

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F300724

LINDA BRASWELL,
EMPLOYEE

CLAIMANT

COMMUNITY COUNSELING SERVICES,
EMPLOYER

RESPONDENT

COMMERCE & INDUSTRY INSURANCE CO./
AIG CLAIM SERVICES, INC. (TPA),
INSURANCE CARRIER

RESPONDENT

OPINION FILED DECEMBER 3, 2003

Upon review before the FULL COMMISSION in Little Rock,
Pulaski County, Arkansas.

Claimant appeared PRO SE.

Respondents represented by HONORABLE JOHN P. TALBOT,
Attorney at Law, Pine Bluff, Arkansas.

Decision of the Administrative Law Judge: Affirmed and
adopted.

OPINION AND ORDER

The claimant appeals from a decision of the
Administrative Law Judge filed August 25, 2003. The
Administrative Law Judge entered the following findings of
fact and conclusions of law:

1. The claimant does not satisfy the requirement
of establishing a claim for compensability
because there are no "objective findings" in
the medical evidence to sustain and support a
claim for compensability.

We have carefully conducted a de novo review of the entire record herein, and it is our opinion that the Administrative Law Judge's decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings of fact made by the Administrative Law Judge are correct, and they are, therefore, adopted by the Full Commission.

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.

DISSENTING OPINION

_____ I must respectfully dissent from the majority opinion, which affirms and adopts the decision of the Administrative Law Judge that claimant failed to prove a compensable injury.

In finding that the claimant failed to experience a compensable injury, the Administrative Law Judge stated that "absent the bladder dysfunction the claimant is experiencing, there are no 'objective findings' in the medical evidence." This statement is simply inaccurate. The clinic notes of Dr. Michael Garrett from June 14, 2002, the same date on which claimant's work injury took place, state in relevant part as follows:

OBJECTIVE:She has a fresh area of ecchymosis across the posterior aspect of the right gluteus maximus along the superior margin....

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IMPRESSION: Contusion to the right buttock. The patient has a good size area of ecchymosis in the right buttock with no evidence that it is near the sciatic nerve or sciatic notch....

Dorland's Illustrated Medical Dictionary defines "ecchymosis" as

a small hemorrhagic spot...in the skin or mucous membrane forming a nonelevated, rounded or irregular, blue or purplish patch.

In other words, "ecchymosis" is what is commonly known as a "bruise." It is clear from Dr. Garrett's clinic note that he actually observed ecchymosis, or bruising, on the claimant's gluteal region. Therefore, the claimant clearly met her burden of proving the existence of injury with

evidence of objective findings. Wal-Mart Stores, Inc. v. VanWagner, 337 Ark. 443, 990 S.W.2d 522 (1999); Stephens Truck Lines v. Millican, 58 Ark. App. 275, 950 S.W.2d 472 (1997).

The respondents' pre-hearing contentions indicate that they were controverting this claim in its entirety, meaning that compensability of injury was an issue to be litigated. As indicated above, the claimant clearly proved the existence of injury with evidence of objective findings in the form of a contusion on the gluteal region, observed by Dr. Garrett on June 14, 2002. There also appears to be no dispute between the parties that the claimant did in fact experience a work accident on June 14, 2002, in which she was struck in the right back hip area by a "door bar." Therefore, the claimant clearly established that the contusion noted by Dr. Garrett on June 14 was more likely than not caused by the June 14 work accident. Since the claimant clearly proved both the existence of injury by objective findings, and that the objective findings were causally related to a specific work incident, the claimant clearly proved a compensable injury.

Therefore, the opinion of the Administrative Law Judge's opinion, which the majority has in all respects

affirmed and adopted, is in error because it incorrectly states that there are no other objective findings of injury in the record except the evidence of claimant's bladder difficulties. Since the Administrative Law Judge erroneously found that claimant failed to prove a compensable injury, he did not reach the issues of claimant's entitlement to additional medical treatment and additional temporary total disability benefits. Since claimant almost conclusively proved a compensable injury, these issues should have been reached.

SHELBY W. TURNER, Commissioner