BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F403366

NITA BASS, EMPLOYEE	CLAIMANT
HEALTH MANAGEMENT ASSOCIATES, INC., EMPLOYER	RESPONDENT
LIBERTY MUTUAL FIRE INS. CO., CARRIER	RESPONDENT

OPINION FILED JULY 23, 2007

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

Claimant represented by HONORABLE EDDIE WALKER, JR., Attorney at Law, Fort Smith, Arkansas.

Respondent represented by HONORABLE JAMES ARNOLD, II, Attorney at Law, Fort Smith, Arkansas.

Decision of Administrative Law Judge: Reversed.

OPINION AND ORDER

The respondents appeal a decision by the Administrative Law Judge finding that the claimant proved by a preponderance of the evidence that she sustained a compensable injury to her left hip on February 7, 2004. Based upon our de novo review of the record, we find that the claimant has failed to meet her burden of proof. Accordingly, we reverse the decision of the Administrative Law Judge.

The claimant was employed by the respondent employer as an RN working in labor and delivery and the nursery on the night shift. The claimant had been employed by the respondent employer approximately two years when she was departing an elevator and the elevator did not meet evenly with the floor. The claimant fell on the tile floor. The claimant reported the injury and was taken to the emergency room where she was x-rayed. By the time she was finished in the ER it was time for her shift to be over so she went home. The claimant testified that when she got up that evening to go back to work, her hip clicked every time she sat up, moved, or bent over. The claimant stated that her hip had never done this before.

The evidence demonstrates that the claimant has an extensive medical history regarding hip problems. Before the February 7, 2004, incident, the claimant had undergone approximately fifteen surgeries for problems with her left hip. From the time the claimant was ten years old until she was nineteen she experienced problems and pain with her hip.

At age nineteen she had her first hip replacement. Because of her age and activities this prosthesis lasted approximately four years. The claimant testified, and the medical evidence demonstrates, that the last surgery the claimant had was in 1995. At that time, the claimant began experiencing increased hip pain. During the surgery a pelvic diastasis was discovered which is a fracture or separation of the pelvis. The claimant’s treating physician, James W. Long, performed a bone graph to repair the fracture. Six to eight weeks later another surgery was performed to replace the claimant’s hip prosthesis. Dr. Long explained that the typical hip prosthesis would last five to ten years before another revision or replacement was necessary.

On July 16, 1997, the claimant was one year post-op for the revision of her left hip replacement. Dr. Long wrote on August 31, 1999, that he had seen the claimant who was one year post-op for a right knee replacement. On August 7, 2000, Dr. Long saw the claimant for her left hip where it was noted that she had a deep

aching pain in the hip related to activity. Three weeks later, Dr. Long wrote that the claimant was back, noting that she was taking Celebrex, had not noted much improvement, and remained tender over her left hip. On April 19, 2001, Dr. Long saw the claimant for pain in her left hip. He noted there was no evidence that any surgical procedure was required. Dr. Long continued the claimant on medications. Dr. Long continued to see the claimant throughout 2001 for her various medical problems including her left hip.

On December 2, 2002, Dr. Long saw the claimant for her complaints of right hip pain. She was diagnosed with right greater trochanteric tendinitis and it was also noted that she had a left hip replacement and a right knee replacement. Dr. Long administered injections into her right greater trochanter and refilled her Oxycotin. The claimant received another injection into her right hip area on January 3, 2003, and her Oxycotin was refilled.

The claimant saw Dr. Long on June 12, 2003, and he noted that he had seen the claimant for her chronic complaints of pain which she has had for decades. Dr. Long noted that her complaints of pain were actively related to the amount she walked. The claimant underwent tests of her prosthesis which indicated that they were in excellent condition and x-rays of the claimant's lumbar spine showed overall that her alignment was satisfactory. Dr. Long wrote that her limp was probably going to persist and she needed to use her cane to significantly reduce the severity of her limp. The claimant's medications were continued.

On December 18, 2003, Dr. Long wrote that for the last two weeks the claimant had a severe increase in pain. Dr. Long noted that the claimant had lost fifty pounds and it helped improve her symptoms. Dr. Long injected the claimant's left hip and her medications were unchanged. Dr. Long did a repeat injection into the claimant's left greater trochanter area of her left hip on December 22, 2003. Her medications were prescribed and an appointment was

set up for three weeks. Dr. Long wrote on January 6, 2004, that the claimant’s second injection did not help with her discomfort and seems to have aggravated her pain. Dr. Long noted that the claimant’s pain had been so intense that she has missed work for the first time. Dr. Long reviewed the claimant’s film and noted that they did not show any significant change in the claimant’s prosthesis. He also noted that there was no degeneration of the opposite hip. Dr. Long administered a third injection into the claimant’s hip and medications were prescribed. Dr. Long wrote that the claimant had deficiency in her gluteal hip abductor muscle group which is associated with her scar formation. The doctor noted that the claimant walks a lot at work which strained these muscles. Dr. Long opined that there is no evidence of any problems in the hip requiring consideration of any revision and the claimant was encouraged to use her crutches or a cane.

Dr. Long again injected the claimant in the left trochanter area on January 15, 2004. On January 20, 2004,

Dr. Long wrote that the claimant was seen five days ago and given an injection into the left greater trochanteric area for tenderness associated with post traumatic surgical treatment. Dr. Long noted that the greater trochanteric tendinitis was a recurrent problem and had been more bothersome lately. After physical examination the claimant was diagnosed with acute iliopsoas tendinitis of the left and it was noted that she has old multiple revised left total hip replacement with recent trochanteric tendinitis.

On January 22, 2004, Dr. Long indicated that the claimant was down to using one Canadian crutch and had improved in the last two days. Dr. Long felt that the claimant’s antalgic gait unsupported with a cane was contributing factor to her problem.

On January 29, 2004, Dr. Long noted that the claimant had been off work for two weeks and that she was still using her Canadian crutch. He also noted that the claimant had an aching pain in her left hip that was aggravated by flexation and external rotation. Dr. Long

opined that the claimant had an iliopsoas tendinitis but no injection was administered at that time. Dr. Long continued the claimant's Oxycotin and recommended that she go back to work when she felt her symptoms would allow.

Dr. Long's deposition was offered into the record. He gave an extensive history of the claimant's left hip problems beginning back when she was ten years old. The claimant developed a spontaneous symptic left hip which means it got infected and required extensive drainage. Dr. Long testified that this caused deterioration of the hip and affected the growth of the claimant's hip. Dr. Long stated that the gradual deterioration of her hip has caused her to have an arthritic hip which has resulted in her having symptoms since that time. Dr. Long testified that young people, particularly young active people, who have to undergo hip replacements often are looking at additional replacement of their hips depending on their activity level. Dr. Long discussed at length a very complex procedure the claimant went through in the 1990s which involved her pelvis

as well as her hip and the femur bone all the way down to her knee. Dr. Long testified that based on the claimant’s history beginning back when she was ten and all the various procedures which she has gone through after he performed his 1995 surgery, he anticipated that it would be a good probability that she would require a further revision to her hip. Dr. Long agreed that since her 1995 revision she has continued to have symptoms due to the fact that she does not have normal musculature in that hip. Dr. Long stated, “She’s just almost solid scar. There is no muscle to make the hip move so she has to waddle around it and compromise and she limps all the time.”

Dr. Long testified that the claimant should use a cane at all times but due to her work at the hospital in the nursery she has to lay her cane down in order to do her work. Dr. Long testified that the claimant had pain all the time but it really got worse in December 2003 and into January 2004. The doctor testified that during this period of time her pain increased to the point where she was taken

off work and put on crutches. After examination and tests, a bone scan revealed that she had irritation in her bone suggesting that she may have some return of a stress fracture and diastasis of the pelvis. During this period of time, the claimant also had symptoms of iliopsoas tendinitis which meant that one of the tendons that makes your hip work was straining extremely hard. Dr. Long associated these new problems with weight bearing and walking. Dr. Long testified that during this period of time they were giving the claimant injections and increased and changed her medications. Dr. Long stated that x-rays did not show any change in the prosthesis that would make it obvious that surgery would be necessary.

Dr. Long testified that the claimant had an appointment scheduled for February 11, 2004, and when he saw the claimant on that date she continued to have symptoms of pain in her left hip. The claimant also related to him that she had fallen when getting out of an elevator and subsequent to this event she was experiencing a popping or

clicking in her left hip. Dr. Long testified that he did not observe or hear the clicking and popping which the claimant had explained to him. Dr. Long testified that x-rays taken at the time did not reveal any definite changes.

On March 12 the claimant underwent a bone scan which showed increased uptake in the bone around the acetabulum on the left which extended up through the SI joints. Dr. Long testified that the claimant was straining her pelvis a lot walking and he felt it was time to go in and see what he could do to fix what they thought was a mechanical problem. Dr. Long was asked if the area of increased uptake which was demonstrated by the bone scan was a finding caused by the incident on February 7, 2004. Dr. Long responded, “Its caused by the walking and the stress on the hip--not necessarily by the accident.”

Dr. Long testified that during the claimant’s hip surgery in April 2004 it was noticed that the bottom of the cup had a slight spring to it and that it was not a rigid fixation, therefore, additional screws were implanted and a

bone graph was made. The polyethylene lining was replaced but this replacement would have been done with any hip surgery of this type. Dr. Long was asked if any of his findings during surgery were felt to have been caused by the incident of February 7, 2004. Dr. Long responded that he could not say that anything they were treating was caused by trauma but he could say that it was another factor in precipitating the operation. Dr. Long testified that surgery had definitely been a consideration before February 7 and it was his opinion that the elevator event probably related to aggravation not cause. Dr. Long testified that following the claimant's surgery and healing period, she currently is back to the status she was some months before her surgery.
Dr. Long testified that, in his opinion, the claimant does not have any real change in her overall impairment as a result of this last surgery. The doctor stated that he has her on the same recommendations as he had her on before and she is probably capable of doing work within these guidelines. Dr. Long agreed that the claimant currently is

back on the chronic long term medication protocol that she was on prior to December 2003 and this is something she needs because she has been through these procedures fifteen to sixteen times.

Dr. Long was asked if it was a fact that the claimant’s walking without a walker aggravated her hip and the doctor replied yes he thought that was the cause of her diastasis. Dr. Long agreed that whatever circumstances caused her to walk without the walker was the cause of her hip problems. Dr. Long was also asked if there was any relationship between the claimant’s hip problem which resulted in her need for surgery and her work. Dr. Long responded, “Only the fact that she walks a lot at work.” Dr. Long stated that it was his opinion that the claimant aggravated her symptoms when she stepped off the elevator to the point that it speeded up his decision about surgery. Dr. Long read from a paragraph he had written in July 2004 which set forth “this jarring of the hip exacerbated her symptoms to the point that it precipitated the surgery,

although she was having symptoms previously." Dr. Long testified that when the claimant stepped off the elevator this strained her pelvic disatasis and made it more symptomatic.

On appeal, the claimant contends that she either sustained a specific incident injury or an injury caused by rapid repetitive motion. Ark. Code Ann. §11-9-102(4)(A)(i)(Supp. 2005) defines "compensable injury" as "[a]n accidental injury causing internal or external physical harm to the body ... arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is "accidental" only if it is caused by a specific incident and is identifiable by time and place of occurrence. Wal-Mart Stores, Inc. v. Westbrook, 77 Ark. App. 167, 72 S.W.3d 889 (2002). The phrase "arising out of the employment" refers to the origin or cause of the accident, so the employee is required to show that a causal connection exists between the injury and his employment. Gerber Products v. McDonald, 15

Ark. App. 226, 691 S.W.2d 879 (1985). An injury occurs "in the course of employment" when it occurs within the time and space boundaries of the employment, while the employee is carrying out the employer's purpose, or advancing the employer's interest directly or indirectly. City of El Dorado v. Sartor, 21 Ark. App. 143, 729 S.W.2d 430 (1987).

In analyzing whether an alleged injury under Ark. Code Ann. §11-9-102(4)(A)(ii)(a) by rapid repetitive motion, the standard as set out in Malone v. Texarkana Public Schools, 333 Ark. 343, 969 S.W.2d 644 (1998), is a two-pronged test: (1) the tasks must be repetitive, and (2) the repetitive motion must be rapid. As a threshold issue the tasks must be repetitive, or the rapidity element is not even reach. Westside High School v. Patterson, 79 Ark. App. 281, 86 S.W.3d 412 (2002). In addition to establishing the general requirements for compensability set forth in either §11-9-102(4)(A)(i) or (ii)(a), the claimant must establish a compensable injury by medical evidence, supported by objective findings as defined in §11-9-102(16). That a

compensable injury be established by medical evidence supported by objective findings applies only to the existence and extent of the injury. Stephens Truck Lines v. Millican, 58 Ark. App. 275, 950 S.W.2d 472 (1997). "Objective findings" are those that cannot come under the voluntary control of the patient. Ark. Code Ann. §11-9-102(16). Moreover, objective medical evidence, while necessary to establish the existence and extent of an injury, is not necessary to establish a causal relationship between the injury and the work-related accident. Wal-Mart Stores, Inc. v. VanWagner, 337 Ark. App. 443, 990 S.W.2d 522 (1999). The onset of pain does not satisfy our statutory criteria for benefits. Test results that are based upon the patient's description of the sensations produced by various stimuli are clearly under the voluntary control of the patient and therefore, by statutory definition, do not constitute objective findings. Duke v. Regis Hair Stylists, 55 Ark. 327, 935 S.W.2d 600 (1996). Finally, medical opinions addressing compensability and permanent impairment

must be stated within a reasonable degree of medical certainty. Ark. Code Ann. §11-9-102(16)(i)(B); Crudup v. Regal Ware, Inc., 341 Ark. 804, 20 S.W.3d 900 (2000).

There is no presumption that a claim is indeed compensable. O.K. Processing, Inc., et al v. Servold, 265 Ark. 352, 578 S.W.2d 224 (1979). Crouch Funeral Home, et al v. Crouch, 262 Ark. 417, 557 S.W.2d 392 (1977). The injured party bears the burden of proof in establishing entitlement to benefits under the Workers' Compensation Act, and must sustain that burden by a preponderance of the evidence. See Ark. Code Ann. § 11-9-102(4)(E)(i)(Repl. 2002); Clardy v. Medi-Homes LTC Serv. LLC, 75 Ark. App. 156, 55 S.W.3d 791 (2001). In other words, in a workers' compensation case, the claimant has the burden of proving by a preponderance of the evidence that her claim is compensable, i.e., that her injury was the result of an accident that arose in the course of her employment and that it grew out of, or resulted from the employment. Carman v. Haworth, Inc., 74 Ark. App. 55, 45 S.W.3d 408 (2001); Ringier Am. v. Combs, 41

Ark. App. 47, 849 S.W.2d 1 (1993). Further, the claimant must show a causal relationship exists between her condition and her employment. Harris Cattle Co. v. Parker, 256 Ark. 166, 506 S.W.2d 118 (1974).

It is well established that the party having the burden of proof on the issue must establish it by a preponderance of the evidence. Ark. Code Ann. § 11-9-704(c)(2)(Repl. 2002). A preponderance of the credible evidence of record means "evidence of greater convincing force." Jordan v. Tyson Foods, Inc., 51 Ark. App. 100, 911 S.W.2d 593 (1995); See also, Smith v. Magnet Cove Barium Corp., 212 Ark. 491, 206 S.W.2d 42 (1947). In determining whether a claimant has sustained his or her burden of proof, the Commission shall weigh the evidence impartially, without giving the benefit of the doubt to either party. Ark. Code Ann. § 11-9-704; Wade v. Mr. C Cavenaugh's, 298 Ark. 363, 768 S.W.2d 521 (1989); and Fowler v. McHenry, 22 Ark. App. 196, 737 S.W.2d 663 (1987).

In our opinion, a review of the evidence demonstrates that the claimant did not suffer from a compensable specific incident injury on February 7, 2004, when she fell at working stepping out of an elevator or a rapid repetitive motion injury. Furthermore, we also find that the claimant did not sustain an aggravation of a preexisting condition as a result of the fall on February 7, 2004. The medical evidence demonstrates that the claimant was seeking medical treatment prior to the fall for problems associated with her hip.

Over eight years following her 1995 hip replacement surgery the claimant began experiencing increased hip pain. She presented to Dr. Long on December 18 and 22 of 2003 for treatment. An x-ray was taken of the claimant’s hip on January 6, 2004, which revealed no radiographic changes as compared to x-rays taken approximately one year earlier. The claimant presented to Dr. Long again on January 15, 20, and 22, 2004, and conservative treatment was continued. Shortly before the

January 20, 2004, visit, the claimant suddenly had severe pain when she moved to get off a couch at home. The January 29, 2004, Progress Report from Dr. Long and the claimant's payroll records reflect that the claimant took off work for two weeks following January 20, 2004, incident at home. On January 29, 2004, she was still having increased pain in her left hip and Dr. Long refilled her prescription for pain medication.

One week later, on February 7, 2004, the claimant fell when she exited an elevator at work. The first time the claimant presented to Dr. Long following her fall was February 11, 2004. There was no increase in symptoms following this incident, except for the claimant's alleged popping and clicking which Dr. Long was unable to verify. In fact, the Progress Note from the February 11, 2004, visit stated that the claimant's left hip pain had actually improved and the claimant was not taken off work. Another hip x-ray was taken. Dr. Long compared this x-ray with the films taken on January 6, 2004, and at other times over the

years. Although Dr. Long speculated that an equivocal remnant might have been present in the area of the prior diastasis, he specifically concluded that a comparison of the films did not reveal any change. During his deposition, Dr. Long was asked if there were any objective findings by x-ray or clinical exam of anything that had not been present prior to the February 11, 2004, visit. Dr. Long responded that the claimant mentioned popping but that he did not appreciate popping on clinical exam and that the x-rays did not show any definite change. Sometime after the February 7, 2004, incident, the claimant experienced clicking in her hip after she got up out of bed at home. Dr. Long did not perform any examination or other testing that allowed him to objectively observe or verify any clicking.

A bone scan that was performed on March 12, 2004, showed an increased uptake in two areas, the acetabulum and the SI joint. Dr. Long stated that the increased uptake in the acetabulum was consistent with the pelvic diastasis observed in 1995. He was asked whether the increased uptake

could be a finding that was caused by the February 7, 2004, incident. Dr. Long answered "no" and stated that it was probably related to walking and evidenced by the pain she had been having for two to three months before the scan. Dr. Long testified that the "only thing that we have in the way of change that occurred from the accident or incident that occurred in February of stepping off the elevator is the clicking and popping." Dr. Long reaffirmed that he never observed any clicking or popping and that any attempt to clinically reproduce clicking and popping could result in injury.

After the bone scan, the claimant followed up with Dr. Long on March 16, 2004. During this visit, Dr. Long noted that the claimant had been experiencing hip pain for the past three months and that there are no radiographic changes in the hip when comparing previous films. Because non-surgical approaches had been exhausted, he recommended exploratory surgery and a revision of the hip if necessary.

Surgery was performed on April 8, 2004. Surgery revealed the claimant’s major problem was that the metal cup of the prosthesis was slightly loose or had a slight spring to it. The cup was secured by adding additional screws and tightening one screw that was loose. Dr. Long stated that the loose screw was not evidence of trauma. The polyethylene lining was not fractured but had some slight wear. Although it was replaced during the surgery, Dr. Long testified that the wear was not due to trauma but it was the normal degree of wear expected since the last hip replacement performed approximately nine years earlier in 1995.

Dr. Long was specifically asked whether he found anything during the surgery which he believed was caused by the February 7, 2004, incident. He responded, “I could not tell you that anything that we were treating there was caused by the trauma.” He went on to say that the operation was performed because of the claimant’s complaints of clicking and her continued pain and that these complaints were subjective and certainly not objective findings.

Dr. Long considered recommending surgery in December of 2003 and January of 2004 and he testified that it was quite possible that the claimant would have had the surgery if she had not stepped off the elevator on February 7, 2004.

There are no objective medical findings or evidence of either a specific hip injury occurring on February 7, 2004, or a rapid repetitive motion injury. Typically, surgery to replace or revise a hip prosthesis occurs every five to ten years. Over eight years after her last hip replacement, the claimant began experiencing increased hip pain. The onset of the pain began almost two months before February 7, 2004. On or about January 20, 2004, the claimant experienced a sudden onset of hip pain when she moved to get up off of a couch at home. Because of this incident, she missed two weeks of work. After the February 7, 2004, incident at work, the claimant returned to work. She presented to Dr. Long four days later on February 11, 2004, and Dr. Long wrote that her hip pain had actually improved and the claimant was not taken off work. The only

potential change following the February 7, 2004, incident was the claimant’s subjective complaints of clicking, popping and continued pain. However, the claimant did not notice the clicking and popping until later when she got up out of bed at home. The surgery did not reveal any evidence of specific traumatic event, nor did it reveal any objective evidence of a rapid repetitive motion injury which arose out of her employment. Based upon the medical records and the testimony of Dr. James Long, it is clear that the surgery performed on April 8, 2004, was the result of the normal wear expected with this type of hip prosthesis and not caused by the claimant’s work.

Therefore, after reviewing the evidence in this case, we find that the claimant has failed to prove by a preponderance of the evidence that she sustained a compensable injury to her left hip on February 7, 2004, when she stepped off of an elevator and fell, or that she sustained a rapid repetitive motion injury. Accordingly, we

find that the decision of the Administrative Law Judge should be reversed.

IT IS SO ORDERED.

____
OLAN W. REEVES, Chairman

____
KAREN H. McKINNEY, Commissioner

Commissioner Hood dissents.

DISSENTING OPINION

This case comes before the Commission on the respondents' appeal of the September 1, 2006, opinion of the Administrative Law Judge finding that the claimant suffered from a compensable injury to her hip while working for the respondents and that the injury was due to job activities involving rapid repetitive motion. The Administrative Law Judge also found that the claimant further aggravated her hip when she fell on February 7, 2004 while working for the

respondents. The Majority has reversed the decision of the Administrative Law Judge.

The Majority erroneously finds that the claimant did not suffer a compensable work-related injury caused by rapid and repetitive motion or in the form of an aggravation when she fell on February 7, 2004 while working for the respondents. In my opinion, the Majority not only arbitrarily ignores the claimant's testimony, but ignores facts that are corroborated by Dr. Long. Furthermore, the Majority arbitrarily ignores and completely misstates facts not disputed by the respondents. For these reasons, I respectfully dissent.

I find that the claimant suffered from a compensable injury to her hip while working for the Respondents and that the injury was due to job activities involving rapid repetitive motion. I also find that the claimant further aggravated her hip when she fell on February 7, 2004 while working for the Respondents.

HISTORY

The claimant had worked as a RN and Nursery Supervisor at Crawford Memorial Hospital for two years. The claimant testified that on February 7, 2004, she was getting off the elevator at work when she fell. The claimant testified that the elevator did not come up level with the floor and was approximately 6-12 inches off the floor, when she stepped out of the elevator and fell onto the tile floor, experiencing severe pain in her hip. The claimant had experienced problems with her hip since she was 10 years old. Since she was 19 years old, the claimant has underwent multiple various procedures on her hip. Her last hip replacement was in 1995.

The claimant testified that she occasionally had flare-ups in her hip, but because she had so many revisions and problems with it, she knew whether the problem was mechanical or not. The claimant testified that her job requirements led to much of the stress on her hip. The claimant testified that she worked the night shift and there were only two nurses on staff: one for labor and delivery

and one for the nursery. Her duties included carry cases of milk, weighing 10 to 12 pounds, and stocking it underneath the counter. That included getting down on her hands and knees. She also carried infants, weighing 5 to 10 pounds.

The claimant had worked for two years for the Respondents before the February 7, 2004 incident. However, she started as a daytime nurse, when there were approximately four to five nurses working in labor and delivery. After a year of working as a daytime nurse, she switched to the night shift. The pace of her work was very fast and she often found herself "running," which she explained as "just going non-stop on your feet." The claimant testified that she was on her feet and doing a lot of walking during her shift, often walking back to a mother's room 50 times during the night to get a fetal monitor to pick up. The claimant testified that her duties really picked up as a night nurse because there were only two nurses on duty. The claimant worked four 12-hour shifts per week, but often worked five or six nights a week. She

was instructed by her doctor to use a cane or walker to assist her with walking, but testified that it was impossible to use at work. The claimant testified that she couldn’t use it in the nursery while taking care of the babies, and during her entire 12 hour shift, she was only able to use the cane 20% of the time. She also testified that at least 70 to 80% of her walking occurred at work.

The claimant testified that her hip began bothering her around December 2003, when her iliopsoas muscle became inflamed. She began getting injections in her hip from Dr. Long for the pain. In January, the claimant missed some work due to the pain in her hip. When she did work, she used a cane whenever possible. However, the nature of her work made such impractical. On January 29, 2004, the claimant testified that she went to see Dr. Long for the pain in her hip, but returned to work after her appointment.

On February 7, 2004, the claimant was getting off the elevator at work when she fell. The claimant testified that the elevator did not come up level with the floor and

was approximately 6-12 inches off the floor, when she stepped out of the elevator and fell onto the tile floor. She immediately experienced severe pain in her hip and went to the emergency room for treatment. After this incident, her hip pain became much worse and her hip clicked and popped, which she testified had never happened before. The claimant testified that it felt like the cup was slipping and could tell that it did not feel right. The claimant testified that the prosthetic hip was not functioning properly after her fall.

On February 11, 2004, the claimant again went to see Dr. Long for her hip and explained that she had fallen and was experiencing a clicking and popping in her hip. This appointment had been scheduled prior to the fall for a check-up on her flare-up. However, the claimant testified that she had muscular flare-ups in the past that would last two or three months and would get better with time. Yet, she could tell that after her fall, her prosthesis was malfunctioning.

The claimant’s medical records reveal that the claimant experienced extensive problems with her hip throughout her life. Dr. Long had been her primary physician and surgeon throughout much of her life. The claimant’s medical records corroborate her testimony that she would experience flare-ups that would last for several months and then get better with time. For example, from April 2001 until July 2001, the claimant visited Dr. Long five times for hip pain, yet it had been at least eight months since her previous visit with him. Accordingly, after her visit with Dr. Long on July 10, 2001, she did not seek further treatment until December 2, 2002, when she complained of right hip pain that had occurred for 3 or 4 days prior to her visit. Dr. Long’s medical records indicated that the pain was muscular and that her symptoms are exacerbated primarily by active motion. An x-ray was performed, and the records indicate that there was no loosening of the prosthesis or degenerative change in the right hip joint.

The claimant again went back to Dr. Long on June 12, 2003, complaining of pain in her left buttocks. Dr. Long noted that the pain was activity related and the more that the claimant walked, the more she hurts. Dr. Long also noted that the claimant was unable to use her cane at work, which does not give her the benefit of a cane with an antalgic gait problem. Dr. Long also noted that her antalgic gait would persist and only the use of a cane would significantly reduce the severity of it. Additionally, tests revealed that her dual cup revision acetabular component remained unchanged and in a satisfactory position. The claimant’s prosthesis was also noted to be in excellent position and alignment.

On December 18, 2003, the claimant again went to Dr. Long for another flare-up, in which Dr. Long’s notes revealed that the claimant had been experiencing pain for two weeks. The claimant began with pain over her trochanter and it progressed to aching in the left hip. Dr. Long gave her an injection of Decadron, Decadron LA, and Marcaine into

the greater trochanter. The claimant returned on December 22, 2003 with the same pain and received the same treatment.

On January 6, 2004, Dr. Long compared her x-rays to those he had taken a year earlier. Dr. Long notes that the x-rays compared to those one year earlier show no radiographic change. Dr. Long notes that the prosthesis had not cemented and the plate and screw fixation of the distal one-third of the femur did not give any symptoms. However, the claimant still complained of pain in the greater trochanteric area and over the lateral and proximal tip of the femoral component. The claimant was again given an injection of Decadron, Decadron LA, and Marcaine into the left posterosuperior iliac spine. However, Dr. Long also noted that the claimant had a deficiency in her gluteal hip abductor muscle, and when she works and walks a lot, it develops a strain in these muscles. More importantly, Dr. Long noted that there was no evidence of any problem in the hip requiring the consideration of any revision. He added that the claimant will use her crutches or at least a cane

all the time and hopefully the muscle will symptomatically subside.

On January 15, 2004, the claimant returned to Dr. Long with continuous left hip pain and again received an injection of Decadron, Decadron LA, and Marcaine on the left side. Dr. Long noted that the claimant’s pain in the left greater trochanteric region was related to multiple hip surgeries and scarring in the gluteal region. Dr. Long again noted that the claimant continues to walk with antalgic gait and that she uses a cane only part of the time, reasoning that she works as a nurse on 12 hour shifts and can’t use it much there.

On January 20, 2004, the claimant returned to Dr. Long with continuous left hip pain and complained that she felt a sharp pain in her left hip when she was getting off the couch. The claimant had to use her crutches to get to the doctor’s office. Dr. Long’s impression is that the claimant has acute iliopsoas tendinitis on the left and recent trochanteric tendinitis. Again Dr. Long notes that

the claimant is a nurse that works 12-hours shifts and that this may have contributed to these symptoms and this problem.

On January 22, 2004 the claimant returned to Dr. Long for a followup on her iliopsoas tendinitis of the left hip. Dr. Long noted that the claimant was down to using one crutch and she has much improved in the last two days. As the claimant was improving, he did not administer any injections. However, Dr. Long clearly states that the claimant's antalgic gait, unsupported with a cane, is felt to be a contributing factor to this problem. Dr. Long asked to see her again in a week.

The claimant returned for her regularly scheduled appointment with Dr. Long on January 29, 2004. Dr. Long noted that the claimant had been off of work for two weeks and she was still using a crutch. He noted that although the claimant is still having aching pain in her left hip, that she is not having symptoms particularly over the greater trochanter area, where she usually has symptoms. Dr. Long's

notes reinforce that the claimant suffers iliopsoas tendinitis and that the claimant did not receive injections. He did allow the claimant to return to work and asked to see her again in two weeks.

On February 11, 2004 the claimant returned to Dr. Long for a follow up appointment and reported that she had fallen from the elevator onto a hard floor, jarring her hip on February 7, 2004. Dr. Long noted that although the pain in the left hip is somewhat improved, it is still there. Dr. Long noted that the claimant had returned to work, using a crutch. Due to the fall at work, x-rays were repeated. Dr. Long notes that the films done one month earlier were unchanged and that she had developed this pain within the last month. He also noted that the claimant had developed a popping in her left hip since the last visit. He noted that there is an equivocal remnant in the area of diastasis in the acetabulum, that he is not certain if the cup is loose, and that the acetabular component has some radiolucency about it particularly in zone C. Dr. Long explained that the

claimant may be having symptoms from the loosening of her cup or wear from the polythylene, but that he cannot make a definitive diagnosis. In regards to the February 7, 2004 accident, Dr. Long notes that it is not obvious that it caused any derangement of her hip, although there is an equivocal fracture line in the medial wall of the acetabulum that may be a new finding.

On February 19, 2004 the claimant returned to Dr. Long complaining of increased pain and persistent clicking in her left hip, which Dr. Long noted only began after she stepped off the elevator and severely jarred her hip. He also noted that her long term pain has not worsened, distinguishing her current pain from her chronic iliopsoas tendinitis pain, which he indicated had improved. Dr. Long noted that the clicking noise could indicate a sublaxation of the femoral head around the polyethylene. The claimant again received an injection of Decadron, Decadron LA, and Marcaine into the left hip.

A bone scan on March 12, 2004, revealed increased uptake along the acetabulum on the left side, in the SI joints bilaterally, and in the proximal end of her sternum. On March 16, 2004 the claimant returned to Dr. Long significantly incapacitated with pain in her left hip. Dr. Long reports that the patient's pain in her hip has intensified in the last three months, and she has had to miss work for the first time in a long time. Dr. Long noted that the claimant suffered from iliopsoas tendinitis for a while, but that pain subsided and she now suffers chronic aching pain about the hip. Records indicate that there were no radiographic changes in the hip, no definite evidence of loosening or change compared to previous films, and no definite eccentricity of the femoral head. However, he noted that the claimant had not responded to recent injections. Dr. Long noted that the claimant's pain had been persistent and gradually worsening over a period of several months and recommended an arthrotomy of the hip.

On April 9, 2004, the claimant underwent surgery due to the persistent and gradually increasing pelvic pain, which Dr. Long noted was related to activity. Dr. Long noted that radiographically her cup did not show any signs of loosening, but it did have some radiolucency about it in zone C. However, in his operation records, Dr. Long noted that there was a springing in the cup, screws were added and the springing was eliminated.

Dr. Long testified in regard to the claimant’s condition. Dr. Long had been the claimant’s doctor for some time and had performed her 1995 hip replacement. Dr. Long testified that hips are generally replaced about every five to ten years, but it varies depending on the activity of the patient.

Dr. Long testified that the claimant’s symptoms were due to the fact that she does not have normal musculature and that none of the tissues around her hip were normal because she has almost a solid scar. He testified that she should use a cane all the time, but working in a

nursery where she had to pick up babies caused her to lay the cane down constantly. Dr. Long testified that the claimant came in for symptoms of soreness about her hip when she overworked it, when she walked too much. He would give her an injection to calm it down and get her back to using a cane. He also treated her with pain killers, in which he testified that he had started giving her OxyContin in April of 2003. Plus, he prescribed her an anti-inflammatory drug, Vioxx, and supplemented with Hydrocodone. In fact, he increased the dosage of Hydrocodone in January 2004 due to her increase in pain.

Dr. Long testified that the bone scan results from March 12, 2004 suggested that the claimant may have a return of a stress fracture or diastasis of the pelvis. Dr. Long testified that walking, especially walking without the walker or cane, caused the claimant’s fracture or diastasis. The bone scan showed increased uptake in the acetabulum and the SI joints. The increased uptake in the acetabulum was indicative of pelvic diastasis. Diastasis, a form of

dislocation which causes pain when the supporting pelvis bears weight, also causes one to limp more and be unable to bear your own weight. The more one walks, the more it hurts. As such, Dr. Long concluded that the claimant’s injury was caused by her excessive walking without assistance at work.

Dr. Long also testified in regards to the incident on February 7, 2004, noting that the claimant complained of a popping after her fall. Dr. Long testified that nothing that he was treating was cause by the trauma, but that it was another factor in precipitating the operation. In fact, he testified that she aggravated her symptoms when she stepped off the elevator, which caused her to exacerbate the fracture pain and helped to speed up the decision to operate. Not only was there popping and clicking in her hip now, but the claimant complained of even more pain after the incident.

Dr. Long testified that during the April operation the cup was solidly fixed to the upper part of the acetabulum, but it was not solidly fixed at the bottom. He

testified that if you pushed on the bottom of the cup it would have a slight spring to it. Evidently, it was not a lot of motion, but it was enough that he could see the meniscus fluid ballotte back and forth, which Dr. Long explained was consistent with diastasis. In order to fix the problem, Dr. Long added screws around the cup to bolt it to the pelvis. Plus, he put bone graft material in there to try to get the bone to heal.

DISCUSSION

The claimant contends that she sustained a compensable injury in the form of a gradual onset injury when was then aggravated when she fell. The Majority seems to find that the claimant only suffered from a previous hip condition which did not arise in the course and scope of employment. This is a gross oversimplification of the facts and arguments presented in this case. The Majority completely fails, however, to fully address the claimant’s diastasis as being an aggravation in the form of a gradual onset. After reviewing the record, I find that the evidence

is clear that the claimant’s diastasis was caused by her rapid and repetitive work for the respondents. Furthermore, I find that the claimant’s injury was aggravated when she fell from the elevator at work, thereby causing the cup in her hip to loosen, which ultimately required surgery.

The Majority finds that the claimant’s injury was not caused by rapid repetitive motion and that there are no objective medical findings of a February 7, 2004 hip injury. Although Dr. Long was not able to say within a reasonable degree of certainty that the claimant’s injury was caused by her falling at work, he was able to say within a reasonable degree of medical certainty that the claimant’s injury was caused by walking. Even though the claimant suffered from a previous injury, there is no explanation, other than her work-related activities, to indicate a reason for her condition. Furthermore, Dr. Long testified that the claimant’s February 7, 2004 accident aggravated her condition. As such, I find that the claimant’s diastasis was

casually related to her work-related activities and that her February 7, 2004 accident further aggravated her hip.

The claimant is required to prove that she suffered a compensable injury. A compensable injury means:

> An injury causing internal or external physical harm to the body and arising out of and in the course of employment if it is not caused by a specific incident or is not identifiable by time and place of occurrence, if the injury is:
> (a) Caused by rapid repetitive motion.

Ark. Code Ann. § 11-9-102(4)(A)(ii)(a) (Supp. 2005).

In addition, subsection (E)(ii) states that the burden of proof shall be by a preponderance of the evidence, and the resultant condition is compensable only if the alleged compensable injury is the major cause of the disability or need for treatment. Ark. Code Ann. § 11-9-102(4)(E)(ii).

The Majority finds that the claimant's work did not arise in and out of the course of her employment. However, in my opinion, they fail to consider whether the claimant's job sped up her need for treatment and caused an

aggravation in the form of a gradual onset injury. Specifically, the Majority seems to argue that the claimant had sustained a previous hip condition which resulted in several hip replacements and fifteen surgeries prior to her 2004 injury. The Majority further argues that a hip replacement lasts approximately five to ten years, and as the claimant had her last hip replacement in 1995, the cause of her pain was most likely an indicator that it was time for her to replace her hip anyway. Indeed, the claimant, as a child, suffered from a septic hip, which causes deterioration of the hip and injures the growth of the hip to some degree. The claimant suffered from progressive gradual deterioration and an arthritic hip. However, it was not until the claimant's job duties changed, causing the pace of her work to pick up and requiring more walking without a cane or a walker, that the claimant began experiencing hip pain. As such, it is evident that walking aggravated her hip.

I find that the claimant did satisfy her burden in showing that her diastasis arose out of and in the course of employment. Dr. Long testified that walking caused the claimant’s stress fracture or diastasis. More precisely, Dr. Long testified that walking without the assistance of a crutch or a walker caused her stress fracture. The claimant testified that her job requirements led to much of the stress on her hip because she was constantly walking and was unable to use her crutches or walker while at work. Dr. Long corroborated the claimant’s testimony. As such, it is clear that the rapid and repetitive walking at the claimant’s job is the major cause of the claimant’s need for treatment for the diastasis.

The claimant had worked for one year as a daytime nurse, when there were approximately four to five nurses working in labor and delivery. She then switched to the night shift where the pace really picked up because there were only two nurses working the night shift. Prior to this

change of pace, the claimant had suffered very few flare-ups.

Changes in the claimant’s duties led to an increase in symptoms and caused the aggravation to the claimant’s hip. The pace of her work was very fast and she often found herself “running,” which she explained as “just going non-stop on your feet.” The claimant testified that she was on her feet and doing a lot of walking during her shift, often walking back to a mother’s room 50 times during the night to get a fetal monitor to pick up. The claimant worked four 12-hour shifts per week, but often worked five or six nights a week. She was instructed by her doctor to use a cane or walker to assist her with walking, but testified that it was impossible to use at work. The claimant testified that she couldn’t use it in the nursery while taking care of the babies, and during her entire 12 hour shift, she was only able to use the cane 20% of the time. Furthermore, the claimant’s testimony revealed that at least 70 to 80% of her walking occurred at work, thus making

the pain in her hip worse. The claimant also testified that she did more walking at work than she did at home.

Additionally, the claimant's medical records repeat Dr. Long's concern about the claimant not being able to use her cane at work. Dr. Long even testified that constantly laying the cane down was a necessity of doing the work. As such, it is evident that the claimant's pre-existing condition was aggravated due to the rapid and repetitive walking from the claimant's job.

The Majority also seems to argue that the claimant failed to prove that her work-related injury was the "major cause" of her disability or her work-related injury, citing her pre-existing condition. What the Majority fails to remember is that the employer takes the employee as it finds her, and employment circumstances that aggravate pre-existing conditions are compensable. Nashville Livestock Comm'n v. Cox, 302 Ark. 69, 787 S.W.2d 664 (1990); Wade v. Mr. C. Cavenaugh's, 298 Ark. 363, 768 S.W.2d 521 (1989); St. Vincent Infirmary Med. Ctr. v. Brown, 53 Ark. App. 30, 917

S.W.2d 550 (1996); Public Employee Claims Div. V. Tiner, 37 Ark. App. 23, 822 S.W.2d 400 (1992). As Professor Larson states:

> Preexisting disease or infirmity of the employee does not disqualify a claim under the "arising out of employment" requirement if the employee aggravated, accelerated, or combined with the disease or infirmity to produce death or disability for which compensation is sought.

Varner v. Water Loo, Ind., Full Commission Opinion filed march 30, 1998 (E608272); citing 1 Arthur Larson, The Law of Worker's Compensation § 12.21 (1993).

Dr. Long testified that activity will cause a hip, such as the one that the claimant had, to break down more quickly. Dr. Long also testified that non-usage of a cane further aggravated the claimant's condition, causing the hip to break down more quickly. Due to the claimant's excessive activity at work and inability to use her cane while working, the claimant's hip was more likely to break down

and deteriorate more rapidly. In fact, Dr. Long testified that walking aggravated the hip and caused the diastasis. The claimant’s inability to use her cane at work further aggravated the claimant’s hip.

In fact, while the claimant suffered from a preexisting hip problem, she had not had many problems with her hip until she began working the night shift. The claimant testified that she would suffer flare-ups from time to time, which were muscular. In fact, the claimant did suffer a flare-up beginning in December of 2003, and Dr. Long confirmed that the claimant suffered from iliopsoas tendinitis. The cause of iliopsoas tendinitis, according to Dr. Long was too much activity, or walking. In fact, the claimant had been nearly six months without a flare-up, but the longer she worked the 12 hour nightly shift, the more her hip bothered her. As such, it is evident that her increase in activity due to her new job was aggravating her condition.

The Majority also errs in finding that the injury was not caused by rapid repetitive motion. This is absurd as the claimant testified that she was “running” during her shift, due in part to a lack of nursing staff at night. The pace was very fast. Additionally, it is undisputed that the claimant was not able to use a cane at work, as even Dr. Long testified that the cane would slow the claimant down. Accordingly, without the use of a cane, the claimant’s weight was distributed mainly to her hips when she walked, thereby causing her to gradually experience more pain. Furthermore, the claimant worked twelve hour shifts and testified that she spent 70% of her time at work on her feet. As such, it is evident that the claimant’s walking movement was both rapid and repetitive, as demanded by the duties of her job.

It is interesting that the Majority, although finding that the claimant’s injury was not caused by rapid repetitive motion, gives virtually no explanation for this finding. It appears that the only reason for denying the

claim is because the claimant might have needed surgery anyway. In my opinion, this is impermissible speculation. Conjecture and speculation, even if plausible, cannot take the place of proof. Ark. Dept. of Correction v. Glover, 35 Ark. App. 32, 812 S.W.2d 692 (1991). Dena Construction Co. v. Herndon, 264 Ark. 791, 575 S.W.2d 155 (1979). Arkansas Methodist Hospital v. Adams, 43 Ark. App. 1, 858 S.W.2d 125 (1993). Furthermore, the Majority completely fails to address the claimant's duties at work and the pace in which she was required to work. The Majority simply ignores the fact that the respondents do not dispute the claimant's duties or her testimony regarding the pace of her work.

Furthermore, the claimant seemed to be improving somewhat when she fell from the elevator onto a hard tile floor at work and aggravated her condition. At this point, she testified that her pain became severe, and there was a clicking or popping noise in her hip that had not been there before. However, the Majority utterly disregards the claimant's testimony that her pain became even more severe

after the fall. In addition to ignoring the claimant's testimony, the Majority asserted its own medical opinion of the claimant's symptoms after falling, and erroneously found that the claimant had "no increase in symptoms" except for the popping and clicking. This is directly contrary to the testimony presented, and as such, the Majority arbitrarily ignores the claimant's testimony which was not disputed by respondents.

Furthermore, the Majority fails to acknowledge that after falling, the claimant immediately went to the Emergency Room for treatment and was later sent home. The claimant testified that she went home from the hospital and when she was getting up from a sitting position in her bed, her hip clicked. In fact, the Majority wrongly asserts that "sometime after the February 7, 2004, incident, the claimant experienced clicking in her hip after she got out of bed at home," even though the only testimony provided was that of the claimant, who's testimony revealed that it was merely a matter of hours before the clicking began.

The claimant also testified that she could tell that this was not a muscular problem, but rather, it was a mechanical problem. Indeed, during the claimant’s April 2004 hip surgery, Dr. Long noted that the cup was loose, and he had to secure it. He had not felt that it was loose before the fall occurred. He also noted diastasis in the pelvis, which even x-rays taken one-year and one month prior to the fall had not revealed. Had the claimant not had a preexisting condition, the walking and the falling most likely would not have hurt her. However, the claimant did suffer from a preexisting hip condition and Dr. Long testified that not only did walking cause iliopsoas tendinitis and the diastasis, but the falling exacerbated her symptoms and caused the cup to loosen. Unfortunately, the Majority fails to address whether the claimant’s need for treatment sped up or aggravated her need for treatment.

In Parker v. Atlantic Research Corp., 87 Ark. App. 145, 189 S.W.3d 449 (2004), the claimant suffered a gradual onset neck injury, and contended that a work-related rapid

repetitive motion injury caused an aggravation of her pre-existing asymptomatic degenerative cervical disc. The Court of Appeals determined that the claimant's neck motion was rapid and repetitive. However, the Commission first found that because the claimant's cervical disc abnormalities preexisted the aggravation, the claimant could not establish that her work-related injury was the major cause of a disability or need for treatment simply by stating that her preexisting condition was asymptomatic prior to becoming inflamed by work activity. The Court of Appeals disagreed with the Commission, finding that the claimant introduced objective medical findings to substantial her claim of an aggravation. Second, the Commission found that major cause could not be established in a situation where a claimant was symptom-free prior to the aggravation of a pre-existing condition. The Court of Appeals again disagreed and found that a claimant is required to prove that a work-related injury is the major cause of the disability or need for treatment, and as her doctor testified within a reasonable

degree of medical certainty that the work-related aggravation was the major cause of the claimant's disability and need for treatment, such a requirement was satisfied. The test then becomes: but for the work-related injury, there would have been no disability or need for treatment. Id.

In the present case, as in Parker, but for the claimant's work-related injury, there would have been no need for treatment. Dr. Long testified within a reasonable degree of medical certainty that the claimant's continuous walking, particularly walking without use of a cane or a walker, caused the iliopsoas tendinitis and diastasis. Furthermore, Dr. Long also testified that the claimant falling from the elevator exacerbated the symptoms of her preexisting condition. This is evidenced by the clicking and popping that the claimant experienced only after falling. The Majority impermissibly speculates that because hips are generally replaced every five to ten years, the claimant was due for surgery anyway. However, the claimant did not need a

hip replacement and did not receive a hip replacement. Furthermore, it is unclear when the claimant would have needed hip replacement if she had not worked for the respondents.

Dr. Long testified that the need for such treatment would largely be determined by the patient’s level of activity. In fact, the claimant suffered from a loose cup and diastasis, which was treated by tightening the cup back to the pelvis. Most likely, the cup became loose when the claimant fell from the elevator, which explains why the claimant heard clicking and popping only after she fell.

The claimant, while suffering from a previous hip condition, had not required much treatment prior to working the night shift, a faster paced position. The claimant’s medical records provide further proof that the claimant did not experience severe hip pain until after she began working the night shift. Also, while the claimant had suffered from diastasis approximately ten years earlier, her medical records show that she had completely healed from that

injury. However, prior to falling from the elevator, the claimant had not been diagnosed with a stress fracture or diastasis and had never heard the popping and clicking noise from her hip. As the claimant's symptoms did not begin until after she began working the night shift, I find that the claimant met her burden of proof showing that she sustained a compensable gradual onset injury, further aggravated by falling from the elevator.

The Majority also seems to argue that the claimant cannot show that her work caused her injury and as such, she does not meet her burden of proof. However, I find that this is not the burden of proof required. As previously noted by this Commission and the Court of Appeals, a claimant is not required to show that the work is the major cause of the condition. Rather, a claimant is required only to show that the compensable injury is the major cause of the disability or the need for treatment. See, Medlin v. Wal-Mart Stores, Inc., 64 Ark. App. 17, 977 S.W.2d 239 (1998); See, also,

Christie v. McKee Foods Corporation, Full Commission Opinion filed June 11, 2002 (F105116).

It is evident from the testimony of the claimant and Dr. Long that the claimant’s rapid and repetitive walking caused her injury. Furthermore, it is apparent that the claimant further aggravated her hip when she fell. For a specific incident injury, the claimant has the burden of proving by a preponderance of the evidence that his condition is causally related to his employment. See Estridge v. Waste Management, 343 Ark. 276, 33 S.W.3d 167 (2000). Questions of credibility and the weight and sufficiency to be given evidence are matters within the province of the Workers’ Compensation Commission. Swift-Eckrich, Inc. v. Brock, 63 Ark. App. 188. 875, S.W.2d 857 (1998). A preexisting disease or infirmity does not disqualify a claim if the employment aggravated, accelerated, or combined with the disease or infirmity to produce the disability for which compensation is sought. See Nashville Livestock Commission v. Cox, supra; Minor v.

Poinsett Lumber & Mfg. Co., 235 Ark. 195, 357 S.W.2d 504 (1962); Conway Convalescent Center v. Murphree, 266 Ark. 985, 588 S.W.2d 462 (Ark. App. 1979); St. Vincent Medical Center v. Brown, supra.

In this instance, even if one does not believe the claimant sustained a compensable gradual onset injury, the evidence shows that the specific incident of falling caused an aggravation. To show compensability for a specific incident aggravation one does not need to show major cause. Rather, the claimant is only required to show that her injury was a factor in her need for treatment. Williams v. L & W Janitorial, Inc., 85 Ark. App. 1, 145 S.W.3d 383 (2000).

When considering the facts for this case, it is evident that an aggravation is shown by objective findings of the cup loosening as noted by Dr. Long's surgical notes and testimony. As the claimant experienced no popping or clicking before the fall, I find that the weight of the evidence shows that her fall resulted in the loosening of her cup. This further combined with the claimant's pre-

existing condition and ultimately resulted in the claimant needing surgery.

In conclusion, I find that the Majority fails to adequately consider whether the claimant’s injury or need for treatment was due to an aggravation of her pre-existing condition. There is no dispute that the claimant would have eventually needed treatment for her hip. However, this Majority simply speculates that the claimant’s need for treatment was solely due to her pre-existing condition. This completely ignores the medical evidence to the contrary. The facts of this case show the claimant had an increase in symptoms which correlated with her change in job duties. Furthermore, the claimant had objective findings in the form of iliopsoas tendinitis and diastasis. Dr. Long specifically testified that these conditions were caused by walking. In fact, he testified that the claimant’s job would not allow her to use a cane, thereby speeding up the deterioration of her hip.

Furthermore, the claimant suffered an aggravation to her compensable gradual onset injury when she fell. Despite the Majority's assertions, she did have an increase in symptoms immediately thereafter. Furthermore, the claimant had objective findings in the form of clicking and popping and having a loose cup. As with the claimant's gradual onset claim, this Majority ignores the objective medical evidence showing an aggravation. The Majority also arbitrarily disregarded Dr. Long's opinion that the claimant's fall was a precipitating factor in the claimant's need for surgery.

For the aforementioned reasons, I respectfully dissent.

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PHILIP A. HOOD, Commissioner