, and respondent is liable for the cost of same. Respondent has controverted the afore medical benefits.

The healing period continues until the claimant is as far restored as the permanent nature of her injury will permit. When the underlying condition causing the disability stabilizes, and no further treatment will improve the injury, the healing period has ended. *Carroll General Hospital v. Green*, 54 Ark. App. 102, 923 S.W.2d 878 (1996). In the instant claim, the claimant suffered a compensable injury to her right upper extremity. Ark. Code Ann. §11-9-521 provides for the payment of permanent partial disability benefits for scheduled injuries after the healing period has ended. While Dr. Bourland rendered an opinion regarding the claimant's anatomical impairment the evidence preponderates that the claimant has not reached the end of her healing period in that further medical treatment has been recommended that will improve the injury. The

issue of the claimant's anatomical impairment will be held in abeyance pending the claimant's receipt of further medical treatment/surgery.

AWARD

Respondent is herein ordered and directed to all reasonable necessary and related medical treatment growing out of the claimant's compensable injury of March 19, 2002, to include those procedures recommended by the claimant's authorized treating physician, Dr. G. Thomas Frazier, as well as medical mileage.

This award shall bear interest at the legal rate, pursuant to Ark. Code Ann. §11-9-809, until paid.

The issue of permanent physical impairment is expressly reserved and held in abeyance along with other matters not addressed herein.

IT IS SO ORDERED.

Andrew L. Blood, Administrative Law Judge