

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F305029

WELCOME TURNER,
EMPLOYEE

CLAIMANT

CONAGRA POULTRY CO.,
EMPLOYER

RESPONDENT

SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.,
INSURANCE CARRIER

RESPONDENT

ORDER FILED JULY 16, 2004

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

Claimant represented by HONORABLE R. THEODOR STRICKER,
Attorney at Law, Jonesboro, Arkansas at hearing and appears
PRO SE on appeal.

Respondents represented by HONORABLE NORWOOD PHILLIPS,
Attorney at Law, El Dorado, Arkansas.

ORDER

This matter is currently before the Full Workers'
Compensation Commission on the claimant's request to
introduce additional evidence on appeal. After considering
the claimant's motion, the respondent's response thereto,
and all other matters properly before the Commission, we
find that the claimant's motion should be denied.

In an opinion filed February 24, 2004, an
Administrative Law Judge found that the claimant failed to
prove by a preponderance of the evidence that he sustained a
compensable injury to his spine, neck and right hand in the
course of his employment with Respondent. Specifically, the

Administrative Law Judge found that the claimant failed to prove that there was evidence supported by objective medical findings. The claimant has filed this motion to submit additional medical documents that should have been considered in the Administrative Law Judge's review of his case. The claimant maintains that these documents constitute proof of a medical condition supported by objective findings.

Ark. Code Ann. §11-9-705(c)(1) (Repl. 2002) provides that all evidence must be submitted at the initial hearing on the claim. In order to submit new evidence, the claimant must show that the new evidence is relevant; that it is not cumulative; that it would change the result of the case; and that the claimant was diligent in presenting the evidence to the Commission. Mason v. Lauck, 232 Ark. 891, 340 S.W.2d 575 (1960); Haygood v. Belcher, 5 Ark. App. 127, 633 S.W.2d 391 (1982).

The Commission has broad discretion with reference to admission of evidence, and the Supreme Court will not reverse that decision absent a showing of abuse of that discretion. Clark v. Peabody Testing Service, 265 Ark. 489, 579 S.W.2d 360 (1979); W.W.C. Bingo v. Zwierzynski, 53 Ark. App. 288, 921 S.W.2d 954 (1996); Linthicum v. Mar-Bax Shirt

Co., 23 Ark. App. 26, 741 S.W.2d 275 (1987); Southwest Pipe and Supply v. Hoover, 13 Ark. App. 144, 680 S.W.2d 723 (1984).

Claimant has alleged that his medical records were not submitted by his lawyer. However, before the hearing, counsel for claimant and counsel for respondent submitted a joint package which included all medical records and reports in the possession of each party. Likewise, Claimant does not allege that the documents he wishes to have introduced are newly discovered or would change the result. In fact, Claimant has submitted some of the same documents that were submitted at his hearing. The remaining documents are cumulative or irrelevant because they discuss claimant's chronic diabetes. Therefore, after considering the claimant's motion, the respondent's response thereto, and all other matters properly before the Commission, we deny the claimant's motion to submit additional evidence on appeal.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.