

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E908926

DIMPLE J. MITCHELL, EMPLOYEE	CLAIMANT
BAXTER INTERNATIONAL, EMPLOYER	RESPONDENT
AMERICAN MFG. MUTUAL, INSURANCE CARRIER	RESPONDENT

OPINION FILED NOVEMBER 20, 2003

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

Claimant represented by HONORABLE FREDERICK S. "RICK"
SPENCER, Attorney at Law, Mountain Home, Arkansas.

Respondents represented by HONORABLE TOM HARPER, JR.,
Attorney at Law, Fort Smith, Arkansas.

Decision of the Administrative Law Judge: Affirmed and
Adopted.

OPINION AND ORDER

This case comes on for review by the Full
Commission on appeal by claimant from an opinion filed
herein by an Administrative Law Judge on February 6, 2003.

The Administrative Law Judge entered the following
findings of fact and conclusions of law:

1. That the Arkansas Workers'
Compensation Commission has
jurisdiction of this claim.
2. That the stipulations agreed to by
the parties at the pre-hearing

conference conducted on October 3, 2002, and contained in a pre-hearing order filed October 3, 2002, as well as those at the hearing herein, are hereby accepted as fact.

3. That the respondent has proven by a preponderance of the evidence that the statute of limitations bars the claimant's claim for benefits relating to any alleged left shoulder or back injury or aggravation sustained on January 11, 1999.

4. That the claimant has failed to prove by a preponderance of the evidence that she sustained a compensable specific incident injury to her left shoulder or back, or any aggravation of a pre-existing left shoulder or back condition, on January 11, 1999; specifically, claimant has failed to prove that she sustained any left shoulder or back injury or aggravation of a pre-existing left shoulder or back condition with medical evidence supported by objective findings establishing the injury or aggravation, and that said [sic] arose out of and in the course of her employment, and was caused by a specific incident and is identified by time and place of occurred; further, claimant has failed to prove by either objective medical evidence, expert medical opinion, or a preponderance of the credible non-medical evidence in the record that any such left shoulder or back condition is causally related to her compensable injury of January 11, 1999.

5. That the claimant has failed to prove by a preponderance of the evidence that she is entitled to a permanent impairment rating for her facial injury of January 11, 1999; specifically, the 25% permanent impairment ratings assigned to claimant by Dr. Archer and Dr. Burnett are not supported by objective and measurable physical findings and are not stated within a reasonable degree of medical certainty; further, said ratings do not indicate whether claimant's compensable facial injury of January 11, 1999 was the major cause of any permanent impairment experienced by claimant, and claimant has thus failed to prove by a preponderance of the evidence that the compensable facial injury of January 11, 1999 was the major cause of of any permanent impairment sustained.
6. That the claimant has failed to prove by a preponderance of the evidence that she is entitled to any benefits pursuant to Ark. Code Ann. § 11-9-524; specifically, the claimant has failed to prove that any right sided facial swelling experienced by her as a result of her compensable injury of January 11, 1999 is "serious" or disfiguring.
7. That the claimant's claim is hereby respectfully denied and dismissed in its entirety.

In this case, we have reviewed the record de novo, weighing the evidence impartially and without giving the

benefit of the doubt to either party. Ark. Code Ann. § 11-9-704(c) and Fowler v. McHenry, 22 Ark. App. 196, 737 S.W.2d 663 (1987). It is our opinion that the decision of the Administrative Law Judge is correct 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. Accordingly, we affirm and adopt the decision of the Administrative Law Judge filed February 6, 2003, and this claim is denied and dismissed.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.