

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F410613

STEPHEN HAYMOND,
EMPLOYEE

CLAIMANT

METRO MAINTAINERS, INC.,
EMPLOYER

RESPONDENT

FARMERS INSURANCE EXCHANGE,
INSURANCE CARRIER

RESPONDENT

OPINION FILED MAY 3, 2006

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

Claimant represented by the HONORABLE MICHAEL HAMBY,
Attorney at Law, Greenwood, Arkansas.

Respondents represented by the HONORABLE CAROL WORLEY,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and
Adopted.

OPINION AND ORDER

Claimant appeals and respondents cross appeal an
opinion and order of the Administrative Law Judge filed
September 22, 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 September 21, 2004, the relationship of employee-employer-carrier existed between the parties.

3. The claimant is entitled to a weekly compensation rate of \$209.00 for temporary total disability and \$157.00 for permanent partial disability.

4. The claimant has failed to prove by a preponderance of the evidence that he sustained a compensable right shoulder injury while working for the respondent on September 21, 2004.

5. The claimant has proven by a preponderance of the evidence that he sustained a compensable temporary aggravation of his pre-existing neck problems on September 21, 2004.

6. The claimant has failed to prove by a preponderance of the evidence that he is entitled to temporary total disability from September 22, 2004, to a date to be determined.

7. The claimant has proven by a preponderance of the evidence that he is entitled to reasonable and necessary medical treatment for his neck problems from September 27, 2004, through January 11, 2005, for the temporary aggravation to his pre-existing degenerative neck problems.

8. The claimant failed to appropriately report his injury to the respondents until September 27, 2004.

9. The respondents have controverted this claim in its entirety.

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 22, 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 in part 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

KAREN H. MCKINNEY, Commissioner

Commissioner Turner concurs in part and dissents in part.

CONCURRING AND DISSENTING OPINION

I concur with the portion of the Majority's opinion finding that the claimant sustained a compensable neck injury and that he is entitled to medical benefits associated with that injury. However, I must respectfully dissent without opinion as to the portion of the decision finding that he did not give notice until September 27, 2004, that he did not sustain a compensable shoulder injury, and that he is not entitled to temporary total disability benefits.

SHELBY W. TURNER, Commissioner