

# NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F504400

KATHY FOSTER, EMPLOYEE	CLAIMANT
EXPRESS PERSONNEL, EMPLOYER	RESPONDENT
HALLMARK MANAGEMENT, LLC, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED AUGUST 9, 2007

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

Claimant represented by the HONORABLE EVELYN BROOKS, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE JARROD PARRISH, 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 March 15, 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. On February 2, 2005, the relationship of employee-employer-carrier-third party administrator existed between the parties.

3. On February 2, 2005, the claimant earned wages sufficient to entitle her to weekly compensation benefits of \$213.00 for total disability and \$160.00 for permanent partial disability, when and if such benefits may become appropriate.
4. On February 2, 2005, the claimant sustained a compensable injury to her left shoulder.
5. There appears to be no dispute, at the present time, over the claimant's entitlement to the payment of expenses incurred for medical services that have already been provided or her entitlement to temporary disability benefits.
6. The medical services that have been recommended by Dr. Christopher Arnold, in the form of a neurological evaluation of the claimant's complaints by Dr. Michael Morse and a repeat MRI study of the claimant's left shoulder, represent reasonably necessary medical services, under Ark. Code Ann. §11-9-508. Specifically, the claimant has proven that such recommended medical services would be necessitated by or connected with her compensable injury and have a reasonable expectation of accomplishing their intended purpose or goal. Under the provisions of Ark. Code Ann. §11-9-508, the expense of such medical services, subject to the medical fee schedule established by this Commission, is the liability of the respondents herein.
7. The respondents have controverted the claimant's entitlement to the recommended medical services.
8. As no benefits have herein been awarded directly to the claimant, no controverted attorney's fee can be awarded to the claimant's attorney.

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 March 15, 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 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.

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OLAN W. REEVES, Chairman

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PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.