

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NOS. F212806 & F406876

KATHERINE BANKSTON, EMPLOYEE	CLAIMANT
BIONETICS CORPORATION, EMPLOYER	RESPONDENT
COMMERCE & INDUSTRY INSURANCE COMPANY, C/O AIG CLAIM SERVICES (TPA), INSURANCE CARRIER	RESPONDENT NO. 1
TRAVELERS INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT NO. 2

OPINION FILED NOVEMBER 6, 2007

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

Claimant represented by the HONORABLE KENNETH E.
BUCKNER, Attorney at Law, Pine Bluff, Arkansas.

Respondent No. 1 represented by the HONORABLE JARROD S.
PARRISH, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by the HONORABLE PHILLIP
CUFFMAN, 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 June 6, 2007. In
said order, the Administrative Law Judge made the
following findings of fact and conclusions of law:

1. The stipulations agreed to by the parties herein are accepted as fact.
2. The employer/employee relationship existed on October 8, 2002, when claimant sustained a compensable injury to her right shoulder. The insurance carrier at that time was Travelers Insurance Company. Temporary total disability benefits and medical benefits were paid, along with a 9% whole body impairment rating to the right shoulder assessed by Dr. Clark.
3. The employer/employee relationship existed on June 28, 2004, when claimant sustained a compensable injury to her cervical spine and right shoulder. The insurance carrier at that time was Commerce & Industry Insurance Company c/o AIG Claim Services, third-party administrator. Temporary total disability benefits and medical benefits were paid through July 1, 2005.
4. Claimant was earning an average weekly wage of \$489.60, resulting in a compensation rate of \$326.00 for TTD and \$245.00 for PPD.
5. Claimant has proven by a preponderance of the evidence that her right shoulder condition existing since the June 28, 2004, incident constitutes an aggravation of her prior, unrelated right shoulder injury.
6. Claimant has proven by a preponderance of the evidence that she is entitled to reasonable and necessary medical treatment for same at Commerce's expense.

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 June 6, 2007, 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

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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

PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.