

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F701798

JOHNNY MILLER,
EMPLOYEE

CLAIMANT

BRISCO MASONRY,
EMPLOYER

RESPONDENT

FIRSTCOMP INSURANCE,
INSURANCE CARRIER

RESPONDENT

OPINION FILED OCTOBER 6, 2008

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

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

Respondents represented by the HONORABLE RANDY P.
MURPHY, 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 24, 2008. 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 January 11, 2007, the relationship of employee-employer-carrier existed between the parties.
3. On January 11, 2007, the claimant earned wages sufficient to entitle him to weekly compensation

benefits of \$267.00 for total disability and \$200.00 for permanent partial disability.

4. On January 11, 2007, the claimant sustained a compensable injury to his low back.

5. There is no dispute over accrued medical expenses.

6. The medical services recommended for the claimant's compensable low back injury by Dr. Arthur Johnson represent reasonably necessary medical services, under Ark. Code Ann. §11-9-508. Specifically, these recommended medical services are necessitated by or connected with the claimant's compensable low back injury and have a reasonable expectation of accomplishing their intended purpose or goal. Pursuant to Ark. Code Ann. §11-9-508, the respondents are liable for the expense of these services, subject to the medical fee schedule established by this Commission.

7. There is no dispute over temporary total disability benefits accruing through October 11, 2007.

8. The claimant continued to be rendered temporarily totally disabled by his compensable low back injury from October 12, 2007 through a date yet to be determined. Specifically, the greater weight of the credible evidence shows that during this time the claimant continued within his healing period from the effects of his compensable injury and was also rendered totally disabled from regular gainful employment by this compensable injury.

9. The respondents have controverted the claimant's entitlement to the medical services recommended by Dr. Johnson and his entitlement to additional temporary total disability benefits after October 11, 2007.

10. The appropriate fee for the claimant's attorney is the maximum statutory attorney's fee on the controverted temporary total disability benefits herein awarded.

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 24, 2008 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.

OLAN W. REEVES, Chairman

PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.