

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NOS. F204024 and F304303

DEANNA PALMER, EMPLOYEE	CLAIMANT
TYSON POULTRY, INC., EMPLOYER	RESPONDENT NO. 1
TYNET CORPORATION, INSURANCE CARRIER	RESPONDENT NO. 1
SECOND INJURY FUND	RESPONDENT NO. 2
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 3

OPINION FILED OCTOBER 13, 2006

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

Claimant represented by the HONORABLE KEITH WREN, Attorney
at Law, Little Rock, Arkansas.

Respondents No. 1 represented by the HONORABLE MELISSA LEE,
Attorney at Law, Springdale, Arkansas.

Respondent No. 2 represented by the HONORABLE DAVID PAKE,
Attorney at Law, Little Rock, Arkansas.

Respondent No. 3 represented by the HONORABLE JUDY RUDD,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed in part and
reversed in part.

OPINION AND ORDER

The respondents appeal and the claimant cross-appeals
an administrative law judge's opinion filed February 10,

2006. The administrative law judge found, among other things, that the claimant proved she was entitled to additional medical treatment "to include the payment of her stomach medications." The administrative law judge found that the claimant proved she was entitled to wage-loss disability in the amount of 13 percent. After reviewing the entire record *de novo*, the Full Commission reverses the administrative law judge's finding that the claimant proved she was entitled to stomach medication. We affirm the administrative law judge's finding that the claimant proved she was entitled to wage-loss disability in the amount of 13%.

I. HISTORY

Deanna J. Palmer, age 69, testified that she was a high school graduate. Ms. Palmer testified that she worked as a bookkeeper and manual laborer for a family construction company from 1960 to 1997. The claimant testified that she had also worked in real estate for six years, and that she had been a kitchen supervisor/cook for Ramada Inn for three and one-half years. The claimant also formerly worked as the snack shop manager for The Great Passion Play and previously owned a part-time barbecue business.

The record indicates that the claimant was hired at Tyson in July 1997. The claimant testified that she packed and sorted chicken and that her work involved manual labor.

The parties stipulated that the claimant sustained a compensable injury to her knee on April 5, 2002. The claimant testified that she tripped and fell. The claimant testified that she eventually returned to full work duties but that she was "in an awful lot of pain."

The parties stipulated that the claimant sustained a compensable injury to her back and right shoulder on March 14, 2003. The claimant testified that while walking down some steps, "my right foot came up in the air and then my left foot and I banged down on my spine on the steps and I pulled my right arm in the socket trying to hang on and then I bounced and slid down on my tailbone and with my back going over those metal-edged steps to the bottom and then I fell forward on my knees."

The claimant began treating with Dr. Charles A. Ledbetter, who noted in April 2003, "She's returned to work at alternate duty where she has an alternate job where she sits some and stands some. I don't think she should be

lifting anything above eye level with her right shoulder and right upper extremity."

The claimant testified:

Q. Tell us what you were told, and can you give us some dates as to when you went back to work?

A. I can't remember the exact date.

Q. But following March the 14th of 2003, did you return to work at light duty at some point?

A. Yes, I returned and they looked at me and told me to go home and don't come back up again.

The respondents' exhibits include a Separation Notification Form indicating that the claimant retired effective April 28, 2003. "I figured it would be my last job, considering my age," the claimant testified.

In June 2003, Dr. Joseph M. Ricciardi performed a right rotator cuff repair and acromioplasty.

Dr. Ricciardi indicated on September 12, 2003 that the claimant could return to modified duties. These included no repetitive use of the right upper extremity, no lifting or carrying more than five pounds, no bending or stooping, time off three days weekly for therapy, and being allowed to move around every 15 minutes.

A claims adjuster wrote to the claimant on September 23, 2003:

Please be advised that I am in receipt of a medical report from your treating physician, Dr. Joseph Ricciardi, dated 09-12-03. He indicated that you could return to modified duty work. I spoke with location contact, Kevin Neilson, concerning light duty availability. Light duty would have been made available at full pre-injury wages had you not voluntarily resigned your employment with Tyson.

You have been on an off work status since 03-17-03 and have been receiving TTD benefits at a bi-weekly rate of \$510.00. On 04-29-03, you voluntarily resigned from Tyson. Although you resigned, you were still entitled to receive TTD benefits because you remained on an "off work" status.

Based on my review, light duty work would have been made available for you at full pre-injury wages had you not voluntarily quit your employment with Tyson. Therefore, your inability to work at this time is not the result of the injury. A copy of the report from Dr. Ricciardi has been included for you (sic) review.

You have been paid TTD benefits from 03-17-03 through 09-24-03 totaling \$6,629.91 paid to date. At this time, your TTD benefits will be terminated based on the above mentioned information....

Dr. Michael M. Morse took the claimant "off work until further notice" on October 7, 2003. Dr. Morse indicated on October 22, 2003, however, that the claimant could return to work on October 27, 2003: "She needs a cushion for her

chair. She is going to have to have arthroscopic surgery on her right leg due to a tibial plateau fracture."

On November 18, 2003, Dr. Ricciardi again returned the claimant to modified duties.

Dr. Ricciardi performed arthroscopic right knee surgery on January 14, 2004.

Dr. Morse noted on April 6, 2004:

I am seeing her for injuries incurred at work. I am slowly addressing her back pain. She has prior anterior fusion of the cervical spine which is not causing a problem. She does have some chronic back pain and has a grade I spondylolisthesis of L4 on L5 and some degenerative changes. It is possible these are pre-existing and this represents an exacerbation of a pre-existing condition. She has reached MMI as of today's date. She has a 7% impairment based upon AMA Guidelines of Permanent Impairment, 4th Edition table 75, page 113, III-A.

She is on Neurontin for her neuropathic pain. She is on 3600 mg daily as well as Lexapro which helps her neuropathic pain.

She has a variety of other pains including her knee and shoulder. She is on four to five Darvocet daily. I explained to her that I did not do long-term pain management and she will need to obtain this medication from her family doctor. She also complains that her medicines are upsetting her stomach and she needs Prevacid. In general, Lexapro and Neurontin do not do this. I again suggested she needs to see her family doctor....

Dr. Alice M. Martinson reported on April 16, 2004:

I was requested to provide an Impairment Rating for her right knee and right shoulder....She has been treated by my partner, Dr. Ricciardi, since April, 2003, for injuries which she sustained in a fall at work on March 14, 2003....At the present time she complains of some medial right knee pain and a sense of stiffness in the knee. She says that she still has weakness of her right arm when she attempts to lift heavy objects above shoulder level, but she has minimal residual right shoulder discomfort....Based on my conversations with Ms. Palmer and examination today, I do concur with Dr. Ricciardi that she has reached maximum medical improvement from her shoulder and right knee injuries. In particular, her right knee is not now normal and she has osteoarthritis in both knees which is most likely unrelated to the specific injury incident of March 14, 2003. Nonetheless, she does have separately identifiable pathology for which an Impairment Rating can be assigned. According to the *AMA Guidelines* (Fourth Edition) she may be assigned a nine percent impairment for the right lower extremity as a result of her meniscectomy, ACL injury, and mild residual right thigh atrophy. She may be given a 10 percent impairment rating for the right upper extremity due to the mild residual weakness in shoulder abduction and external rotation. These ratings may be combined for an 11 percent Total Body Impairment Rating....

The parties stipulated that "the claimant's healing period ended for all injuries by April 16, 2004."

The claimant returned to Dr. Morse on July 13, 2004:

I am seeing her for chronic pain. As per last time, she has reached MMI. She has a 7% impairment. She has some confusion about her medications. I explained that Neurontin and Lexapro may cause some upset stomach and nausea, but it has a different mechanism other than excess

stomach acid and that Prevacid should not really help or be beneficial. I told her I would be happy to continue prescribing Neurontin and Lexapro....

She understands that she has reached MMI. Her case should be settled and then she will need chronic pain medicine through her designated PCP....

Dr. Morse gave the following impression: "Chronic pain syndrome secondary to a work related injury. She reached MMI on 4/06/04. She has a 7% impairment based upon cervical spine pain."

Dr. Martinson informed a claims adjuster on September 1, 2004, "In response to your letter dated August 19, 2004 the 10% to the upper extremity equates to 6% to the body as a whole using the 4th Edition of the AMA Guidelines."

The parties stipulated that Respondent No. 1 "accepted 7 percent to the back, 9 percent to the right lower extremity and 6 percent to the right shoulder."

A pre-hearing order was filed on June 13, 2005. The parties stipulated that "medical expenses have been paid to date except for some medication and an additional TENS unit." The claimant contended, among other things, that the respondents had "refused to pay for claimant's prescription stomach medication, Prevacid. This medication was

prescribed to counteract the side effects of medication she had been prescribed for her work injuries and, therefore, should have been paid for by the respondents."

Respondent No. 1 contended, among other things, that all appropriate medical benefits had been paid. The respondents contended that "light duty was available for the claimant during the period of September 25, 2003, through January 13, 2004. The claimant did not return to light duty at that time because she had voluntarily left the respondents' employ on April 28, 2003....The respondents contend that the claimant is not receiving Prevacid for any work-related injury or as a result of any work-related injury. No treating physician has prescribed current prescriptions of Prevacid to the respondents' knowledge....The respondents contend that the claimant is not entitled to permanent and total disability or any additional amount of benefits for wage loss."

The parties agreed to litigate the following issues:
"1. Temporary total disability from September 25, 2003, to January 13, 2004. 2. Additional medical to include a TENS unit and medication. 3. Permanent and total disability or

wage loss over her impairment. 4. Second Injury Fund liability and Trust Fund liability. 5. Attorney's fees."

A hearing was held on January 3, 2006. The claimant testified that she took the medications Neurontin and Darvocet "for the back problem and the shoulder problem and the knee pain - all of it together." The claimant testified that these medications cause stomach problems, so she took Prevacid every day. "If I don't, I'm in trouble," the claimant testified.

The administrative law judge found, in pertinent part:

9. The claimant has proven by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable injuries to include the payment of her stomach medications as well as a second TENS unit for her right knee. This additional medical treatment shall be paid by Respondents No. 1....
11. The claimant has failed to prove ... that she is permanently and totally disabled.
12. The claimant has proven ... that she is entitled to wage loss in the amount of 13 percent to the body as a whole to be paid by Respondents No. 1....
13. There is no Second Injury Fund liability found in this matter....

Respondent No. 1 appeals to the Full Commission and essentially contends that the administrative law judge erred in awarding the medication Prevacid to the claimant. The claimant cross-appeals and states, "The determination of the

Administrative Law Judge that the Claimant is not permanently and totally disabled and that she is entitled to wage loss of not more than 13% is erroneous."

II. ADJUDICATION

A. Medical Treatment

The employer shall promptly provide for an injured employee such medical treatment as may be reasonably necessary in connection with the injury received by the employee. Ark. Code Ann. §11-9-508(a). The claimant must prove by a preponderance of the evidence that she is entitled to additional medical treatment. *Wal-Mart Stores, Inc. v. Brown*, 82 Ark. App. 600, 120 S.W.3d 153 (2003). What constitutes reasonably necessary medical treatment is a question of fact for the Commission. *Dalton v. Allen Eng'g Co.*, 66 Ark. App. 201, 989 S.W.2d 543 (1999).

The administrative law judge found in the present matter, "The claimant has proven by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable injuries to include the payment of her stomach medications as well as a second TENS unit for her right knee. This additional medical treatment shall be paid by Respondents No. 1."

The Full Commission reverses the administrative law judge's finding that the claimant proved that medication for her stomach was reasonably necessary. The claimant asserts on appeal that the medication Prevacid is reasonably necessary in connection with the compensable injury. Nevertheless, Dr. Morse stated in April 2004 that medication for the claimant's neuropathic pain could not be causing the claimant's upset stomach. Dr. Morse recommended that the claimant obtain a prescription for Prevacid from her family physician rather than the physicians treating the claimant's compensable injuries. Dr. Morse opined in July 2004 that Prevacid would be of no benefit to the claimant.

The Commission has the authority to accept or reject a medical opinion and the authority to determine its probative value. *Poulan Weed Eater v. Marshall*, 79 Ark. App. 129, 84 S.W.3d 878 (2002). In the present matter, the Full Commission attaches significant evidentiary weight to Dr. Morse's implicit opinion that Prevacid was not reasonably necessary in connection with the claimant's compensable injuries. There is no probative evidence of record contradicting Dr. Morse's opinion. We therefore reverse the administrative law judge's finding that the claimant proved

she was entitled to stomach medication to be paid for by Respondent No. 1.

B. Wage Loss

In considering claims for permanent partial disability benefits in excess of the employee's percentage of permanent physical impairment, the Commission may take into account, in addition to the percentage of permanent physical impairment, such factors as the employee's age, education, work experience, and other matters reasonably expected to affect her future earning capacity. Ark. Code Ann. §11-9-522(b)(1).

In the present matter, Respondent No. 1 contended at pre-hearing that the claimant had not sustained any amount of wage-loss disability. The administrative law judge found, "The claimant has proven by a preponderance of the evidence that she is entitled to wage loss in the amount of 13 percent to the body as a whole to be paid by Respondents No. 1." Respondent No. 1 does not appeal this finding.

The Full Commission affirms the administrative law judge's finding that the claimant proved she was entitled to wage-loss disability in the amount of 13%. The Full Commission first notes that we have not considered the

claimant's anatomical impairment to her right lower extremity in assessing the claimant's wage-loss disability. The anatomical impairment to the claimant's right lower extremity represents a scheduled injury. Absent a finding of permanent total disability, a claimant who has sustained a scheduled injury is limited to the applicable allowances of Ark. Code Ann. §11-9-521, and such benefits cannot be increased by considering wage-loss factors. *Federal Compress & Warehouse v. Risper*, 55 Ark. App. 300, 935 S.W.2d 279 (1996).

The instant claimant did not prove that she was permanently totally disabled as a result of the scheduled injury to her right lower extremity. The Full Commission must consider the amount of the claimant's wage-loss disability, if any, based on the unscheduled compensable injuries to the claimant's back and right shoulder. The respondents accepted a 7% impairment rating for the claimant's back and a 6% impairment rating for the claimant's right shoulder. The claimant is age 69 and the record indicates that she has worked practically all of her adult life. The claimant began performing manual labor for Tyson in 1997. Although the record before the Commission

does not indicate that the claimant can return to full manual labor for the respondent-employer, the evidence also does not demonstrate that the claimant proved she was permanently and totally disabled. The respondents made appropriate light duty available for the claimant but she chose to retire. The evidence thus demonstrates that the claimant was not motivated to return to work. A lack of interest in returning to work impedes our assessment of the claimant's loss of earning capacity. *See, City of Fayetteville v. Guess*, 10 Ark. App. 313, 663 S.W.2d 946 (1984).

Based on our *de novo* review of the entire record, the Full Commission reverses the administrative law judge's finding that the claimant proved she was entitled to stomach medication for her compensable injuries. We affirm the administrative law judge's finding that the claimant proved she was entitled to wage-loss disability in the amount of 13%. The claimant's attorney is entitled to fees for legal services pursuant to Ark. Code Ann. §11-9-715(Repl. 2002). For prevailing in part on appeal, the claimant's attorney is entitled to an additional fee of five hundred dollars

(\$500), pursuant to Ark. Code Ann. §11-9-715(b) (2) (Repl. 2002).

_____IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.

DISSENTING OPINION

I must respectfully dissent from the Majority decision finding that the claimant is not entitled to medical treatment in the form of Prevacid and that she is only entitled to wage loss benefits in the amount of 13% in excess of her anatomical ratings.

I first address the Majority's finding that the claimant is not entitled to medical treatment in the form of Prevacid. The claimant credibly testified that she had no need to take Prevacid before her admittedly compensable injuries. Likewise, she credibly testified that she suffered from stomach problems after she took medications for treating her injuries and indicated that Prevacid

relieved the symptoms caused by those medications. As such, I find her need for Prevacid is directly related to the medication treatment used to treat her compensable injuries.

The respondents argue that the claimant suffers from gastroesophageal reflux disease. They further argue that the claimant's physicians have not indicated that the claimant needs Prevacid for treatment of her stomach and that Dr. Morse has specifically indicated that Lexapro and Neurontin do not cause a stomach condition that would be relieved by taking Prevacid.

In addressing these arguments, I first note that there is no evidence to indicate that the claimant suffered from any stomach problems prior to her compensable injuries. While the respondents argue that the claimant suffered from reflux disease, I note that prior to the January 12, 2004, note, from Dr. Milam, there was no indication that the claimant suffered from reflux disease. Likewise, there is no evidence or explanation regarding why Dr. Milam diagnosed the claimant with reflux disease that day. I also note that no other physician opined that the claimant suffered from reflux disease. Additionally, in my opinion, it is clear that almost immediately after the accident, the claimant

began suffering from stomach problems, as evidenced by the medical records. As early as April 11, 2003, the claimant began complaining of having stomach problems. Yet there is no record that she was taking Prevacid until September 9, 2003. In my opinion, this indicates that the claimant's need for Prevacid did not arise until after the time of her injury and that it is directly related to the medicine taken to treat her work-related injuries.

I note the April 6, 2004, report by Dr. Morse, which indicates, "She also complains that her medicines are upsetting her stomach and she needs Prevacid. In general, Lexapro and Neurontin do not do this." I also note Dr. Morse's July 13, 2004, note indicating that while Neurontin and Lexapro might cause upset stomach and nausea, Prevacid would not be beneficial or helpful. However, despite these assertions by Dr. Morse, I find that because the claimant had not previously suffered from stomach problems until taking medication for her compensable injuries and because the claimant testified that taking Prevacid relieved the symptoms associated with taking the medication related to her compensable injuries, she has shown that the need for

treatment is causally related to her injury and is reasonably necessary in treating that injury.

The Majority awards the claimant wage loss benefits in the amount of 13% in excess of her permanent impairment ratings. After reviewing the record, I find that they should have awarded the claimant permanent and total disability benefits or wage loss benefits in excess of the awarded 13%.

In the present case the claimant suffered from a combination of scheduled and unscheduled injuries. Specifically, her knee injury was a scheduled injury and her shoulder and back injuries were unscheduled. In my opinion, there is insufficient evidence to show that the claimant's knee injury, when considered alone, was enough to cause the claimant to become permanently and totally disabled. Accordingly, I agree the claimant's right knee should not be considered when assessing wage loss. However, I find that even without considering the claimant's right knee injury, she is permanently and totally disabled.

At the time of the injury the claimant was 66 years old. She said that she began drawing social security benefits in approximately January 2002. The claimant said

that at the time of her injury she worked at from 40 to 56 hours a week and that she always worked at least 40 hours per week. She said her rate of pay was around \$9.10 per hour and had not been high enough to reduce the amount she received in social security benefits. She said that until the time of her injury she had anticipated working several more years, but that after being injured, she had been unable to return to work. When questioned about the amount she received in social security, the claimant indicated that in 2005 she was receiving \$428.00 per month and that in 2006 she would receive \$534.00 per month.

Before working for the respondent, the claimant was self employed. The claimant worked with her ex-husband for Palmer Construction and performed the tasks of bookkeeping, selling houses, and various other manual labor such as painting or other carpentry work. The claimant said that she had previously had a real estate license for a six-year period, but that she no longer held a license. She also said she worked for Ramada Inn for a period of three and a half years as a kitchen supervisor and a cook. The claimant also relayed that she had worked as a snack shop manager and participated in a part-time business called

Uncle Virgil's Barbeque. Finally, the claimant indicated that while she was a teenager, she was trained and worked as a dental assistant. The claimant said that she had completed the 12th grade, but had no other formal education.

The claimant testified she has residual problems from her admittedly compensable injuries. Specifically, she indicated that she still suffers from knee pain and that she has back pain that makes it difficult for her to sit or stand for long periods of time. She estimated she is capable of standing for around 10 to 15 minutes without pain. She indicated that she was not sure if she could lift items and said that if she bent over to pick something up she would have pain. She said she was unable to squat.

The claimant testified she takes Neurontin on a daily basis for her back and uses a TENS unit on a daily basis. She also takes Darvocet every four hours in order to cope with the pain attributable to her knees, back, and shoulders. She said the medications make her dizzy and groggy and affect her ability to respond quickly. She further indicated the medication causes her to suffer from stomach pain and from diarrhea. She said that the respondents initially paid for Prevacid to treat her stomach

problems, but that they have since stopped. She related that she now purchases the Prevacid at her own expense. She indicated that she was supposed to be using a TENS unit for her knee and leg, but that she was unable to obtain relief because the respondents were requiring her to use one TENS unit for both her knee and back. Finally, the claimant said that she still suffers from tremors associated with nerve damage in her back.

In its consideration of the claimant's request for wage loss benefits, the Majority asserts that the claimant quit her job rather than accepting light duty work. Based on this finding, they conclude that the claimant is not motivated to return to work. However, on closer review of the facts, I cannot agree with the Majority's conclusion that the claimant refused light duty work and then simply decided to retire. Rather, I find that she attempted to return to work, and then was sent home after she was unable to fulfill her duties. I further find that even if the claimant lacked motivation to some degree, her medical condition precludes her from returning to the workforce.

At the time of the hearing, the claimant testified that after sustaining the admittedly compensable injuries in

March 2003 she returned to light duty work at some unspecified time. She said that she was sent home at some point and that she later returned to see if light duty was available. At that point the "head nurse" told her to go home. The claimant has not worked or attempted to return to work since due to pain and inability to work due to the residual effects of her injuries.

I find the claimant's testimony that she attempted to return to work to no avail to be credible. It is undisputed that the claimant has been gainfully employed the majority of her life. Additionally, I note that after the 2002 injury, the claimant returned to light duty work and then ultimately returned to full duty work. In my opinion, her willingness to return to work in the past, despite being injured, indicates that she was a motivated worker who would have accepted light duty work had she been given the opportunity.

Furthermore, while the Majority asserts the claimant refused light duty work and quit, I find that the evidence does not support those findings. While Cindy Boyd testified that she believed the claimant was retiring, there is no direct evidence to rebut the claimant's testimony that

she was sent home. It is clear from reading the record that Boyd was not the "head nurse" that the claimant asked for work. When asked if the claimant requested work after being released to light duty work in September 2003 the following exchange occurred,

Q. Did you speak to her?

A. I don't remember.

Q. Do you know who did speak to her?

A. I don't remember.

Q. Do you know who did speak to her?

A. I can probably look in the nurses' notes, but I -

Q. Well, I mean if you don't know, you don't know.

A. Yeah, it was in the nurses' notes that she did come up once.

Q. But it's your testimony that she was not given this position due to the fact that she had - - it was your information that she had retired?

A. Yes, sir.

Q. Did you see her when she came up in September '03?

A. No, sir.

In my opinion, the above exchange shows that Boyd was not the "head nurse" the claimant spoke with about returning to work. Additionally, it shows that the claimant did speak to another nurse about her return to work. It also illustrates the inability of the respondents to rebut the claimant's first hand testimony regarding the reason she quit. I note that the respondents presented exhibits indicating that the claimant resigned or retired. However, those reports provided virtually no detail and were not signed by the claimant. Furthermore, since the authors of these reports were not present to testify, I find the claimant's testimony to be the best available evidence and accord it more weight. Last, I note that even if the claimant indicated she was resigning, it appears that she only attempted to do so after being sent home and becoming aware that she could not return to work due to the extent of her injuries.

When reviewing the evidence, I find that it is unlikely the claimant will ever be able to return to work. At the time of the injury the claimant was 66 years old and had broad work experience. However, as a result of her age, other medical conditions, and due to her back and shoulder injuries, her ability to return to work has been virtually

eliminated. I note in particular that the claimant testified she is unable to sit or stand for long periods in order to travel. Likewise, she said that she is unable to stand for time periods in excess of 10 to 15 minutes without pain and that she is unable to sit for more than 10 minutes without pain. It is further undisputed that she is taking medication which has the side effects of making her dizzy and groggy. She also indicated that she did not believe she would be able to bend over and pick something up without pain and that she was unable to squat. The claimant also suffers from the additional problem of having tremors which are attributable to nerve damage in her back. Finally, she indicated that, while not related to her compensable injuries, she has a left knee which gives way on her and has to use a cane.

When considering the claimant's multiple residual problems directly associated with her admittedly compensable unscheduled injuries in conjunction with her age and other relevant factors, I find that it is unlikely that the claimant will ever be able to return to gainful employment. Ultimately, the claimant would require a job that would allow her to sit or stand at will and would allow her to

work while dizzy and groggy. When considering the claimant's age, work experience, education, and other relevant factors, I can envision no such employment.

For the aforementioned reasons I must respectfully dissent.

SHELBY W. TURNER, Commissioner