BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F408285

MICHAEL J. McFADDEN, EMPLOYEE	**CLAIMANT**
STAFFMARK INVESTMENTS, EMPLOYER	**RESPONDENT #1**
AMERICAN HOME ASSURANCE CO., CARRIER	**RESPONDENT #1**
DAYSTAR DINNER AND GROCERY, EMPLOYER	**RESPONDENT #2**
CHARTER OAK FIRE INSURANCE CO., CARRIER	**RESPONDENT #2**

OPINION FILED APRIL 13, 2007

Hearing before ADMINISTRATIVE LAW JUDGE ANDREW L. BLOOD, on February 16, 2007, at Jonesboro, Craighead County, Arkansas.

Claimant represented by the HONORABLE JAMES A. McLARTY, III, Attorney at Law, Newport, Arkansas.

Respondents #1 represented by the HONORABLE JARROD S. PARRISH, Attorney at Law, Little Rock, Arkansas.

Respondents #2 represented by the HONORABLE PHILLIP CUFFMAN, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted in the above style claim to determine the claimant's entitlement to additional workers' compensation benefits. On December 12, 2006, a pre-hearing conference was conducted in this claim, from which a Pre-hearing Order of the same dated 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 the afore. The Pre-hearing Order is herein designated a part of the record as Commission Exhibition #1.

The testimony of Michael McFadden, the claimant, and Victoria Bigness, coupled with medical reports and other documents comprise the record in this claim. Additionally, the record generated as a results of the prior hearing of December 16, 2004, is incorporated by reference in the present hearing record.

DISCUSSION

Michael J. McFadden, the claimant, with a date of birth of January 15, 1981, suffered a compensable injury to his low back on May 25, 2004, as an employee of respondent #1 while assigned to duties at the Hytrol Plant. Following adjudication, the claimant received medical and indemnity benefits relative to the May 25, 2004, injury.

Following the time that he last worked for respondent #1, in May 2004, claimant remained unemployed until May 9, 2006, when he commenced employment with respondent #2. The testimony of the claimant reflects that after he was cleared by his treating physician relative to the May 24, 2004, injury, he went out and looked for jobs. Claimant further explained regarding the manner in which he spent his time during the afore period that he either stayed home or went and stayed with friends. Claimant denies that he suffered any type of incident or accident where he hurt himself between the time of his Staffmark injury up until May 9, 2006.

The claimant interviewed with Ms. Victoria Bigness and disclosed his prior May 25, 2004, back injury at the time he was hired by respondent #2. The testimony of the claimant reflects that respondent #2 was a new business which consisted of a small diner with 9 or 10 tables and 2 ½ or 3 aisles of a small grocery store all located in one building. Claimant was hired to work part-time at minium wages of $5.15 per hour. Claimant testified that he was hired to work 25 to 30 hours week. The testimony of the claimant reflects that he worked pretty much

per call of his boss for the first couple of weeks before, “they started doing schedules and it was still part-time work”. (T. 13).

With respect to the specifics of his job duties in the employment of respondent #1, the testimony of the claimant reflects:

> Generally, I was either at the cash register or walking up and down the aisles, dusting and straightening shelves and stuff like that. And on the days that I was there, there would be - that I had to , you know, unload boxes and put on the shelves. I would put things on the shelves and stock, and then, occasionally, I would help out in the kitchen, usually just doing like minimal things like putting the toppings on burgers and then packaging them up and giving them to people. (T. 13-14).

In re-stocking the shelves claimant explained that if there were one or two items involved he would retrieve them from the stockroom by hand and place them on the shelves. However, if there were multiple items or entire shelves to be re-stocked, then he utilized a shopping cart to retrieve the merchandise from the stockroom. Claimant testified that he was never called upon to lift full cases of cans of soup, flour or other heavy items.

On nights that the claimant closed the diner he was required to mop the floor. Claimant noted that generally he was assisted in the mopping by co-workers. Claimant acknowledged experiencing residual complaints relative to his back when he mopped:

> Yes, sir, it - the nights that I mopped, I noticed when I got home that I did suffer from some aches and pains, stiff, I would say. (T. 15).

Claimant observed that the stiffness and pain experienced in his back following the mopping was not comparable to the symptoms he experienced in his back following the May 25, 2004, compensable injury in the employment of respondent #1, which he described as “sharp and burning pain”, “very severe” in the center of his back. (T. 15).

Claimant testified that he informed Ms. Bigness of the symptom bought on by the mopping at respondent #2. The testimony of the claimant also reflects that he was seen by Dr. Albright at the White County Medical Center in McCrory for his complaints, for which he was prescribed medicine, Tramadol. The claimant was only seen by Dr. Albright on one occasion. Claimant estimates that he performed the mopping task 3 to 4 times. Claimant later requested of respondent #2 that he be assigned to mopping duties any more. The request was honored. The claimant observed that the symptoms of stiffness and pain in his low back bought on by the mopping generally "went away the next morning" after he woke up and did his physical therapy exercises.

The testimony of the claimant reflects that he continued to do physical therapy subsequent to the May 25, 2004, compensable injury with respondent #1 until the most recent incident which serves as the basis for the present claim. Claimant estimates that a period of three or four weeks elapsed between the time he ceased performing the mopping task and the time his back went out on him on July 12, 2006.

Claimant's testimony reflects that July 12, 2006, was a Wednesday. On the day prior, July 11, 2006, the claimant had made his mother a birthday lunch before going to lunch. Claimant denies that his back was symptomatic at all on July 11, 2006.

The testimony of the claimant reflects that on July 12, 2006, at approximately 7:00 p.m. he suffered an episode regarding his back which required further medical treatment and a period of total incapacitation. The claimant testified that at the time of the episode he was turning to walk to the door from the cash register to lock the door to close. Claimant had been standing on a heavy cushioned rubber pad at the cash register. Claimant's testimony reflects that if he was

scheduled to get off work at 6:00 p.m. then he had probably come into work around 11:00 a.m. or 12:00 noon. Claimant explained his reason for still being present at 7:00 p.m. on July 12, 2006, in light of the afore:

> Because the owner decided to stay late that night. We generally close down about 5:00 or 6:00 on Wednesdays, so everybody could go to church . . .
> . . . . but he decided that night since he wanted to try to make more money, and see if we had calls come in . . (T. 20).

The claimant testified regarding the specific mechanics of the episode of July 12, 2006:

> Well, I was standing at the register, and the owner asked me to go lock the door. I turned to my left to go to the door, and that's when I felt the sharp pain like I'd been stabbed in the spine.(T. 20).

Claimant denies that he either tripped, fell, or did anything out of the ordinary at the cash register at the time of the episode. In the act of turning the claimant felt discomfort, which he described as a stabbing, sharp burning severe pain in his spine. In comparing the pain and symptoms experienced in the July 12, 2006, episode to those experienced at the time of his May 25, 2004, compensable injury in the employment of respondent #1, claimant's testimony reflects:

> It's hard to distinguish a difference. It was the same. (T. 21).

The testimony of the claimant reflects that he used the counter for support as he walked to the door and lock it.

Claimant explained that once he walked back to the counter, the owner, Russ Anderson, observed the difficulty that he was having. The claimant reached a chair in the diner and sat down. Claimant testified that he informed Mr. Anderson of the problems that he was experiencing. The testimony of the claimant reflects that he does not feel that he did anything at respondent #2 that caused his back problem to flare up in the July 12, 2006, episode.

On Thursday, July 13, 2006, claimant came in and worked one hour in the morning until someone could get there, respondent #2, to run the register. Claimant's testimony reflects that the intensity of the pain in his low back was just as severe on Thursday morning as it had been on Wednesday night. Claimant went home after filling in for the hour on Thursday morning. Claimant's testimony reflects, regarding his activities after leaving work on Thursday morning:

> No, sir, I just relaxed and I tried to relax my back enough that, hopefully, it would ease up so I could do my physical therapy exercises. (T. 23-24).

The testimony of the claimant reflects that he also took the left over Tramadol but he did not realize any benefit from it. On Saturday claimant also took a prescription pain pill that his mother had left over from her surgery.

The claimant testified that on Friday, July 14, 2006, he called and made an appointment with Dr. Chan, however he did not see a physician until Monday, July 17, 2006, when he was again seen by Dr. Albright at the White River Medical Clinic in McCrory. Claimant testified that he relayed a history of the July 12, 2006, episode to Dr. Albright who prescribed pain pills until he could be seen for his scheduled appointment with Dr. Chan. Dr. Albright also ordered an MRI scan, which was later performed in Searcy.

The claimant was seen by Dr. Chan on September 11, 2006. Treatment measures recommended by Dr. Chan included an injection and physical therapy. Respondents #1 controverted the claimant's claim for workers' compensation benefits subsequent to July 2006, and, as a consequence, neither of the recommendations of Dr. Chan was instituted. Further, the cost of the July 2006, Searcy MRI scan ordered by Dr. Albright remains unpaid. The testimony of the claimant reflects that he has not been able to obtain medical treatment and to work.

Regarding his activities on a day-to-day basis since last receiving medical treatment or working, the testimony of the claimant reflects:

> Stay at home, try to stay relaxed, in terms of my physical position, to that I don't aggravate my back any more. I watch TV, movies, get on the internet, computer. (T. 28).

Claimant's testimony reflects, regarding his ability to perform the home physical therapy exercises that he performed prior to the July 12, 2006, episode:

> I've been - I haven't really physically felt like I could, and I've also been scared to, without knowing what he'd prescribe for the next set of physical therapy. (T. 28).

The testimony of the claimant reflects that following the May 25, 2004, injury in the employment of respondents #1, he performed home physical therapy exercises for 20 minutes on a daily basis.

The testimony of the claimant reflects that Dr. Chan prescribed 800 milligrams of Ibuprofen, which he takes three times a day, and Hydrocodone pain pills, which he takes sparingly, once every other day or third day. Claimant denies that he has suffered any intervening incident/accident since July 12, 2006, to produce his current symptoms or incapacitated state.

On cross examination, claimant acknowledged that Dr. Chan placed him at maximum medical improvement relative to the May 25, 2004, compensable injury in the employment of respondent #1 in May 2005. Claimant also acknowledged that Dr. Chan placed temporary restriction of his employment activity, to include 90 days of light duty, and thereafter to use common sense.

The credible testimony reflects that the claimant actively sought employment following his May 2005, release by Dr. Chan. Further, at the time that the claimant obtained employment

with respondent #2 on May 9, 2006, with the exception of the mopping, there were no physical limitations or restrictions on his employment activities. There is not a dispute regarding the job tasks the claimant performed during his employment with respondent #2. (T. 33-35). Prior to July 12, 2006, claimant had only missed a day from work with respondent #2 due to his back, which related to the mopping and the appointment with Dr. Albright.

The claimant acknowledged that when he was seen by Dr. Albright he relayed that he had been experiencing back pain for the past few days, referring to the July 12, 2006, incident at respondent # 2. Claimant testified that the last time that he had experienced symptoms like those had on July 12, 2006, was in the spring of 2005. Claimant concedes that he did not seek additional workers' compensation benefits until after the July 12, 2006, incident.

The testimony of the claimant reflects that prior to the July 12, 2006, episode he did not use a cane to assist him in walking, as he has done subsequent to the incident. Further, the claimant testified that following his release by Dr. Chan in May 2005, relative to the May 25, 2004, compensable injury in the employment of respondents #1, he did not take any prescription medicine until after the July 12, 2006, episode/incident. Subsequent to the July 12, 2006, incident claimant has taken Darvocet, which was prescribed by Dr. Albright on July 17, 2006, and Hydrocodone and Ibuprofen, as prescribed by Dr. Chan.

Regarding the home physical therapy exercises that he performed prior to the July 12, 2006, episode/incident, claimant noted that they had been recommended by both the physical therapist and Dr. Chan. Claimant explained:

> It was both. They taught me specific exercises that I could do without someone there to watch me, you know, without the physical therapist. It was just simple, simplistic range of motion type exercises

> that I could do without having to be spotted or watched over or anything like that. (T. 49).

Claimant acknowledged that after his May 2005, release by Dr. Chan relative to the May 25, 2004, compensable injury in the employment of respondents #1 there were days when he woke up and would be “a little sore”, however the same would be resolved after he did his exercises. Also, claimant acknowledged occasionally taking Advil or some other over-the-counter medicine “just to ease the soreness”. (T. 50).

Victoria Bigness testified that during the pertinent time period she was employed as manager of respondent-employer #2. Ms. Bigness interview the claimant during the employment application process with respondent #2, and testified:

> Well, when he first come in and wanted to apply, I gave him an application. He said, but you don’t understand, and I said, what, and he - what do I not understand - and he went through the details and told me that he had been injured - in fact, injured quite severely, and he said he had to go through physical therapy and everything for it, and he wanted me to be aware of this, and I told him that I was sure that would be all right, that he could go ahead and put in his application, and I’d discuss it with Mr. Anderson. And Michael told me that he would talk with Mr. Anderson himself cause he wanted to be sure that everybody knew up front. (T. 52-53).

The claimant was hired by respondent #2. The testimony of Ms. Bigness reflects that accommodations were made by respondent #2 in light of the claimant’s prior back injury:

> Yeah, we had personally made sure that he did not really have to do any lifting. In fact, I can’t remember, really, of any lifting that he had to do. We always had somebody else there with him, so it wasn’t just Michael doing the work. When the trucks were coming in for deliveries and stuff, the truck drivers unloaded the trucks, we didn’t have to unload them. I was the one that received all the orders. We provided flat-bed dollies so that when they were unloaded, they were on this - you didn’t have to lift it or carry them anywhere. And, most of the time, I did - I did probably the majority of the stocking myself, because most of it would just go into the walk-in freezer and the cooler, and I did most of it myself.

(T. 53-54).

Ms. Bigness' testimony reflects, with regards to the mopping task performed by the claimant:

> That was - we required those that closed - they would have to do the mopping, and we normally had at least three people there, sometimes only two, but normally three that would close. We told them - they would divide the store up in three sections, normally, so nobody was having to do an excessive amount of mopping. And I know he didn't mop over three or four times when he had come to me and said that it was causing him to have a stiffness and some dull pain in his back, and he asked me if I thought that I could get it to where he didn't have to mop, and I said we - I'll do my best to work it out where you won't have to, and took - and I know he talked to me before he went to the doctor, and then he went to the doctor, and when he came back, he told me that . . . (T. 54-55).

The claimant informed Ms. Bigness of the Dr. Albright's recommendations and accommodations were made by respondent #2 with respect to the mopping.

Ms. Bigness was not working on July 12, 2006, at the time of the claimant's episode/incident involving his back. Ms. Bigness did however provide a description of the cash register area where the episode, as described by the claimant, occurred:

> The cash register - it's got the register, and you're facing down into the store, and you are - the door is to your side, and then you've got about a - probably about a four-foot long counter that - where the groceries come across. So Michael would have had to - he would have just had to have gone that four-foot, and then it's only probably about five foot from there to the door, at the most, after you walk around the edge of the door. (T. 56).

Ms. Bigness testified that the claimant was candid in his interactions with her. In describing his skills as an employee Ms. Bigness' testimony reflects:

> Yes, sir, he did a phenomenal job. He is - I hadn't had much contact with Michael up to this point, til we hired him, but he was great with customers. (T. 57).

On cross examination, Ms. Bigness testified that she was aware that the claimant had been

released by his treating physician at the time respondent # 2 hired him.

The medical in the record reflects a May 4, 2005, return to work slip authored by Dr. Patrick Chan relative to the claimant which provided that the claimant could return to work effective May 10, 2005, with restriction of no lifting more than 20 pounds and no excessive bending, twisting or turning at the waist through August 10, 2005. (R#1,X#1, p. 7). On September 17, 2005, Dr. Chan completed a Form AR-3, relative to the claimant reflecting that the claimant reached maximum medical improvement on June 1, 2005, relative to the May 25, 2004, compensable injury sustained in the employment of respondents #1, with a residual permanent physical impairment of 7% to the body as a whole. (R#1,X#1, p. 8-9).

On June 14, 2006, the claimant was seen by a physician, Dr. Albright, at the White River Rural Health Center, Inc., in McCrory for complaints of low back pain. The medical report generated pursuant to the visit reflects that the claimant relayed a history of his prior May 25, 2004, compensable back injury in the employment of respondent #1 to the attending physician. The claimant's complaints were assessed as low back pain and insomnia for which he was prescribed Tramadol. The June 14, 2006, report reflects that the claimant was to return to the clinic in one month. The June 14, 2006, report did not identify a specific incident as the product of the visit by the claimant. (CX. #1, p. 2).

The claimant was next seen at the White River Rural Health Center on July 17, 2006, with complaint of low back pain for several days. The report reflects that the claimant had scheduled an appointment with Dr. Chan for August 7, 2006. An MRI scan was scheduled for July 24, 2006, by the physician at the clinic. The claimant was provided pain medication and anti-inflammatory medication to be taken as directed pending the scheduled appointment with

Dr. Chan. (CX. #1, p. 3).

The July 24, 2006, White County Medical Center MRI scan relative to the claimant reflects, in pertinent part:

> Interval progression of degenerative disc disease at L5-S1 with a moderate size central disc protrusion which is causing mild central stenosis and appears to abut against the bilateral S1 nerve root. (CX. #1, p.1).

A July 26, 2006, the claimant was seen in follow-up at the White River Rural Health Center. In addition to noting the pending scheduled appointment with Dr. Chan and the results of the July 24, 2006, MRI scan, the report also reflects that the claimant had attempted to perform light duty work, however was unable to do. (CX. #1, p. 4).

The claimant was seen by Dr. Chan on August 7, 2006. In a August 13, 2006, responsive correspondence to the claimant's attorney, Dr. Chan noted:

> I am writing to you in response to your letter dated 8-9-06. Mr. McFadden had work related injury to his lower back on or about 5-24-04. I treated him for such injury. He came to see me again on 8-7-06 because of recurrent low back pain. The new MRI showed the same findings of L5S1 herniated nucleus pulposus with degenerative disc disease. There was no new precipitating factor for the new episode of his low back pain. I concluded that the current episode of low back pain is most likely, within reasonable Medical certainty and more then 51% probability, related to his previous work injury of 5-24-04. For treatment, I propose lumbar epidural steroid injection, physical therapy, and time off work for one month. (CX. #1, p. 5).

As reflected above the claimant was unable to obtain the treatment measures recommended by Dr. Chan during the August 7, 2006, visit.

The claimant was again seen by Dr. Chan on September 11, 2006. The office note of Dr. Chan relative to the afore visit reflects that he had an opportunity to review the claimant's July 24, 2006, MRI and compare same with that of 2004. The report further reflects, in pertinent part:

Impression:
1. acute exacerbation of chronic lbp related to work injury of May 04. Most recent mri l spine 7-24-06 shows l5s1 central moderate hnp and moderate ddd. The l5s1 hnp appears larger compared to the mri of 2004. However, I still would not recommend surgery at this point in time due to young age and the very central location of the l5s1 hnp. Then hnp should improve with time.
2. work comp is denying his claim at present. (CX. #1, p. 6).

The report concludes, that pending approval of the treatment recommendations by the insurance carrier, Dr. Chan had nothing further to offer the claimant. Claimant was still off work as of the September 11, 2006, visit.

After a thorough consideration of all of the evidence in this record, to include the testimony of the witnesses, 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 May 25, 2004, the relationship of employee-employer-carrier existed among the claimant and respondents #1, at which time the claimant sustained a injury to his low arising out of and in the course of his employment.

3. On May 25, 2004, the claimant earned wages sufficient to entitle him to workers' compensation benefits of $227.00/$170.00, for temporary total/permanent partial disability.

4. On July 12, 2006, the relationship of employee-employer-carrier existed among the claimant and respondents #2, during which time the claimant earned wages sufficient to entitle him to weekly compensation benefits of $103.00, for temporary total/permanent partial disability.

5. On July 12, 2006, the claimant suffered a recurrence of the May 25, 2004, compensable low back injury, which rendered him temporarily totally disable commencing July 13, 2006, and continuing through the end of his healing period, a date to be determined, and for which respondents #1 are liable.

6. Respondents #1 shall pay all reasonable hospital and medical expenses arising out of the July 12, 2006, recurrence of the May 25, 2004, compensable injury.

7. Respondents #1 have controverted the payment of all workers' compensation benefits growing out of the July 12, 2006, recurrence of the claimant's compensable May 25, 2004, injury, to include medical and indemnity benefits.

CONCLUSIONS

The compensability of the claimant's May 25, 2004, low back injury was previously adjudicate before the Arkansas Workers' Compensation Commission, and respondents #1 found liable for the payment of corresponding medical and indemnity benefits. On or about May 9, 2006, the claimant commenced employment with respondents #2. The claimant asserts that he suffered a recurrence of his May 25, 2004, compensable injury on July 12, 2006, which requires medical treatment and has rendered him totally incapacitated from gainful employment.

Respondents #1 deny that the claimant suffered a recurrence of the compensable May 25, 2004, injury, and that his current need for medical treatment is unrelated to the injury sustained in its employ. Respondents #2 deny that the claimant suffered a new injury or aggravation of the previous compensable injury while in its employ.

The present claim is one governed by the provisions of Act 796 of 1993, in that the claimant asserts entitlement to workers' compensation benefits as a result of an injury having

been sustained subsequent to the effective date of the afore provision.

There is not a dispute regarding the existence of the employment relationship between the parties during the pertinent time period. The credible evidence reflects that while the claimant was released to from the care of his treating surgeon, Dr. Chan, on August 10, 2005, without the imposition of permanent restrictions on his employment activities, he occasionally took over-the-counter medicine for stiffness and aches thereafter. Further, the claimant continued to perform his home physical therapy exercises pursuant to the directions of Dr. Chan and the physical therapist following the August 10, 2005, release.

The claimant disclosed his prior May 25, 2004, compensable injury to respondents #2 at the time of his May 9, 2006, employment by same. As a consequence of the afore, accommodations were made by respondents #2 relative to the claimant in the discharge of his employment activities with same. The claimant sought medical treatment on June 14, 2006, relative to dull aching back pain bought on by his mopping duties in the employment of respondent #2. Credible evidence reflects that the symptoms experienced by the claimant and attributed to the mopping activities were substantially different from those at the time of the May 25, 2004, compensable injury in the employment of respondents #1. Further, the June 2006, symptoms resolved with medication and a modification of the claimant's job duties [no mopping].

On July12, 2006, the claimant experienced an episode which produced symptoms identical to those experienced on May 25, 2004. There was not an intervening event to serve as source of the onset of the July 12, 2006, symptom. The claimant's previous compensable May 25, 2004, low back injury was treated with medications and physical therapy. The claimant

continued to experience residuals of the May 25, 2004, compensable injury subsequent to his August 10, 2005, release by Dr. Chan.

An aggravation is a new injury resulting from an independent incident. *Maverick Transportation v. Buzzard,* 69 Ark. App. 128, 10 S.W.3d 467 (2000). However, a recurrence is not a new injury, but simply a period of incapacitation resulting from a previous injury. *Atkins Nursing Home v. Gray,* 54 Ark. App. 125, 923 S.W.2d 897 (1996). A recurrence exists when the second complication is a natural and probable consequence of the prior injury. *Weldon v. Pierce Brothers Construction,* 54 Ark App. 344, 925 S.W.2d 179 (1996).

The evidence in the record preponderates that the claimant suffered a recurrence of his May 25, 2004, compensable low back injury on July 12, 2006. The claimant remains within his healing period as a result of the July 12, 2006, recurrence of the May 25, 2004, compensable injury. Further, the claimant has remained totally incapacitated from engaging in gainful employment commencing July 13, 2006. Respondents #1 are liable for the payment of temporary total disability benefits to the claimant commencing July 13, 2006, and continuing through the end of the claimant's healing period or until such time as the claim return to gainful employment.

Further, the evidence preponderates that the claimant continues to require medical treatment relative to the July 12, 2006, recurrence. The medical treatment rendered to and on behalf of the claimant on and subsequent to July 12, 2006, is reasonably necessary and related to the May 25, 2004, compensable injury. Respondents #1 remain liable for such reasonably necessary and related medical treatment growing out of the claimant May 25, 2004, compensable injury and July 12, 2006, recurrence thereof, pursuant to Ark. Code Ann. §11-9-508.

Since the claimant's treating physician, Dr. Patrick Chan, is no longer available to render

medical treatment relative to the claimant's compensable injury of May 25, 2004, and recurrence of same of July 12, 2006, the parties are direct to contact the Medical Cost Containment Division of the Arkansas Workers' Compensation Commission to select an appropriate treating physician for further medical treatment, pursuant to Ark. Code Ann. §11-9-508, and the rules of the Arkansas Workers' Compensation Commission.

AWARD

Respondents #1 are herein ordered and directed to pay to the claimant temporary total disability benefits at the weekly compensation benefit rate of $227.00, for the period commencing July 13, 2006, and continuing through the end of his healing period, as a result of the July 12, 2006, recurrence of the May 25, 2004, compensable low back injury. Said sums accrued shall be paid in lump without discount.

Respondents #1 are further ordered and directed to pay all reasonable related medical, hospital, nursing and other apparatus expenses, to include the July 24, 2006, MRI scan at White County Medical Center, as well as medical milage, growing out of the May 25, 2004, compensable injury and July 12, 2006, recurrence thereof.

Maximum attorney fees are herein awarded to the claimant's attorney on the controvert indemnity benefits herein awarded, pursuant to Ark. Code Ann. §11-9-715.

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

Matters not addressed herein are expressly reserved.

IT IS SO ORDERED.

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Andrew L. Blood, ADMINISTRATIVE LAW JUDGE