

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E913515

VIVIENE CUMBIE,
EMPLOYEE

CLAIMANT

BOST HUMAN DEVELOPMENT,
EMPLOYER

RESPONDENT

AIG CLAIM SERVICES,
INSURANCE CARRIER

RESPONDENT

OPINION FILED SEPTEMBER 12, 2007

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

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

Respondents represented by the HONORABLE R. SCOTT
MORGAN, Attorney at Law, Pine Bluff, 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 1, 2007. In said
order, the Administrative Law Judge made the following
findings of fact and conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. Prior opinions are res judicata and the law of this case.
3. The claimant sustained a compensable injury to her hip on June 11, 1998.

4. Medical expenses have been paid to January 1, 2007.

5. The claimant has proven by a preponderance of the evidence that the treatment program being administered by Dr. Long is both reasonable and necessary for the treatment of her compensable left hip injury. See discussion above. [sic]

6. The respondents have controverted this claimant's entitlement to additional benefits.

7. The claimant's attorney is entitled to the maximum statutory attorney's fee based on the benefits awarded herein.

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 1, 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 prior to July 1, 2001, the claimant's attorney's fee is governed by the provisions of Ark. Code Ann. § 11-9-715 as it existed prior to the amendments of 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 an additional attorney's fee in the amount of \$250.00 in accordance with Ark. Code Ann. § 11-9-715(b) (Repl. 1996).

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

PHILIP A. HOOD, Commissioner

Commissioner McKinney concurs.

CONCURRING OPINION

I concur with the majority opinion finding that the treatment for the claimant's hip injury is reasonable and necessary medical treatment in connection

with her admittedly compensable injury from 1998. I write separately to address the unfortunate delay in the claimant finally receiving the proper treatment to address her compensable injury. The claimant has had a lot of treatment over the years since this injury directed towards her lumbosacral region which has not offered her any relief. In the October 13, 2000, Full Commission Opinion, Commissioner Mike Wilson concurred in part and dissented in part. Unfortunately at that time only Commissioner Wilson saw the error of authorizing treatment for the claimant's low back. It was this misdirection of treatment by the claimant's treating physicians that was awarded by the Commission which has not only cost the respondents an unsightly amount of money but has also wasted unnecessary time and effort and cost the claimant an unnecessary delay in finally receiving the appropriate treatment.

Commissioner Wilson correctly found in 2000 that the claimant's treatment should have been directed toward her piriformis and trochanter muscles, not her degenerative changes in her lumbar spine and facet joint disease. After a long, expensive, circuitous, path this treatment has finally been obtained. In hindsight, it is now clear that the respondents' controversion of

additional medical treatment directed towards the claimant's lumbosacral spine in 1999, was, in fact, appropriate. Unfortunately, the respondents did not prevail on this issue at that time.

Therefore, for all the reasons set forth herein, I concur with the majority opinion.

KAREN H. MCKINNEY, Commissioner