

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F704625

CURTIS JONES

CLAIMANT

CRAWFORD COUNTY

RESPONDENT

AAC RISK MANAGEMENT SERVICES, TPA

SECOND INJURY FUND

OPINION FILED JANUARY 9, 2008

Hearing before ADMINISTRATIVE LAW JUDGE MICHAEL L. ELLIG in Fort Smith, Sebastian County, Arkansas.

Claimant represented by STEPHEN SHARUM, Attorney, Fort Smith, Arkansas.

Respondent Crawford County represented by MICHAEL RYBURN, Attorney, Little Rock, Arkansas.

Second Injury Fund represented by JUDY RUDD, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on October 30, 2007, in Fort Smith, Arkansas. A pre-hearing order was entered in this case on August 22, 2007. This pre-hearing order set out the stipulations offered by the parties and outlined the issues to be litigated and resolved at the present time. A copy of this pre-hearing order was made Commission's Exhibit No. 1 to the hearing.

The following stipulations were offered by the parties and are hereby accepted:

1. On April 25, 2007, the relationship of employee-self insured employer-TPA existed between the parties.
2. The appropriate weekly compensation rates are \$288.00 for total disability and \$216.00 for permanent partial disability.

3. Respondent Crawford County has controverted this claim in its entirety.

By agreement of the parties, the issues to be litigated and resolved at the present time were limited to the following:

1. whether the claimant sustained a compensable injury to his lumbar spine on April 25, 2007.
2. The claimant's entitlement to medical services, temporary total disability from April 26, 2007 through a date yet to be determined, and attorney's fees.

In regard to these issues, the claimant contends:

"The claimant contends that during and within the scope of his employment on April 25, 2007, he sustained a fall as a result of water on the floor caused by a shower taken by an inmate in the jail. The fall was recorded by video from the Crawford County jail. The fall caused a lumbar back disc injury. The claimant received emergency care at Summit Medical Center and is receiving treatment under the direction of Dr. George H. Tompkins, his authorized treating physician. The claimant continues to be in his healing period and is entitled to temporary total disability benefits from April 25, 2007 to a date yet to be determined. The claimant is requesting additional medical treatment at the direction of his primary treating physician. The respondents refused to permit the claimant to receive the recommended medical treatment from the Spine Institute in Little Rock, AR as ordered by his primary treating physician, Dr. George H. Tompkins. The claimant is requesting attorney's fees on all controverted indemnity benefits."

In regard to these issues, the respondent Crawford County has filed no prehearing questionnaire setting out its contentions in regard to these issues.

DISCUSSION

I. COMPENSABILITY

The central issue in this case is whether the claimant sustained a “compensable injury” to his lumbar spine as the result of a specific employment related accident or incident on April 25, 2007. The burden rests upon the claimant to prove all the facts necessary to establish a “compensable injury”.

The claimant must first prove the statutory requirements for a “compensable injury” that are set out in Ark. Code Ann. §11-9-102(4)(D). This statute requires the claimant to prove by medical evidence the actual existence of the physical injury alleged to be compensable. He must further prove that the actual existence of this physical injury is supported by “objective findings”, as that term is defined by Ark. Code Ann. §11-9-102(16)(A)(i).

The present medical record shows numerous objectively demonstrated defects that involve the claimant’s lumbar spine. A CT scan, which was performed on April 25, 2007, revealed:

- “(1) Retrolisthesis of the L5 (vertebra) in relation to the S1 (vertebra).
- (2) Disc space narrowing at multiple levels.
- (3) Vacuum disc phenomenon throughout the lumbar spine.
- (4) Degenerative and hypertrophic changes.”

An MRI of the claimant’s lumbar spine, that was taken on April 26, 2007 revealed:

“Severely degenerated disc at L5-S1 with mild retrolisthesis of L5 (vertebra) on S1 (vertebra) and right paracentral small disc

protrusion in addition to moderate disc bulge and spondylotic ridging with biforaminal stenosis and a small right lateral disc protrusion.”

Many of these defects that involve the claimant’s lumbar spine undoubtedly represent longstanding degenerative arthritic changes, as indicated by the various medical records. In fact, Dr. Bradley Short has opined that the abnormalities reflected on the April 25, 2007 CT scan and the April 26, 2007 MRI did not represent any substantial change from a CT of the lumbar spine that was performed on October 10, 2002, and which he could directly relate to the accident of April 25, 2007.

However, the mere fact that the claimant may have had extensive pre-existing damage to his lumbar spine does not preclude a finding of a “compensable injury”. Under the current Act, aggravations of pre-existing conditions may still be “compensable”.

In the present case, the medical evidence reveals that all of the physicians who evaluated the claimant are of the opinion that the claimant had sustained a recent or acute injury to his lumbar spine. This even includes the respondent’s expert, Dr. Bradley Short. These opinions concerning the existence of a recent or acute injury are further supported by “objective findings”. At the time of the claimant’s initial physical examination on April 25, 2007, muscle spasms in the claimant’s low mid back and right buttock area were observed and recorded by the emergency room personnel of Summit Medical Center. The presence of muscle spasms in the area of the claimant’s lumbar spine was also noted by Dr. Terry Hoyt, on

May 2, 2007, when he observed “marked flattening of the normal lordic curve” of the claimant’s lumbar spine. Even Dr. Short observed “spasticity” in the lumbar paraspinal muscles.

After consideration of all the evidence presented, it is my opinion that the claimant has “established” by the medical evidence the actual existence of a physical injury to his lumbar spine that is supported by “objective findings”, as that term is defined by Ark. Code Ann. §11-9-102(16)(A)(i). Therefore, the claimant has satisfied the initial requirements for a “compensable injury” that are set out in Ark. Code Ann. §11-9-102(4)(D).

The claimant must next prove that this medically established and objectively documented physical injury satisfies the definitional requirements for a “compensable injury” that are contained in Ark. Code Ann. §11-9-102(4)(A)(i). These definitional requirements are as follows:

- (1) The injury must arise out of and occur in the course of the employment.
- (2) The injury must be caused by a specific incident.
- (3) The injury must be identifiable by time and place of occurrence.
- (4) The injury must cause internal or external physical harm to the body.
- (5) The injury must require medical services or result in disability.

The claimant’s own testimony is the only direct evidence he has offered to prove both the actual occurrence of an employment related incident, on April 25, 2007, and the existence of a close

temporal relationship between this incident and the onset of his current difficulties with his low back or lumbar spine. Although the testimony of a party is never considered uncontradicted, this does not mean that it can be simply disregarded. If such testimony is credible, it is sufficient in and of itself, to prove any fact that it is legally competent to address. Unquestionably, the claimant's testimony would be legally competent to prove both the occurrence of an employment related incident and the existence of a close temporal relationship between this incident and the initial onset difficulties that would be indicative of the occurrence of an injury to his low back or lumbar spine. In the present case, I find the claimant's testimony concerning these matters to be credible.

The claimant testified that at approximately 10:30 p.m., he was performing a "head count" of the prisoners, while they were in their cells. As he was walking from cell to cell, he slipped and fell. He stated that after the fall, he noticed that his pants were wet. It was his further testimony that he experienced an immediate and sudden onset of pain in his back and down his right leg. Finally, he testified this back and leg pain was unlike any pain which he had previously experienced in both type and location.

Terry Rea, the jail administrator, testified that he had reviewed the video tape that was taken by the detention center security camera. He stated that this tape showed that the claimant experienced an accidental fall.

Matthew Langley, testified that, on April 25, 2007, he was a detention officer for the Crawford County Sheriff's Department and

was on duty at the Crawford County Detention Center. He stated that he did not witness the claimant's fall, but heard a loud bang from the cell area. He immediately rushed to this area and arrived approximately three seconds later. He stated that he saw the claimant laying on the floor, on his back, and that there was water underneath the claimant. It was his testimony that the claimant's face was red and that the claimant complained of severe pain and stated that he had hurt his leg. At the direction of his supervisor, he subsequently took the claimant to the hospital, where the claimant was evaluated and a drug screen was performed. Following the claimant's release from the hospital, he took the claimant home and helped him up his stairs into his house. Mr. Langley stated that during this entire time, the claimant was complaining of his legs.

Susan Spence (Lingo) testified that, on April 25, 2007, she was employed as a corporal with the Crawford County Sheriff's Department and was on duty at the Crawford County Detention Center. She testified that she was called back to the cell area. When she arrived, she witnessed Sargent Hillian and others helping the claimant up off the floor. It was her testimony that she observed the claimant crying in pain. She stated that she further overheard the claimant stating that he slipped and fell. Finally, she testified that she personally observed water on the floor in the area of the claimant's fall.

Vena Cupp testified that she was a lieutenant with the Crawford County Sheriff's Department, on April 25, 2007, but was

not on duty at the time of the incident involved in this claim. However, she stated that she had viewed the video tape taken by the surveillance camera in the cell area and that this video tape showed the claimant fall in front of one of the cell doors.

Greg Hillian testified that, on April 25, 2007, he was a sergeant for the Crawford County Sheriff's Department and was working at the Crawford County Detention Center. He stated that he was in the front portion of the detention center when he got word of the incident involving the claimant and immediately went to the cell area. When he arrived the claimant was still on the floor and appeared in pain. A wheel chair was secured and the claimant was placed into it. The claimant was then taken to the front portion of the detention center. Mr. Hillian then directed Deputy Langley to take the claimant to the hospital for treatment and the mandatory drug screen. Mr. Hillian testified that the floor in the area of the claimant's fall, appeared to be wet. He also stated that the location of the fall was near the shower area, which tended to leak and cause the floor in his area to become slick.

Finally, Ruben Cole testified that, on April 25, 2007, he was a jailer at the Crawford County Detention Center. He stated that, when he arrived on the scene, he observed the claimant laying on the floor and that the floor around the claimant was wet from water from a nearby shower.

The initial history recorded at the emergency room of Summit Medical Center on April 25, 2007, notes that the claimant slipped on water at work, hit his head on a door, and landed on his

buttocks. At that time, the complaints of right hip pain and back pain were recorded by the emergency room personnel. A physical examination performed by the emergency room personnel also recorded the observation of muscle spasms in the middle of the claimant's low back and right buttock.

No medical records or other evidence has been introduced to refute the claimant's testimony that his difficulties that began with the April 25, 2007 fall were different in type and location from any of his previous low back complaints. In this report to the respondent, Dr. Short does discuss and summarize at least some of the claimant's medical records made prior to April 25, 2007. No where in any of these records does he mention the claimant complaining of radicular complaints involving his right lower extremity.

It is my opinion that the greater weight of the evidence establishes that, on April 25, 2007, the claimant experienced an employment related accidental fall. The evidence further shows that in this fall, the claimant landed on his right buttock on a concrete floor. It is also my opinion that the evidence shows that he contemporaneously experienced a sudden and immediate onset of new and significant difficulties with his low back and right lower extremity.

Clearly, the trauma from this employment related accidental fall could reasonably and logically produce the subsequently diagnosed physical injury to the claimant's low back or lumbar spine. The evidence presented fails to show any other equally or

more likely cause of the episode of difficulties with the claimant's low back or lumbar spine that began on April 25, 2007. Thus, the claimant has proven the existence of a causal relationship between this accidental employment related fall and the present medically established and objectively supported injury to his low back or lumbar spine.

The existence of this substantial causal relationship is sufficient to satisfy the first three definitional requirements of Ark. Code Ann. §11-9-102(4)(A)(i). I would note that this specific employment related accidental fall need not be the sole or even major cause of the claimant's current episode of difficulties with his low back or lumbar spine. The physical damage caused by this fall can be in the form of an aggravation of a pre-existing condition, so as to precipitate the onset of his current episode of difficulties.

The magnitude of the claimant's subjective symptoms and presence of muscle spasms in the area of his lumbar spine is clearly sufficient to prove that the claimant's injury resulted in internal physical harm to this portion of his body (at least temporarily) and to prove that this injury was of sufficient magnitude to reasonably require medical services. Thus, the claimant has satisfied the final two definitional requirements of Ark. Code Ann. §11-9-102(4)(A)(i).

In summary, I find that the claimant has proven by the greater weight of the credible evidence that on April 25, 2007, he sustained a "compensable injury" to his low back or lumbar spine,

as that term is used in the Act. Thus, he would be entitled to all appropriate benefits provided by the Act for a compensable injury.

II. MEDICAL SERVICES

Ark. Code Ann. §11-9-508 unquestionably obligates the respondent to provide “reasonably necessary medical services” for any compensable injury. However, the burden rests upon the claimant to show that the medical services, in dispute, actually “constitute reasonably necessary medical services”.

At this point, I would note this case is complicated by the fact that the respondent initially accepted this claim as compensable and directed the claimant to seek medical services from various physicians of its choosing. It would appear that the respondent expressly directed the claimant to receive and apparently paid for medical services provided by and at the direction of physicians at the Summit Medical Center emergency room, Dr. George Tompkins, Dr. Larry Armstrong, Dr. Bradley Short, and a Dr. Brett Whatcott (Dr. Whatcott is probably an anesthesiologist or pain management specialist and provided the claimant with a lumbar epidural steroid injection upon referral from Dr. Tompkins).

This Commission and the Appellate Courts have consistently held that a respondent is liable for the expense of any medical services which it expressly authorizes or directs the claimant to receive, even though the evidence may ultimately fail to show that such services were reasonably necessary for a compensable injury. Under these particular circumstances, the respondent is estopped

from contending that such medical services were not reasonably necessary, under Ark. Code Ann. §11-9-508, Southern Hospitalities v. Britain, 54 Ark. App. 318, 925 S.W. 2d 81 (1996).

In light of the fact that it is impossible to determine with absolute certainty the medical services that were expressly authorized and possibly already presumably paid from those services which may not have been authorized or have not been paid, all of the medical services that have been either provided or recommended will be considered to determine if they satisfy the criteria for “reasonably necessary medical services”, under Ark. Code Ann. §11-9-508. However, as the respondent has not contended that any of these services were “unauthorized”, under Ark. Code Ann. §11-9-514, the respondent will be deemed to have waived this issue and Ark. Code Ann. §11-9-514 will not be considered in determining liability for the expense of these medical services.

The medical evidence shows that the evaluation, testing, and treatment rendered the claimant by personnel at Summit Medical Center emergency room, Dr. George Tompkins, Dr. Larry Armstrong, Dr. Brett Whatcott, Dr. Terry Hoyt and Dr. Bradley Short were all necessitated by or connected with the claimant’s compensable lumbar injury of April 25, 2007. The medical record further shows that the type of evaluation, testing, and treatment provided by these physicians were of a type and nature commonly recognized and employed by the general medical community as being for the evaluation, testing, and treatment of lumbar injuries, such as that experienced by the claimant. Obviously, these medical experts were

of the opinion that these services were medically necessary to accurately determine the nature and extent of the claimant's compensable injury, to devise an appropriate treatment program for this injury, and to appropriately treat this injury. There is absolutely no evidence offered to show that any of these medical services were unnecessary or had no reasonable expectation of accomplishing their intended purpose or goal at the time the services were rendered.

It is my opinion that these medical services all represent "reasonably necessary medical services" within the meaning of Ark. Code Ann. §11-9-508. Therefore, pursuant to the provisions of this subsection, the expense of medical services are the liability of the respondent herein. This liability is subject to the medical fee schedule established by this Commission.

There remains the matter of the additional or continued medical services that have been recommended, but not yet provided. Both Dr. Hoyt and Dr. Tompkins have recommended another neurosurgical evaluation. Both Dr. Tompkins and Dr. Short have recommended chronic pain treatment by a specialist in chronic pain management which would include additional epidural steroid injections. Dr. Tompkins has further recommended follow up care in the form of physical therapy, continued pain medication, and trial use of a TENS unit, all of which would be administered under his supervision.

These recommendations involve medical services that are clearly necessitated by or connected with the claimant's

compensable injury of April 25, 2007. Further, these medical services are of a type recognized by the medical community to reasonably insure the formulation of an appropriate program of treatment for an injury such as that experienced by the claimant, and to provide such appropriate treatment.

Therefore, I find that these recommended services, in the form of an evaluation of the claimant by a neurosurgeon or other specialist in the treatment of back injuries and the evaluation and treatment of the claimant by a specialist in chronic pain management also represents reasonably necessary medical services for the claimant's compensable injury under Ark. Code Ann. §11-9-508. The expense of these services is also the liability of the respondent herein. Again, this liability is subject to the medical fee schedule established by this Commission.

III. TEMPORARY TOTAL DISABILITY BENEFITS

In order to be entitled to the temporary total disability benefits he now seeks, the claimant must first prove that he has continued within his healing period from the effects of his compensable injury. Secondly, he must prove that his compensable injury has caused him to also be totally disabled from performing all forms of regular gainful employment for which he is otherwise qualified during this period.

The issue of the duration of the healing period is a medical question and must be resolved on the basis of the greater weight of the medical evidence presented. The Act defines the healing period as that period of time necessary for healing of the actual physical

damage caused by the compensable injury. Once this underlying physical damage has either resolved or stabilized, at a level where nothing further in the way of time or medical treatment offers a reasonable expectation of improvement, then the healing period has ended.

The reports and records of Dr. Tompkins show that he continued to provide the claimant with active medical treatment for his compensable injury through July 6, 2007. These records further show that, on that date, Dr. Tompkins was of the opinion that further active medical care continued to be necessary and medically appropriate. The October 2, 2007 report of Dr. Short reflects that it was also his expert medical opinion that the claimant continued in need of active medical treatment, at that time, and had not yet reached "maximum medical recovery".

After consideration of all the evidence presented, it is my opinion that the claimant has proven by the greater weight of the medical evidence that he continued within his healing period from the effects of his compensable injury from the date of that injury through a date yet to be determined. Thus, the claimant has satisfied the first criteria for his entitlement to temporary total disability benefits.

The issue of actual total disability is somewhat more complicated. This complication is due to the significant disability, which the claimant was experiencing from a multitude of sources, prior to his compensable injury. As the result of prior extensive permanent damage and defects to the claimant's cervical

spine, thoracic spine, lumbar spine, and knees, the claimant had substantial restrictions on his potential employment activities. These restrictions were sufficiently "disabling" to cause the claimant to be awarded full disability benefits by the Social Security Administration. For some four to five years prior to his employment with this respondent, the claimant had not worked and had drawn full social security disability benefits. However, it must be noted that these benefits ceased with his employment by this respondent. It must also be noted that the claimant appears to have satisfactorily performed all of the required duties of this employment for some six months prior to his compensable injury.

The medical evidence shows that after the current compensable injury, the claimant was medically restricted from performing any type of employment and was prescribed rest by the physician at the emergency room of Summit Medical Center. He was also referred by this physician for follow up by Dr. Terry Hoyt. However, the respondent elected to send him to Dr. George Tompkins for follow up care. During his course of treatment by Dr. Tompkins, the claimant has not been released by Dr. Tompkins to return to any type of regular employment. In fact, Dr. Tompkins has expressly indicated that, in his expert medical opinion, the claimant has been totally disabled from employment due to his compensable injury from the date of this injury through some undetermined date after July 8, 2007. Dr. Hoyt has also opined that the claimant should be medically restricted from engaging in any type of regular gainful

employment until he has seen and been released to return to employment by a back or spinal specialist.

However, on approximately June 28, 2007, the claimant was released to limited or restricted duty by Dr. Whatcott. Restrictions were imposed by Dr. Whatcott against bending or lifting or anything that would "strain the injured area". Dr. Whatcott expressly stated that the claimant should perform a "desk job only".

In his report, Dr. Short agreed with the restrictions imposed by Dr. Whatcott. Dr. Short further elaborated on these restrictions to indicate that the claimant should not be required to respond to emergency situations, such as subduing prisoners. He attributed the claimant's inability to perform this type of activity in part to the medication required by the claimant's compensable injury and in part to the claimant's pre-existing impairments. However, the specific activity mentioned by Dr. Short would also clearly be in violation of Dr. Whatcott's restrictions that the claimant should be limited to a "desk job" only.

The record reveals that the respondent has not offered the claimant an employment position that would meet the restrictions imposed by Dr. Whatcott and Dr. Short. In fact, the evidence presented would indicate that the respondent has had no position available that would meet these restrictions. The only positions that have apparently been available would require the claimant to assist in subduing prisoners. Clearly, the claimant's current limitations from his compensable injury coupled with the fact that

he continues in need of active medical treatment would make it extremely unlikely that he could currently obtain regular employment in the open job market.

The evidence shows that the claimant is 43 years old. He has a high school diploma, but was required to take remedial math and reading. He testified that he has no prior work experience in any type of clerical or office work (i.e. desk job).

The surveillance video provided by the respondent (Respondent's Exhibit No. 2) indicates that the claimant appears to be able to walk unassisted, to get into and out of a car, to drive, and to (at least occasionally) bend and stoop. None of the activities demonstrated by the claimant on this video would appear to exceed the restrictions imposed by Dr. Whatcott and Dr. Short or would be contrary to the limitations set out in the claimant's testimony.

After consideration of all the evidence presented, it is my opinion that the claimant has proven by the greater weight of the credible evidence that he has been temporarily rendered totally disabled by the effects of his compensable injury. In order to be rendered temporarily totally disabled, the claimant need not show that he is bed fast or is incapable of performing any physical activities. He need only show that the respondent has not obtained for him or offered suitable employment and that he has no reasonable expectation of obtaining such appropriate employment in the open job market. It is my opinion that the claimant has proven both of these facts. Therefore, the claimant has met the second

criteria for his entitlement to temporary total disability benefits.

In summary, I find that the claimant has proven his entitlement to temporary total disability benefits from April 26, 2007 through a date yet to be determined. The respondent is liable for such benefits at the appropriate weekly rate.

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.

2. On April 25, 2007, the relationship of employee-self insured employer-third party administrator existed between the parties.

3. On April 25, 2007, the claimant earned wages sufficient to entitle him to weekly compensation benefits of \$288.00 for total disability and \$216.00 for permanent partial disability.

4. On April 25, 2007, the claimant sustained a compensable injury to his lumbar spine. Specifically, he has established by medical evidence, which is supported by objective findings, the existence of a physical injury to his lumbar spine that arose out of and occurred in the course of his employment with the respondent, was caused by a specific incident, is identifiable by time and place of occurrence, caused internal physical harm to his body, required medical services, and resulted in disability.

5. The medical services rendered to the claimant by and at the direction of the medical personnel at the emergency room of Summit Medical Center, by and at the direction of Dr. George Tompkins, by

and at the direction of Dr. Terry Hoyt, by and at the direction of Dr. Larry Armstrong, by and at the direction of Dr. Brett Whatcott, and by and at the direction of Dr. Bradley Short represent reasonably necessary medical services for the claimant's compensable injury, under Ark. Code Ann. §11-9-508. Specifically, these medical services were necessitated by or connected with the claimant's compensable injury and had a reasonable expectation of accomplishing their intended purpose or goal, at the time the services were rendered.

6. The medical services recommended to the claimant, in the form of an evaluation by a neurosurgeon or spinal specialist and an evaluation and possible treatment by a chronic pain management specialist, also represents reasonably necessary medical services, under Ark. Code Ann. §11-9-508. Specifically, such medical services are necessitated by or connected with the claimant's compensable injury and have a reasonable expectation of accomplishing their intended purpose or goal.

7. The claimant was rendered temporarily totally disabled, as a result of the effects of his compensable lumbar injury, for the period beginning April 26, 2007 and continuing through a date yet to be determined. Specifically, the claimant has proven by the greater weight of the credible evidence that, during this time, he has continued within his healing period from the effects of his compensable injury and has been rendered totally disabled from regular gainful employment by this compensable injury.

8. Although the respondent initially paid some benefits in this case, they have subsequently controverted this claim in its entirety.

9. The appropriate fee for the claimant's attorney is the maximum statutory attorney's fee on all controverted benefits herein or hereinafter awarded from the self insured respondent and which are payable directly to the claimant.

ORDER

The respondent shall pay to the claimant temporary total disability benefits for the period beginning April 26, 2007 and continuing through a date yet to be determined. The respondent is entitled to credit for any such benefits previously paid.

The respondent shall be liable for the expense of reasonably necessary medical services provided to the claimant by and at the direction of physicians at the emergency room of Summit Medical Center, by and at the direction of Dr. George Tompkins, by and at the direction of Dr. Terry Hoyt, by and at the direction of Dr. Larry Armstrong, by and at the direction of Dr. Brett Whatcott, and by and the direction of Dr. Bradley Short. The respondent is further liable for the expense of recommended reasonably necessary medical services, in the form of an evaluation by a neurosurgeon or other physician with particular expertise in the area of medicine associated with the treatment of spinal injuries and an evaluation and possible treatment by a chronic pain management specialist. This liability is subject to the medical fee schedule established

by this Commission. The respondent is also entitled to a credit for any medical expenses previously paid.

The respondent shall pay to the claimant's attorney the maximum statutory attorney's fee on the controverted temporary total disability benefits herein awarded. One-half of this fee shall be paid by the respondent in addition to these benefits. The remaining one-half of this fee shall be withheld by the respondent from these benefits. However, this fee specifically includes any temporary total disability benefits which the respondent may have previously paid, but subsequently controverted.

All benefits herein awarded which have heretofore accrued are payable in a lump sum without discount.

This award shall bear the maximum legal rate of interest until paid.

IT IS SO ORDERED.

MICHAEL L. ELLIG
ADMINISTRATIVE LAW JUDGE