

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F204197

RUTH YOUNG, EMPLOYEE

CLAIMANT

WAL-MART STORES, A SELF-INSURED EMPLOYER

RESPONDENT

OPINION FILED AUGUST 26, 2004

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

Claimant is not represented by counsel, but appeared pro se.

Respondent represented by HONORABLE TOD BASSETT, Attorney at Law, Fayetteville, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The claimant appeals from a decision of the Administrative Law Judge filed December 22, 2003.

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

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On March 30, 2002, the relationship of employee-self insured employer-third party administrator existed between the parties.
3. On March 30, 2002, the claimant sustained compensable injuries to her tail bone, left shoulder, and right thumb.

4. The claimant has failed to prove that she has sustained a "compensable" mental injury or illness, as a result of her compensable physical injuries. Specifically, she has failed to prove that she has been diagnosed as suffering any mental injury or illness by a licensed psychiatrist or psychologist and that such a diagnosis conforms to the most recent addition of the Diagnostic and Statistical Manual of Mental Disorders, as required by Ark. Code Ann. § 11-9-113.

5. The respondents have accepted liability for and have paid all expenses, incurred to date, for medical services provided the claimant for her compensable physical injuries by and at the direction of her authorized treating physicians, which include Dr. Keith Holder, Dr. Michael Wolfe, Dr. Claude Martimbeau, and Dr. Michael Morse.

6. The claimant has failed to prove that any medical services provided her to any mental injury or illness represent reasonably necessary medical services for a "compensable injury." Thus, the respondents would not be liable for any expense incurred for these services.

7. The medical services provided the claimant for her left shoulder and "tail bone" or lumbosacral complaints by and at the direction of physicians in Bull Head City, Arizona (particularly, a Dr. B> Stamper), represents "unauthorized medical services", within the meaning of Ark. Code Ann. §11-9-514. Pursuant to the provisions of this subsection, liability for the expense of these services cannot be imposed on the respondents herein.

8. The medical services recommended by the claimant's current authorized treating physicians, in the form of an MRI study of her left shoulder and an MRI study of her lumbosacral spine, represent "reasonably necessary medical services" within the meaning of Ark. Code Ann. § 11-9-508. Pursuant to the provisions of this subsection, the

respondents are liable for the expense of such services, should these services be rendered by or at the direction of an authorized treating physician. This liability is limited to the medical fee schedule established by this Commission.

9. The medical services recommended by Dr. Claude Martimbeau, in the form of an acromioplasty of the claimant's left shoulder also represents "reasonably necessary medical services" within the meaning of Ark. Code Ann. § 11-9-508. The respondents are again liable for the expense of such services, should they be provided by an authorized treating physician. This liability is limited to the medical fee schedule established by this Commission.

10. The respondents have paid all appropriate temporary total disability benefits which have resulted from the claimant's compensable physical injuries, to date.

11. The claimant has failed to prove by the greater weight of the credible evidence that she is entitled to additional temporary total disability benefits, as a result of her compensable physical injuries, on and after November 16, 2002. Specifically, the claimant has failed to prove that she continued within her "healing period" from the effects of any of her compensable physical injuries, on and after that date.

12. The respondents have controverted the claimant's entitlement to any temporary disability benefits on and after November 16, 2002, and her entitlement to payment of any expenses incurred for medical services rendered her by and at the direction of any physicians other than her current authorized treating physicians (specifically, any medical services provided or recommended by physicians in Bull Head City, Arizona).

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.