

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F100279

ANNIE C. PERRINE,
EMPLOYEE

CLAIMANT

SAM'S WHOLESALE CLUB,
SELF-INSURED EMPLOYER

RESPONDENT

OPINION FILED DECEMBER 22, 2003

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

Claimant represented by HONORABLE JOHN KEARNEY, Attorney at
Law, Little Rock, Arkansas.

Respondents represented by HONORABLE PATRICK SPIVEY,
Attorney at Law, Little Rock, 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 April 10, 2003. The
Administrative Law Judge entered the following findings of
fact and conclusions of law:

1. The employee/employer relationship existed at
all relevant times.
2. The average weekly wage for the claimant was
\$259.68, giving rise to a temporary total
disability rate of \$197.1, and permanent
partial disability rate of \$154.00.

3. The respondent controverted the entire claim subsequent to some initial payment of medical bills.
4. The preponderance of the evidence reflects that the claimant sustained a compensable injury to her hip and back on January 4, 2001.
5. The preponderance of the evidence reflects that the claimant's medical treatment from January 4, 2001 through May 18, 2001 was reasonably necessary and related to the claimant's compensable injury. Claimant is entitled to medical mileage. Respondent is entitled to a credit for medical treatment mentioned above which was provided by a third party provider, if any.
6. The preponderance of the evidence reflects that the claimant is not entitled to temporary total disability benefits through May 18, 2001. She was not totally incapacitated from earning wages according to the Arkansas Workers' Compensation law.
7. The preponderance of the evidence reflects that the claimant's attorney is entitled to the appropriate attorney's fee for controversion.

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 concurs in part and dissents in part.

CONCURRING AND DISSENTING OPINION

_____ I must respectfully concur in part and dissent in part from the decision of the majority opinion, which in all respects affirms and adopts the decision of the Administrative Law Judge. Specifically, I concur in all aspects of the majority opinion except the majority's affirming the Administrative Law Judge's finding that the claimant is not entitled to temporary total disability benefits through May 18, 2001. From this finding, I respectfully dissent.

SHELBY W. TURNER, Commissioner