

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NOS. E310658 & E706812

ALVIN R. WHITE, EMPLOYEE	CLAIMANT
GREGG AGRICULTURAL ENTERPRISES, EMPLOYER	RESPONDENT NO. 1
CIGNA INSURNACE COMPANIES, INSURANCE CARRIER	RESPONDENT NO. 1
MICRO PLASTICS, EMPLOYER	RESPONDENT NO. 2
TRAVELERS INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT NO. 2
SECOND INJURY FUND	RESPONDENT NO. 3

OPINION FILED MAY 13, 2005

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

Claimant represented by the HONORABLE FREDERICK SPENCER,  
Attorney at Law, Mountain Home, Arkansas.

Respondent No. 1 represented by the HONORABLE E. DIANE  
GRAHAM, Attorney at Law, Fort Smith, Arkansas.

Respondent No. 2 represented by the HONORABLE ROBERT  
MONTGOMERY, Attorney at Law, Little Rock, Arkansas.

Respondent No. 3 represented by the HONORABLE TERRY  
PENCE, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and  
Adopted.

OPINION AND ORDER

Respondents appeal an opinion and order of  
the Administrative Law Judge filed September 10, 2004.

In said order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. The stipulations agreed upon by the parties are reasonable and are approved.
2. All previous opinions, transcripts of testimony, and exhibits are made a part of the record herein.
3. Respondent #1 last paid medical expenses on behalf of Claimant on February 5, 1997, for treatment rendered on December 11, 1996, and last paid indemnity benefits (the 2% impairment rating) on June 25, 1999.
4. At the August 21, 1996 hearing in this matter, involving Respondent #1, Respondent #3, and Claimant, the issue of permanency of wage-loss disability was reserved.
5. The Second Injury Fund is excused from the hearing in this issue of medical treatment.
6. Claimant's request for additional medical benefits is not barred by the Statute of Limitations.
7. Claimant did not sustain his burden of proving by a preponderance of the evidence that Respondent #1 must provide medical benefits. Claimant's testimony and the medical evidence both demonstrate that his June, 1993 surgery at C5-6 was successful; therefore, the proof of greater convincing force fails to indicate a causal connection between the compensable injury Claimant sustained in Respondent #1's employment and his current need for medical treatment.
8. Claimant did sustain his burden of proving by a preponderance of the evidence that Respondent #2 must provide

medical benefits. Claimant was asymptomatic prior to his May 21, 1997 injury while in Respondent #2's employment; since that date, Claimant has been symptomatic. Claimant's testimony and the medical evidence demonstrate a causal connection between the injury Claimant suffered while in Respondent #2's employment and his current need for medical treatment.

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 September 10, 2004 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 prior to July 1, 2001, the claimant's attorney's fee is governed by the provisions of Ark. Code Ann. § 11-9-715 as it existed prior to the amendments of 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 \$250.00 in accordance with Ark. Code Ann. § 11-9-715(b) (Repl. 1996).

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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SHELBY W. TURNER, Commissioner

Commissioner McKinney dissents.