

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F700637

MARTHA CRISPIN,
EMPLOYEE

CLAIMANT

SUPERIOR INDUSTRIES,
EMPLOYER

RESPONDENT

CROCKETT ADJUSTMENT,
INSURANCE CARRIER

RESPONDENT

OPINION FILED JUNE 27, 2008

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 CURTIS L.
NEBBEN, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and
Adopted.

OPINION AND ORDER

Claimant appeals an opinion and order of the
Administrative Law Judge filed June 5, 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 at the pre-hearing conference conducted on March 3, 2007, and contained in a pre-hearing order filed that same date, are hereby accepted as fact.
2. The parties' stipulation that claimant earned \$14.10 per hour for 40 hours of work per week is also hereby accepted as fact. The results in an average weekly wage of \$564.00 which would entitle her to compensation at the \$376.00 per week for

temporary total disability benefits and \$282.00 per week for permanent partial disability benefits.

3. Claimant has failed to prove by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable low back injury.

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 of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

Therefore we affirm and adopt the June 5, 2007 decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Hood dissents.

DISSENTING OPINION

The majority is affirming and adopting the Administrative Law Judge's denial of the claimant's request for additional medical treatment. After a de novo review of the record, I find that the claimant has met her burden of establishing her entitlement to such benefits, and therefore, I must respectfully dissent from the majority's Opinion.

The claimant is not asking for a vast amount of benefits. In fact, she is not even seeking any disability benefits to be paid to her. Specifically, she is asking the respondent to pay for her to see a doctor for any additional treatment that might be necessary for her compensable injury. I find that the claimant is entitled to, at a minimum, the benefits she has requested.

The only basis given for denying this claim is that the claimant did not see a doctor for several months following her last medical treatment. However, a month after the claimant was last seen by her authorized treating physician, Dr. Gerald Thorn, she began seeking medical treatment for an ovarian condition. Eventually, this latter course of treatment resulted in the claimant undergoing surgery in September 2006. As a result of

this surgery, she was inactive and was taking prescription pain medication.

Under those circumstances, it is not surprising that she did not seek additional medical treatment for her back. Not only was she not engaging in any significant amount of activity, but she was she was also under a regimen of medication which would have relieved any pain symptoms that she was feeling, whether from her back or her surgery.

The claimant testified that her back had continued to bother her since her injury but, after she had recovered from her surgery, the problem became more significant. All the claimant is asking for at this time is for a chance to see a doctor to determine the nature and extent of her current condition and what treatment is appropriate for it. I find that is the minimum any claimant is entitled to after suffering a compensable injury. Curiously, had this claimant requested a change of physician, as opposed to filing a claim for additional medical treatment, the change would have almost certainly been granted and the respondent would have been required to pay for her to see another doctor. I fail to understand why, in this case, the majority is not making a similar order and requiring the

respondent to meet its minimum obligation under the Workers' Compensation Act. The respondent should be ordered to pay for the claimant to see a doctor at least once, to determine what is wrong with her and what treatment, if any, should be undertaken. One of the Workers' Compensation Act's primary purposes is to provide a claimant reasonable and necessary medical treatment. Here, the majority has failed in its duty to enforce the provisions of the Workers' Compensation Act by allowing the respondent to evade its liability to provide basic medical services to an injured worker.

For the reasons set out above, I must respectfully dissent from the majority's Opinion.

PHILIP A. HOOD, Commissioner