

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F500005

CHRISTINA KEENE,  
EMPLOYEE

CLAIMANT

McKEE FOODS TRANSPORTATION,  
SELF-INSURED EMPLOYER

RESPONDENT

OPINION FILED DECEMBER 15, 2005

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

Claimant represented by the HONORABLE EVELYN BROOKS,  
Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE CURTIS NEBBEN,  
Attorney at Law, Fayetteville, Arkansas.

Decision of Administrative Law Judge: Affirmed and  
Adopted.

OPINION AND ORDER

Respondents appeal an opinion and order of the  
Administrative Law Judge filed July 13, 2005. In said  
order, the Administrative Law Judge made the following  
findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation  
Commission has jurisdiction of this claim.
2. On all relevant dates, the relationship  
of employee-self insured employer-third party  
administrator existed between the parties.

3. On all relevant dates, the claimant earned wages sufficient to entitle her to weekly compensation benefits of \$295.00 for total disability and \$221.00 for permanent partial disability.

4. During the claimant's employment with this respondent, she sustained compensable injuries to her right shoulder and right wrist/hand. In regard to these compensable injuries, the claimant has proven by the greater weight of the credible evidence that these injuries satisfy all of the statutory requirements of Ark. Code Ann. §11-9-102 (4) (A) (ii) (a), §11-9-102 (4) (D), and §10204 (E) (ii).

5. The claimant has failed to prove that she sustained a compensable injury to her right elbow, during her employment with this respondent. Specifically, she has failed to prove by medical evidence, supported by objective findings, the actual existence of any physical injury to this portion of her body.

6. The claimant is entitled to all reasonably necessary medical expenses provided her for her compensable right shoulder and right wrist/hand injuries. These reasonably necessary medical services specifically include those services rendered her by and at the direction of the nurse practitioner, of the company physician, and by and at the direction of Dr. Bryan Benafield. The respondents are liable for the expense of these services, subject to the medical fee schedule established by this Commission.

7. The claimant has proven by the greater weight of the credible evidence that she was rendered temporarily totally disabled as a result of the effects of her compensable right wrist/hand injury (carpal tunnel syndrome) for the period of November 1, 2004 through February 18, 2005. Specifically, she has proven by the greater weight of the credible evidence that during this period

she continued within her healing period from the effects of this compensable injury and had not returned to work. This finding makes it unnecessary to address the issue of whether the claimant was also rendered concurrently temporarily totally disabled as a result of the effects of her compensable right shoulder injury.

8. The respondents have denied that the claimant sustained any compensable injuries to her right shoulder, right elbow, or right wrist and hand and have controverted her entitlement to any benefits under the Act for such injuries.

9. A reasonable fee for the claimant's attorney is the maximum statutory attorney's fee on the temporary total disability benefits, which are herein awarded, and on any future benefits which may be due and payable directly to the claimant.

10. It is apparent that some benefits have been paid to and on behalf of the claimant under a group policy of insurance maintained through the respondent for medical services and disability which would coincide with the benefits herein awarded. However, the sufficient evidence was not presented to establish the actual amount and extent of these group benefits. However, it's clearly apparent that Ark. Code Ann. §11-9-411 is applicable to the present claim and any benefits herein awarded for temporary total disability or the payment of medical expenses that have previously been compensated under this policy of group insurance are subject to the reduction provided by this subsection.

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 made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the July 13, 2005 decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on appeal.

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2002).

Since the claimant's injury occurred after July 1, 2001, the claimant's attorney's fee is governed by the provisions of Ark. Code Ann. § 11-9-715 as amended by Act 1281 of 2001. Compare Ark. Code Ann. § 11-9-715 (Repl. 1996) with Ark. Code Ann. § 11-9-715 (Repl. 2002). For prevailing on this appeal before the Full Commission, claimant's attorney is hereby awarded an additional attorney's fee in the amount of \$500.00 in

accordance with Ark. Code Ann. § 11-9-715(b) (Repl. 2002).

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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SHELBY W. TURNER, Commissioner

Commissioner McKinney dissents.