

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F214350

TIM BATES, EMPLOYEE	CLAIMANT
STAFFMARK LLC MIDWEST, EMPLOYER	RESPONDENT
ATLANTIC MUTUAL INSURANCE CO., INSURANCE CARRIER	RESPONDENT

OPINION FILED MAY 8, 2006

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 as modified.

OPINION AND ORDER

Respondents appeal an opinion and order of
the Administrative Law Judge filed October 3, 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. The prior Opinion of July 19, 2004, is the
law of the case.
3. The claimant has proven by a preponderance
of the evidence that he is entitled to
additional medical treatment subsequent to
February 24, 2004 for his right wrist
compensable injury.

We note that at the time of the February 24, 2004 hearing, the claimant specifically requested treatment in the form of an MRI. In the subsequent decision, dated July 19, 2004, that treatment was denied. In the most recent hearing, held on July 5, 2005, both parties stipulated that the July 19, 2004 decision was the law of the case. Despite this stipulation, the Administrative Law Judge awarded treatment in the form of MRI denied by the July 19, 2004 decision. Since the MRI was previously denied, and neither party appealed that decision, the principle of *res judicata* is applicable. Accordingly, we reverse the portion of the Administrative Law Judge's decision awarding payment for the previously denied 2004 MRI. In making this finding, we note that the only treatment we are specifically denying is the 2004 MRI.

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 October 3, 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.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

Commissioner McKinney dissents.