

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E607106

CAMPY L. BRISTER,  
EMPLOYEE

CLAIMANT

LITTLE ROCK WASTE WATER UTILITIES,  
EMPLOYER

RESPONDENT

ARKANSAS MUNICIPAL LEAGUE  
WORKERS' COMPENSATION TRUST,  
INSURANCE CARRIER

RESPONDENT

OPINION FILED APRIL 17, 2006

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

Claimant represented by the HONORABLE H. OSCAR HIRBY,  
Attorney at Law, Little Rock, Arkansas.

Respondents represented by the HONORABLE BETTY DEMORY,  
Attorney at Law, Little Rock, Arkansas.

OPINION AND ORDER

The claimant moves the Full Commission to clarify our  
ruling in the above-styled case. The Full Commission grants  
the claimant's motion.

The parties stipulated that the claimant sustained a  
compensable injury on May 20, 1996. The parties have  
stipulated that the claimant was paid temporary total  
disability compensation from May 24, 1996 until July 18,  
1998. The parties have also stipulated that the claimant

was paid permanent partial disability benefits pursuant to an impairment rating of 2% to the body as a whole.

In an opinion filed September 19, 2005, the Full Commission affirmed an administrative law judge's finding that the claimant proved he was entitled to surgery as recommended by Dr. Williams. The Full Commission found that if the claimant underwent surgery, then he could claim entitlement to additional temporary total disability compensation. We also found that the respondents proved they were entitled to a credit pursuant to Ark. Code Ann. §11-9-411.

In his motion for clarification, the claimant states that he received UNUM Insurance disability benefits for the period May 24, 1996 until July 18, 1998. The claimant states that he underwent surgery by Dr. Williams on or about January 9, 2006, that he is entitled to additional temporary total disability compensation, and that the respondent is not entitled to a credit for the period of disability benefits the claimant received beginning May 24, 1996 until July 18, 1998.

Ark. Code Ann. §11-9-411 provides:

(a) Any benefits payable to an injured worker under this chapter shall be reduced in an amount

equal to, dollar-for-dollar, the amount of benefits the injured worker has previously received for the same medical services or period of disability, whether those benefits were paid under a group health care service plan of whatever form or nature, a group disability policy, a group loss of income policy, a group accident, health, or accident and health policy, a self-insured employee health or welfare benefit plan, or a group hospital or medical service contract.

In the present matter, the claimant states that the respondents can only take a credit or off-set against the amount of benefits the claimant was previously awarded, not a new period of temporary total disability beginning January 9, 2006 until a date to be determined. The respondents reply that they are entitled to a credit in the amount of \$14,496.67 representing the prior period of temporary disability from May 24, 1996 through January 8, 1998. Based on the express language of Ark. Code Ann. §11-9-411(a), the Full Commission agrees with the respondents.

The Full Commission therefore grants the claimant's motion for clarification. We find that, based on the express language of Ark. Code Ann. §11-9-411(a), the respondents are entitled to a credit for the previous amount of disability the claimant received from May 24, 1996 through January 8, 1998. That credit, in the amount of \$14,496.67, may be applied to the current period of

temporary total disability compensation which the claimant is claiming.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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KAREN H. McKINNEY, Commissioner

Commissioner Turner dissents.