

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F607399 (06/28/06)

DAVID THOMAS, EMPLOYEE	CLAIMANT
HOUSING AUTHORITY CITY OF HUGHES, EMPLOYER	RESPONDENT
TRAVELERS INSURANCE CO., CARRIER	RESPONDENT

OPINION FILED JULY 14, 2008

Hearing before ADMINISTRATIVE LAW JUDGE ANDREW L. BLOOD, on July 11, 2008, at Forrest City, St. Francis County, Arkansas.

Claimant represented by the HONORABLE ROBERT J. DONOVAN and the HONORABLE JESSE B. DAGGETT, Attorneys at Law, Marianna, Arkansas.

Respondents 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 June 24, 2008, 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 the afore. The Pre-hearing Order is herein designated a part of the record as Commission Exhibit #1.

The testimony of David Ray Thomas, the claimant, along with medical reports and other documents comprise the record in this claim.

DISCUSSION

David Ray Thomas, the claimant, with a date of birth of September 13, 1955, has a 10th grade education. Claimant commenced his employment with respondents on August 14, 2004, as the unit's only maintenance man.

The compensability of the June 28, 2006, back injury of the claimant is not disputed. The injury was sustained when the claimant was removing an auger off the back of a truck. Claimant injured his low back in the June 28, 2006, accident and sought treatment at the emergency of Crittenden Memorial Hospital in West Memphis. Claimant was directed by emergency medical personnel to follow-up with Dr. Wilfred Onyia.

The testimony of the claimant reflects that Dr. Onyia consisted of pain medication and a referral to physical therapy. The claimant estimates that he was seen by Dr. Onyia, an internist, four to five times, however did not obtain relief from his symptoms.

The claimant ultimately came under the care and treatment of Dr. John Brophy, a Memphis neurosurgeon, relative to June 28, 2006, injury. Claimant acknowledged undergoing diagnostic studies while under the care of Dr. Brophy as well as participating in physical therapy ordered by Dr. Brophy. The testimony of the claimant reflects that when he encountered difficulty attending the physical therapy sessions ordered by Dr. Brophy respondents suspended the payment of temporary total disability benefits. Claimant explained that he was not appreciating any relief in his symptoms as a result of the physical therapy, and that attending the sessions was especially difficult in light of his continuing symptoms and the fact that he had to drive from his residence in Hughes, Arkansas to almost the other side Memphis. Nevertheless he resumed attending the physical therapy in order to obtain temporary total disability benefits.

The testimony of the claimant reflects that while under the treatment of Dr. Brophy he was provided limited duty released which he furnished to respondent-employer. Claimant testified that he was informed by his supervisor that respondent could not accommodate the light duty restrictions, and, as such, he was not allowed to return to work. The testimony of the claimant reflects that he was the only maintenance man for respondent-employer and that his regular job duties entailed substantial lifting, to include moving appliances and furniture as well as other strenuous tasks.

The testimony of the claimant reflects that respondent-carrier pre-approved all of his doctor visits. The claimant was last seen by Dr. Brophy on December 18, 2006. Claimant acknowledged that Dr. Brophy authored a limited duty release with restrictions for two (2) weeks, and thereafter a full release. Claimant testified that he furnished the December 18, 2006, release authored by Dr. Brophy to supervisory personnel of respondent-employer. Claimant maintains that he was again informed that respondent-employer was unable to accommodate the restrictions. The evidence reflects that the claimant last received temporary total disability benefits on January 1, 2007.

The credible testimony of the claimant reflects that at the time of the last visit to Dr. Brophy he was not physically capable of performing his regular job duties. Claimant did not again see a physical for medical treatment relative to his June 28, 2006, injury until he was examined by Dr. Jeffrey Kornblum, a Jonesboro neurosurgeon, pursuant to a Change of Physician Order.

On June 12, 2007, a Change of Physician Order was entered by Pat Capps Hannah, Administrator of the Medical Cost Containment Department, designating Dr. Jeffrey Kornblum

as the claimant's authorized treating physician. Claimant testified that he was seen by Dr. Kornblum on two (2) separate occasions. During the first visit an examination was had and the claimant was referred for additional diagnostic studies. After the results of the diagnostic studies were obtained claimant was again seen by Dr. Kornblum, at which time further recommendations were made. Respondents declined to authorize further medical treatment, to include any of the recommendations Dr. Kornblum.

Claimant testified that following his final visit to Dr. Kornblum he return to respondent-employer to report for work, at which time he was informed that his job was no longer available. The credible testimony of the claimant reflects that although he continued to experience residuals of his compensable injury he managed to secure employment in October/November 2007 with Scott & Scott Construction Company as a trackhoe operator.

The claimant testified that he sustained a work-related low back injury in 1985, and underwent surgery in the treatment of same. Claimant's testimony reflects that the 1985 injury was on the right side, and that following the surgery his symptoms ceased, he fully recovered and he required no further medical treatment relative to same.

The testimony of the claimant reflects that since the June 28, 2006, injury he has continued to experience pain in his low back which radiated into the left hip, down the left leg and into his left foot. Claimant notes that he has numbness in the left foot. It was noted that while sitting in the witness stand the claimant used his elbows on the arms of the chair to relieve the pressure on his back. Claimant has callouses on his elbows as a result of the afore.

Claimant explained that when he obtained employment with Scott & Scott Construction Co., he relayed to Terry Scott, one of the owners, that he would have to get off of the trackhoe

periodically. Claimant did not tell Mr. Scott that he had suffered a back injury or that he was continuing to experience residuals of a back injury for fear that he would not have been hired. Further, the testimony of the claimant reflects while operating the trackhoe he is able to brace himself using his elbows. Claimant testified that he is unable to operate any of the other heavy equipment of Scott & Scott Construction because of the adverse impact operating it would have on his back pain, particularly the jarring. Claimant does not engage in any heavy lifting in his current employment, and limits his employment activity to operating the track hoe only.

The testimony of the claimant reflects that he earns \$15.00, per hour as a track hoe operator in the employment of Scott & Scott Construction Co. Claimant estimates that he earned \$1,500.00, from his employment with Scott & Scott Construction Company in 2007, and that as of the date of the hearing, July 11, 2008, he has earned \$3,000.00, in 2008.

There is no dispute regarding the various diagnostic studies that the claimant has undergone relative to the June 28, 2006, compensable injury. The evidence reflects that the diagnostic studies were had pursuant to the directions of the claimant's treating physicians, both Dr. Brophy and Dr. Kornblum. Claimant noted that at one point Dr. Brophy discussed prospects of procedure regarding numbing the nerves in his back, however did not follow through after contact with respondents.

The evidence in the record reflects that the claimant was initially referred to Dr. John Brophy, a Memphis neurosurgeon, on October 2, 2006. A October 13, 2006, Initial Evaluation/Progress Summary authored by Philiness S. Kirkwood, a physical therapist, with Physiotherapy Associates, reflects a diagnosis of lumbar myofascial/lumbar spondylosis regarding the claimant. The report further reflects, in pertinent part:

REFERRAL INFORMATION: Mr. Thomas is a 51-year-old male referred to the Ergoplex per the orders of Dr. Brophy for the work hardening program for 5 visits over 2 weeks. Mr. Thomas was seen for his Initial Evaluation Initial Evaluation on 10/06/06. He canceled his appointment on 10/09/06 stating, "I had a bad night, took pain medications and don't want to drive." On 10/10/06 Mr. Thomas was a no show and when our office called him he stated he would not be attending his therapy as scheduled as the 30 minute drive was too much and he was in too much pain. Ms. Karen Kelly, the case manager, was notified of his missed appointments. Mr. Thomas is scheduled for a follow-up appointment with Dr. Brophy on 10/16/06. (JX. #1).

The claimant was seen in follow-up by Dr. Brophy on October 16, 2006. After detailing the difficulty encountered by the claimant in participating in the work conditioning program, the October 16, 2006, clinic note reflects:

The clinical situation was again reviewed with Mr. Thomas. We discussed the option of a lumbar epidural steroid injection or a lumbar myelogram/CT scan to verify evidence of nerve root compression. He would like to attempt a selective left L4 nerve root injection which will be scheduled through Anesthesiology. He will remain on his current work status and undergo follow-up evaluation in approximately three weeks. If the injection is not effective, he will likely require further evaluation with myelography. (JX #1).

The claimant was seen in follow-up by Dr. Brophy on December 7, 2006. After noting that the previous evaluation with lumbar MRI did not demonstrate definite evidence of nerve root compression and that the claimant had relayed increased left lower extremity pain extending from the buttock to the foot since participating in the work conditioning program, the December 7, 2006, clinic note reflects, in pertinent part:

EXAMINATION: Mr. Thomas appears frustrated with his ongoing symptoms. Motor - lower extremities - psoas, quadriceps, tibialis anticus and gastrocnemius - 5/5. Sensory - decreased light touch involving the left leg from the groin to the foot in a stocking distribution; thoracic sensation intact; right lower extremity sensation intact. Deep tendon reflexes - patellar 1+ ; Achilles right absent, left 2+. Straight leg raising

- negative. Increased back pain with rotation of the hip. Waddell's - negative in compression and rotation. Back - no significant tenderness or trigger point. Gait - slow, guarded and slightly antalgic.

IMPRESSION: Back and left leg pain potentially radicular in etiology.

RECOMMENDATIONS: The clinic situation was again reviewed with Mr. Thomas. Based on the persistence and severity of his pain, he was offered evaluation with a lumbar myelogram/CT scan. This procedure was described and the complications discussed including but not limited to infection and spinal headache requiring treatment with a blood patch. He will remain on his current light duty status and is to follow-up after the myelogram. (JX. #1).

The claimant was last seen by Dr. Brophy on December 18, 2006. The clinic note relative to the December 18, 2006, visit of the claimant reflects, in pertinent part:

Mr. Thomas continues to describe pain at the left posterior iliac region as well as pain extending into the left lateral thigh to the dorsum of the foot. He does not report weakness, abdominal/pelvic pain or history of fever, infection or weight loss. Overall, he reports no improvement in his pain since his injury six months ago.

EXAMINATION: Mr. Thomas appears uncomfortable in the sitting position, leaning to the right. Motor - left lower extremity - quadriceps, tibialis anticus and gastrocnemius - 5/5. Straight leg raising - negative. Gait - minimally antalgic. Waddell's - negative in compression; positive in rotation. Back - there is diffuse tenderness at the inferior left lumbar region without a definite trigger point.

TEST REVIEW: Lumbar myelogram/CT scan dated 15 December, 2006 demonstrates no evidence of HNP or nerve root compression. There is evidence of previous surgery on the right at L5-S1. The radiologist incidentally noted bilateral nephrolithiasis as well as a benign appearing left iliac wing bone lesion.

IMPRESSION:

1. Lumbar myofascial pain associated with lumbar spondylois without radiographic evidence of nerve root compression.
2. Incidental nephrolithiasis and left iliac wing bond lesion unrelated to his work injury.

RECOMMENDATIONS: The results of the radiographic studies and clinical situation were reviewed with Mr. Thomas. In my opinion, there is no indication for surgical intervention. We discussed the option of progressing his home exercise program and returning to work at full duty to do the best he can or alternative employment. We also discussed the option of further evaluation through his personal insurance or social services agency in Arkansas to rule out an occult inflammatory process. This would include abdominal/pelvic CT, EMG/nerve conduction study of the lower extremities, bone scan, CBC, sed rate, ANA and rheumatoid factor. From the standpoint of his work injury in June 2006, he is cleared to return to work today with a 40 pound lifting restriction and full duty on 2 January, 2007. He will be considered at maximum medical improvement on 2 January, 2007 with a PPI rating (according to the AMA Guidelines, 5th Ed.) of zero (0%). He is provided with his films as he plans to seek a second opinion. (JX. #1)

Pursuant to the June 12, 2007, Change of Physician Order, the claimant was seen by Dr. Jeffrey Kornblum, a Jonesboro neurosurgeon. The evidence in the record reflects that pursuant to the directions of Dr. Kornblum the claimant underwent a NCV/EMG on August 14, 2007, and other diagnostic studies. The claimant was seen in follow-up by Dr. Kornblum on August 23, 2007. The Neurosurgery Office Note of the visit reflects, in pertinent part:

. . . He has had imaging as requested. He again notes his discomfort in his left posterior leg. He has had the studies as requested. MR imaging of his thoracic spine revealing some mild degenerative changes, though his spinal cord is without compromise. The localizer films show a loss of cervical lordosis, though CSF signal is seen around the cord in the cervical region as well. Hei study of his lumbosacral plexus revealing no evidence of a structural lesion. CT of the abdomen and pelvis is noted to show some evidence of cysts in his liver, as well as some cysts seen in his kidneys, though lesion to explain his left lower extremity pain. EMG/Nerve Conduction performed by Dr. Chan showing some changes in the paraspinal muscles consistent with degenerative disease, but no evidence of neuropathy or radiculopathy.

IMPRESSION: Mr. Thomas is noted to have degenerative changes in his spine, though he has a significant pain syndrome down his left leg not explained by a structural abnormality. No electrodiagnostic abnormality within the nerve either. At this junction I have reviewed with him that

consultation with a pain clinic may well be of benefit. I have additionally suggested that a formal neurology evaluation may help rule out some other medical issues that may be present. Finally, vocational re-training along the lines of activities that would involve less labor would be in the best interest to get him back functioning at a quicker pace. If the need arises, he may call or be referred for re-evaluation. (JX. #1).

Respondents declined to authorized further medical treatment following the claimant's August 23, 2007, visit to Dr. Kornblum. Claimant testified that when he reported to respondent-employer for work following the August 23, 2007, visit to Dr. Kornblum he was informed by supervisory personnel the he no longer had a job.

The testimony of the claimant reflects that he desires further medical treatment to return to his pre-June 28, 2006, physical health level. Claimant credibly testified the he would be satisfied he his physical health was at 70 % of his pre-June 28, 2006, level. Claimant testified the he is even willing to consent to surgical intervention if it will improve his present health status.

After a thorough consideration of all of the evidence in this record, to include the testimony of the claimant, review of the medical reports, 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 June 28, 2006, the relationship of employee-employer-carrier existed among the parties, when the claimant sustained an injury to his low back arising out of and in the course of his employment.
3. On June 28, 2006, the claimant earned wages sufficient to entitle him to weekly

compensation benefits of \$278.00/\$209.00, for temporary total/permanent partial disability.

4. The claimant was temporarily totally disabled for the periods June 29, 2006 through January 1, 2007, and continuing October 2007.

5. The claimant was temporarily partially disabled commencing October 2007, and continuing through the end of his healing period, a date to be determined.

6. The treatment measures recommended by Dr. Jeffrey Kornblum in his August 23, 2007, neurosurgery office note, are reasonably necessary in connection with the claimant's June 28, 2006, compensable injury.

7. The respondent shall pay all reasonable hospital and medical expenses arising out of the injury of June 28, 2006.

8. The respondents have controverted the payment of temporary disability benefits to the claimant subsequent to January 1, 2007, and the payment of medical benefits subsequent to August 23, 2007.

CONCLUSIONS

There is not a dispute regarding the compensability of the claimant's June 28, 2006, low back injury. Claimant asserts that as a result of the injury he continues to require medical treatment, the cost of which should be borne by respondents. Further, the claimant maintains that he has been unable to perform his regular work, that he remains within his healing period, and that respondents are liable for the payment of indemnity benefits as a result of same. Claimant seeks corresponding indemnity and medical benefits. Respondents contend that the claimant reached the end of his healing period as of January 2, 2007, and thereafter not entitled to the payment of temporary total disability benefits. Further, respondents maintain that the claimant

has been provided appropriate medical benefits.

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.

Additional Medical Treatment

While the claimant sustained a prior work-related injury to his back which resulted in surgical repair in 1985, there is no evidence in the record to reflect that he experienced symptoms relative to same following his recovery. The prior injury produced symptoms on the claimant's right side. The claimant was able to perform his assigned job duties, some of which entailed heaving lifting, throughout his employment with respondent prior to the June 28, 2006, compensable low back injury.

Thought undisputed that the claimant has undergone extensive diagnostic studies since the June 28, 2006, compensable injury while under the care of two (2) neurosurgeons, Dr. Brophy and Dr. Kornblum, he remains symptomatic. The credible evidence preponderates that the claimant's present symptoms are the product of the June 28, 2006, compensable injury.

When discharged from the care of Dr. Brophy during the December 18, 2006, visit, Dr. Brophy concluded there was not indication for surgical intervention. It is clear that even in discharging the claimant to restricted duties for two (2) week and thereafter to full duty, Dr. Brophy identified additional diagnostic studies that might be considered. Dr. Brophy's impression of the claimant's complaint was that of lumbar myofascial pain associated with lumbar spondylosis without radiographic evidence of nerve root compression.

The claimant was not again seen by a physician relative to his June 28, 2006,

compensable injury until August 2007, when he was initially seen by Dr. Kornblum, a Jonesboro neurosurgeon, pursuant to a June 12, 2007, Change of Physician Order. While under the care of Dr. Kornblum the claimant underwent some of the diagnostic procedures identified by Dr. Brophy, to include the EMG/nerve conduction study. In his August 23, 2007, report Dr. Kornblum outlined several options to address the claimant's continuing symptoms, to include consultation with a pain clinic and a formal neurology evaluation. Respondents refused to authorize further medical treatment.

Though the results of the diagnostic studies recommended to date have been negative, neither of the claimant's treating and/or examining physicians in connection with the June 28, 2006, compensable injury have suggested that the claimant's complaints are not legitimate. The simple truth of the matter is that the resulting diagnostic studies have concluded that there is not a surgical solution to the claimant's complaints. The claimant was not symptomatic and physically restricted prior to the June 28, 2006, compensable injury.

Ark. Code Ann. §11-9-508 (a) (Supp. 2007), mandates that the employer promptly provide for an injured employee such medical, surgical, hospital, . . . nursing services and medicine. . . as may be reasonably necessary in connection with the injury received by the employee. What constitutes reasonable and necessary medical treatment under the statute is a question of fact for the Commission to decide. *Gansky v. Hi-Tech Engineering*, 325 Ark. 163, 924 S.W.2d 790 (1996).

In the instant claim, while the claimant's June 28, 2006, injury may not lend itself to surgical intervention, he remains symptomatic and in need of further medical treatment in connection with same. Pursuant to the June 12, 2007, Change of Physician Order, the claimant's

authorized treating physician in connection with the June 28, 2006, compensable injury remains Dr. Jeffrey Kornblum. Dr. Kornblum has identified a consultation with a pain clinic as a benefit in the treatment in connection with the compensable June 28, 2006, compensable injury, as well as a formal neurology evaluation. *Hill v. Baptist Medical Center*, 74 Ark. App. 250, 48 S.W.3d 544 (2001). The evidence preponderates that the afore is reasonably necessary medical treatment in connection with the claimant's June 28, 2006, compensable injury. Respondents have controverted the claimant's entitlement to medical treatment subsequent to August 23, 2007.

End of Healing Period & Temporary Disability Benefits

The respondents paid temporary total disability benefits to the claimant through January 1, 2007, based on the December 18, 2006, report of Dr. John Brophy, which released the claimant to full duty effective January 2, 2007, and at maximum medical improvement. At the time of Dr. Brophy's last contact with the claimant on December 18, 2006, the claimant remained symptomatic, his physical examination was unchanged from the previous visit, and additional diagnostic studies were identified.

It is noteworthy that the December 18, 2006, report of Dr. Brophy reflects that further evaluation "through his personal insurance or social services agency in Arkansas to rule out an occult inflammatory process". *Dorland's Illustrated Medical Dictionary* defines "occult" as "obscure; concealed from observation; difficult to be understood". While the claimant was cleared by Dr. Brophy, during the December 18, 2006, visit to return to work "today with a 40 pound lifting restriction and full duty on 2 January, 2007", given the absence of any active treatment modalities it patently clear that anything the claimant was physically incapable of doing work-wise on December 18, 2006, he was likewise unable to do on January 2, 2007.

The healing period is that period for healing of an injury which continues until the claimant is as far restored as the permanent character of the injury will permit. *Arkansas State Highway and Transportation Department v. Breshears*, 272 Ark. 244, 613 S.W.2d 392 (1981). If the underlying condition causing the disability has become stable and nothing further in the way of treatment will improve the condition, the healing period has ended. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 897 S.W.2d 457 (1994). Whether an employee's healing period has ended is a factual determination to be made by the Commission. *Ketcher Roofing Co. v. Johnson*, 50 Ark. App. 63, 901 S.W.2d 25 (1994).

The evidence preponderates that the claimant's healing period or maximum medical improvement relative to the June 28, 2006, compensable low back injury has not been achieved as of December 18, 2006. While on the one hand clearing the claimant to return to work with a 40 pound lifting restriction for two (2) weeks and thereafter at MMI, Dr. Brophy was identifying additional diagnostic test and suggesting further evaluation through the use of a pay source other than the workers' compensation carrier, respondents. The afore suggest not only that Dr. Brophy appreciated the fact that the underlying condition causing the claimant's disability had not stabilized, but something more in the form of treatment was available to improve the condition. The evidence preponderates that the claimant was no more physically capable of performing his regular job duties January 2, 2007, then he was on December 18, 2006.

In the instant claim, respondents ceased payment of temporary total disability to the claimant on January 2, 2007. As noted above, the evidence preponderates that at the time of the afore the claimant remained within his healing period and totally incapacitate from earning wages in the same or any other employment as a result of the June 28, 2006, compensable injury. While

the claimant was unable to obtain medial treatment until August 2007, his symptoms and the underlying condition causing the disability did not become stable. As of the August 23, 2007, visit by the claimant to Dr. Kornblum, the evidence preponderates that further treatment to improve the claimant's condition is available in the form of pain management and a neurology evaluation.

Claimant reported back for work following the August 23, 2007, visit to Dr. Kornblum and was informed that he no longer had a job. The claimant did secure employment in October/November 2007, however is limited in his earing capacity due to residuals of the compensable June 28, 2006, injury.

Temporary total disability is that period within the healing period in which a claimant suffers a total incapacity to earn wages, however temporary total disability and the healing period are not the same time periods in all cases. Temporary partial disability is that period within the healing period in which the employee suffers only a decrease in his capacity to earn the wages he was receiving at the time of the injury. *Arkansas State Highway and Transportation Department v. Breshears*, 272 Ark. 244, 613 S.W.2d 392 (1981).

The evidence in the record preponderates that the claimant remains within his healing period in connection to the June 28, 2006, compensable injury. The claimant has sustained his burden of proof by a preponderance of the evidence that he remained temporarily totally disabled from June 29, 2006, through October/November 2007, and correspondingly entitled to temporary total disability benefits. Respondents have controverted the claimant's entitlement to temporary total disability subsequent to January 1, 2007.

Further, the claimant has sustained his burden of proof by a preponderance of the credible

evidence that he remains within his healing period in connection with the June 28, 2006, compensable injury and temporarily partially disabled commencing October/November 2007, and continuing through the end of his healing period, while employed and suffering a decrease in his capacity to earn the wages he was receiving at the time of his compensable injury. Respondent have controverted the claimant's entitlement to temporary partial disability benefits.

AWARD

Respondents are herein ordered and directed to pay all reasonably necessary medical, hospital, nursing, medical and other apparatus expenses in connection with the claimant's compensable injury of June 28, 2006, to included the recommendations regarding a pain clinic consultation and a formal neurology evaluation, pursuant to the direction of Dr. Jeffrey Kornblum, the claimant's authorized treating physician.

Respondents are further ordered and directed to pay to the claimant temporary total disability at weekly compensation benefit rate of \$278.00, for the period June 29, 2006, through January 1, 2007, and continuing through October/November 2007, as a result of the claimant's compensable injury of June 28, 2006. Respondents may claim credit for sums heretofore paid toward the afore obligation. Said sums accrued shall be paid in lump without discount.

Respondents are further ordered and directed to pay to the claimant temporary partial disability benefits commencing October/November 2007, and continuing during the claimant's continued employment and the decrease in his wage earning capacity while within his healing period, pursuant to Ark. Code Ann. §11-9-520. Said sums accrued shall be paid in lump without discount.

Maximum attorney fees are herein awarded on the controverted portion of the 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.

Andrew L. Blood, ADMINISTRATIVE LAW JUDGE